

## CHAPTER VIII NON TAX RECEIPTS

### 8.1 Results of Audit

Test check of the records of the following Departments conducted during the year 2004-05, revealed under assessments and loss of revenue as indicated below:

(Rupees in crore)			
Sl. No.	Nature of irregularity	No. of cases	Amount
<b>I</b>	<b>INDUSTRIES AND COMMERCE DEPARTMENT</b>		
	<b>Mines and Minerals</b>		
	1. Non remittance of seigniorage fee	11	6.98
	2. Short levy of seigniorage fee.	16	161.58
	3. Non/short levy of royalty and interest	8	105.18
	4. Conversion of demand drafts into challans not accounted for	4	1.37
	5. Non inclusion of demands in mineral reassessments of coal	4	11.10
	6. Short collection of prospecting licence fee	4	0.87
	7. Non realisation of amounts due to non observance of provisions in Acts and Rules	7	52.63
	8. Other irregularities	12	19.04
<b>II</b>	<b>REVENUE DEPARTMENT</b>		
	<b>Commercial Taxes (Rural Development Cess)</b>		
	1. Non/short levy of tax	6	3.04
<b>III</b>	<b>IRRIGATION AND COMMAND AREA DEVELOPMENT DEPARTMENT</b>		
	1. Non remittance of royalty towards water charges	2	0.85
<b>IV</b>	<b>AGRICULTURE AND CO-OPERATION DEPARTMENT</b>		
	1. Misappropriation cases pending finalisation and arrears in collection of annual return fee and FRFS costs	4	0.33
<b>V</b>	<b>FOOD, CIVIL SUPPLIES AND CONSUMER AFFAIRS DEPARTMENT</b>		
	1. Non remittances of sale proceeds of seized stocks	1	0.01
	2. Differential cost of wheat, rice, sugar and kerosene to be remitted	2	0.01
	3. Non disposal of 6A cases	1	0.06
	4. Seizure of essential commodities, non disposal/remittance of amounts into Government account	1	0.05
	5. Non remittance of amounts to Government account	4	0.10
	6. Non collection of cost of ration cards/coupons	5	0.12
	7. Traders security deposits lapsed to be remitted to Government account	4	0.08
<b>VI</b>	<b>ENVIRONMENT, FOREST, SCIENCE AND TECHNOLOGY DEPARTMENT</b>		
	1. Non recovery of income tax and sales tax	3	0.01
	2. Missing teak and non teak material and loss of revenue due to short collection of extraction charges	2	0.01
	3. Non registration of leases/contracts – Loss of revenue	1	0.01
	4. Challan remittances-Discrepancies between cash book and treasury records	1	0.01
	<b>Total</b>	<b>103</b>	<b>363.44</b>

During the year 2004-05, Department accepted under assessments etc., of Rs.8.08 crore in 20 cases of which eight cases involving Rs.7.26 crore were pointed out during the year 2004-05 and the rest in earlier years. Out of 20 cases, an amount of Rs.74.31 lakh in six cases was realised.

A few illustrative cases involving Rs.8.50 crore and a review on 'Assessment of major and minor minerals' involving Rs.107.52 crore are mentioned in the following paragraphs.

**A. INDUSTRIES AND COMMERCE DEPARTMENT**  
**MINES AND MINERALS**

**8.2 Review on ‘Assessment of major and minor minerals’**

*Highlights*

- **Royalty of Rs.1.89 crore on crude oil was short levied**

[Paragraph 8.2.9]

- **An amount of Rs.98.62 crore of interest on arrears of royalty in respect of coal was unauthorisedly exempted**

[Paragraph 8.2.12]

- **Seigniorage fee of Rs.134.61 crore was not recovered**

[Paragraph 8.2.18]

- **Black granite seized by Department lying undisposed with APMDC resulted in blockage of Government revenue of Rs.1.15 crore.**

[Paragraph 8.2.20]

**8.2.1 Introduction**

Important major minerals in the State are limestone, coal, crude oil and natural gas. A number of minor minerals like granite, slate, ordinary earth, building stone, gravel, etc., are also available.

Revenue from mining is derived mainly as royalty for major minerals, seigniorage fee for minor minerals, dead rent, surface rent, interest on belated payments, fines and penalties etc., in respect of leases granted.

Grant of leases, mining and extraction of major minerals other than mineral oils in Andhra Pradesh is regulated by Mines and Mineral [Regulation and Development] Act, (MMRD Act), 1957, enacted by Parliament and the Mineral Concession (MC Rules) Rules, 1960, framed thereunder. Extraction of mineral oil and gas is regulated by Petroleum and Natural Gas (PNG Rules) Rules, 1959. Extraction of minor minerals like granite, ordinary earth, building stones, gravel etc. is governed by the Andhra Pradesh Minor Mineral Concession Rules, (APMMC Rules) 1966, framed by the State Government. Recovery of arrears of mineral revenue are to be made under Andhra Pradesh Revenue Recovery (RR Act) Act, 1864. In order to obtain a mining/quarry lease for major/minor mineral, lessee has to make an application to Mines and Geology Department. After due verification, lease is granted by Government in case of major minerals and by Department in case of minor minerals.

Lessees are required to obtain permit from the concerned Assistant Director of Mines and Geology (AD) before despatch of materials from the area under lease. AD is to obtain detailed annual accounts and registers in respect of mining leases under his jurisdiction from each lessee or his authorized agent. After completing necessary check of the accounts and registers, he is to submit assessment proposals in each case in respect of major and minor minerals to the Deputy Director of Mines and Geology (DD) concerned who is competent to approve the assessment cases where royalty/seigniorage fee alone is upto Rs.20 lakh. Assessments involving royalty/seigniorage fee of Rs.20 lakh and above are sent to the Director of Mines and Geology (DMG) for approval. After approval of assessments by competent authorities, the demands are taken into demand, collection and balance (DCB) register maintained by the concerned AD and the collection watched.

### **8.2.2 Recommendations**

It is recommended that

- functioning of internal audit wing may be improved, with better focus on significant areas and follow up by concerned authorities,
- unauthorised mining/quarrying may be strictly dealt with, and
- review and strengthening existing system for ensuring correctness of royalty paid by the lessee in respect of mineral extracted

### **8.2.3 Organisational Set up**

The working of the Department is controlled and monitored by Principal Secretary to Government, Industries and Commerce Department under the ministry of Mines and Geology. The Department of Mines and Geology is headed by a Director who is assisted by four Joint Directors, six Deputy Directors and seven Assistant Directors at Hyderabad. Eight Deputy Directors (DD) in regional offices<sup>♦</sup> and 34 Assistant Directors (AD) in these regional offices also assist him in field offices.

### **8.2.4 Audit coverage**

Thirty one out of 34 offices of ADs and seven out of eight regional offices headed by DDs and office of DMG were selected and test checked between July 2004 and March 2005 for the years 1999-2000 to 2003-04.

### **8.2.5 Audit Objectives**

A review was conducted with a view to

- assess the correctness of royalty on crude oil, natural gas, limestone etc., to the State Government by various units

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<sup>♦</sup> Guntur, Hyderabad, Kadapa, Kakinada, Kurnool, Nizamabad, Visakhapatnam and Warangal

- detect incorrect reporting of removal/collection of crude oil/coal/natural gas and limestone and failure to observe norms laid down by Government for payment of royalty
- ascertain whether adequate internal controls exist to safeguard Government revenue and its proper accounting.

### 8.2.6 Trend of revenue

The receipts from mines and minerals *vis a vis* the budget estimates, and variations for the preceding five years ending March 2004 are given below:

(Rupees in crore)

Year	Budget estimates	Actuals	Variation between budget estimates and actuals	Percentage of variation
1999-2000	445.66	440.11	(-) 5.55	(-) 1.25
2000-2001	572.22	583.34	(+) 11.12	(+) 1.94
2001-2002	528.49	599.12	(+) 70.63	(+) 13.36
2002-2003	665.20	779.66	(+) 114.46	(+) 17.21
2003-2004	742.24	771.57	(+) 29.33	(+) 3.95

The Department stated in April 2005 that royalty of coal was enhanced in July 2002. The increase in revenue between 2000-01 and 2003-04 over the budget estimates was either due to payment of arrears by a company\* or enhancement in royalty of coal.

### 8.2.7 Position of arrears

As per provisions of departmental manual, the DMG is required to maintain consolidated DCBs of mineral revenue receipts in the State.

During test check of records of the DMG, it was noticed that even though DCBs were kept at unit offices and statements of lease wise DCBs sent to DMG, figures for arrears of revenue of the State as a whole for the years 2001-02 to 2003-04 were not consolidated at directorate level. At the instance of audit, the DMG furnished the figures of arrears for the years 1999-2000 to 2003-04 which are as under.

(Rupees in crore)

	Opening balance	Demand	Total	Collection	Balance
<b>1999-2000</b>					
Major	13.36	85.03	98.39	84.09	14.30
Minor	13.40	31.24	44.64	28.52	16.12
<b>2000-01</b>					
Major	22.99	50.26	73.11	62.69	15.96
Minor	23.55	70.06	93.60	70.23	23.18

\* M/s Singareni Collieries Company Limited

(Rupees in crore)

	Opening balance	Demand	Total	Collection	Balance
<b>2001-02</b>					
Major	23.00	77.05	100.05	65.85	34.20
Minor	14.43	99.60	114.03	96.89	17.18
<b>2002-03</b>					
Major	16.63	79.06	95.69	74.73	20.86
Minor	12.43	79.37	91.80	74.92	12.20
<b>2003-04</b>					
Major	19.69	86.25	105.94	85.14	22.57
Minor	95.59	363.18	458.77	273.59	183.07

A perusal of the above table reveals that the opening balance(s) did not tally with the closing balance of the previous year.

- ◆ During the course of audit of AD, Rajahmundry in February 2004, it was noticed that an amount of Rs.16.64 crore payable by ONGC was not taken in DCB for the year 2003-04.
- ◆ Similarly, an amount of Rs.66.27 lakh payable by two<sup>⊕</sup> lessees in Chittoor district were not taken into DCB for the year 2003-04.

A comparison of the figures of collection made during each year as per the arrears statement *vis a vis* the actual revenue as per Finance Accounts revealed that there were discrepancies which had not been reconciled as detailed below:

(Rupees in crore)

Year	Actuals as per Finance Accounts	Collection as per arrears statement of the Department	Variation excess (+) / short (-)
1999-2000	440.11	369.08	(+) 71.03
2000-01	583.34	503.24	(+) 80.10
2001-02	599.12	538.14	(+) 60.98
2002-03	779.66	651.43	(+) 128.23
2003-04	771.57	834.07	(-) 62.50

The matter was reported to DMG in September 2005, response was not received (September 2005).

- Vigilance Department reported that illegal quarrying of black granite was being done since February 2003 for which a lease\* was granted in August 2003. A demand notice was issued for Rs.95.59 lakh. The amount was neither taken in DCB nor referred to RR Act for recovery.

<sup>⊕</sup> M/s Archan Granites Pvt. Ltd., Rs.53.45 lakh and M/s Kerbs – N – Cubes Continental Rs.12.82 lakh.

\* M/s Subrahmanya Swamy Granites, Chittoor

### 8.2.8 *Lack of internal control/monitoring*

The entire process of collection of royalty, taxes and fees is administered and monitored by the DMG, through district offices. The DDs/ADs/Asst. Geologists/Royalty Inspectors posted in districts are empowered to conduct surprise inspections and make assessment of royalty of the mining areas from time to time to check any illegal extraction of minerals and ensure that royalty is paid and mining activities are carried out as per provisions of the Act/Rules.

#### *Non collection of seigniorage fee on illegal quarrying*

- Based on the reports of Vigilance and Enforcement Department and AD, Khammam on encroachment and illegal quarrying of black granite valued at Rs.2.35 crore by three lessees, State Government in their memo<sup>^</sup> instructed DMG to realise seigniorage fee and penalty as per Rules from the contractors / lessees on the illegally extracted quantity of granite, take necessary action to determine their leases for indulging in illegal quarrying and also take disciplinary action against AD, Surveyor and Royalty Inspector for allowing illegal quarrying.

Except for the preliminary issue of show cause notices to the lessees in April 2003, no further action was taken subsequently by the Department to comply with State Government orders. Failure of the Department to take timely action resulted in non realisation of seigniorage fees to the tune of Rs.2.35 crore.

- One<sup>≤</sup> firm was on quarry lease for road metal and building stone over an extent of 2.00 Hect., in Kuntrapakam village, Tirupati Rural, Chittoor district. Evasion of seigniorage fee of Rs.18.04 lakh including five times penalty was detected owing to unauthorized lifting of 12,020 cums., of rough stone during 1999-2001 (September 2000) over and above the leased area.

The DD in his order dated November 2003 cancelled the lease due to non submission of returns, non payment of advance dead rent, non obtaining of despatch permits, non payment of seigniorage fee including penalty. This amount was neither taken into DCB nor referred for recovery under RR Act.

- ◆ Two internal audit parties are functioning in the Department. 433 internal audit paragraphs involving Rs.69.53 lakh were pending finalisation as detailed in Annexure-I.

Under Section 9 of the MMRD Act and State Government Order<sup>ψ</sup> dated June 1975, holder of mining lease shall pay royalty in advance for obtaining permits in respect of any mineral removed or consumed by him from the leased area.

<sup>^</sup> Memo No. 11776/Vig/G1/2003-1 dated 5.11.2003

<sup>≤</sup> M/s Sri Sai Srinivas Stone Crusher

<sup>ψ</sup> G.O.Ms.No.674 Industries & Commerce (M I) department dated 27 June 1975

- During the course of audit of seven offices of Mines & Geology, it was noticed that nine lessees were despatching minerals without obtaining permits and without payment of royalty in advance for the last five years. No inspections were carried out by Department during this period. However, the assessing authority on the basis of returns furnished by the lessees in nine cases finalised the assessments raising a demand of Rs.52.63 crore as shown in Annexure-II. Out of these eight lessees discontinued their mining activities between 2000 and 2002 and chances for recovery of dues are remote.

### ***Cases of evasion of mineral revenue remaining unpursued***

As per section 25 (2) of MMRD Act and Rules thereunder, any mineral revenue dues to Government shall be recovered in the same manner as arrears of land revenue, together with interest as first charge on the assets of the holder of mining lease.

In Vizianagaram and Chittoor districts, arrears of mineral revenue of Rs.46.82 lakh were outstanding in respect of determined/ expired leases as on March 2001. The cases were neither pursued by the assessing authorities not processed under RR Act.

### ***Non recovery of arrears under RR Act***

A test check of records of DD Kurnool and AD Chittoor revealed that an amount of Rs.10 crore referred to revenue authorities was pending recovery as detailed below:

<b>(Rupees in lakh)</b>			
<b>Year</b>	<b>Major</b>	<b>Minor</b>	<b>Total</b>
1999-2000	57.20	135.87	193.07
2000-01	58.48	189.03	247.51
2001-02	61.11	176.03	237.14
2002-03	61.76	260.56	322.32
<b>Total</b>	<b>238.55</b>	<b>761.49</b>	<b>1,000.04</b>

There was no mechanism to monitor the progress of recovery in cases processed under RR Act, as a result an amount of Rs.10 crore could not be realised.

After this was pointed out, Government delegated the powers<sup>#</sup> of revenue recovery under the Act to the Department in June 2005. The particulars in respect of other districts were not furnished by DMG.

## **MAJOR MINERALS**

### **Crude Oil**

#### ***8.2.9 Short levy of royalty on crude oil***

PNG Rules provide that royalty is to be levied on quantity of crude oil and natural gas obtained from the wellhead of the area leased. In order to ensure that royalty is paid on the correct quantity, concerned officers of the Mining

<sup>#</sup> G.O.Ms.No.66 dated 2 June 2005

Department are empowered to carry out necessary inspections to verify the correctness or otherwise of returns submitted by various lessees.

During the audit of DD Kakinada, cross verification of annual accounts of ONGC with returns furnished by ONGC to Department revealed that the quantity of crude oil on which royalty was paid during the years 1999-2000 and 2002-03 by ONGC was less than the quantities obtained and depicted in the annual accounts of ONGC (KG Basin), Rajahmundry which resulted in short levy of royalty on crude oil to the tune of Rs.1.89 crore as detailed below.

Sl. No.	Period	Qty. depicted in annual accounts of M/s ONGC in MTs.	Qty. on which royalty was paid by ONGC in MTs.	Difference in Mts.	Rate of royalty per MT in Rs.	Short levy of royalty (Rs. in lakh)
1	1999-2000	1,45,796.450	1,36,946.410	8,850.040	773	68.41
2	2002-2003	2,80,556.731	2,72,839.010	7,717.721	1,564	120.71
				<b>16,567.76</b>		<b>189.12</b>

It was noticed that ONGC was paying royalty based on the quantities of crude oil acknowledged by various parties instead of the quantities produced as required under PNG Rules. In addition to royalty of Rs.1.89 crore short levied, an amount equal to 10 *per cent* per month of the royalty not paid was also chargeable towards penalty. Due to non carrying out of inspection and non verification of returns submitted by M/s ONGC, Department could not realise royalty as per actual production shown in the accounts.

It was stated by the Department that the difference in quantity was due to unavoidable loss and internal consumption for mining operations. The reply of the Department is not tenable as the quantity in question was arrived at after excluding the internal consumption.

#### **8.2.10 Non levy of penalty on delayed payment of royalty**

Rule 23(1) of PNG Rules, prescribes that royalty payable to Central Government or State Government shall be increased by 10 *per cent* per month or portion of a month during which it remains unpaid beyond the time specified. According to orders of State Government of March 1992 sanctioning petroleum mining lease to ONGC, royalty for a month is payable by 7<sup>th</sup> of the following month. Further PNG Rules were amended in 2003 to the effect that royalty for a month is payable by the last day of the succeeding month in respect of which it is payable.

It was noticed in February 2005 during the course of audit of office of the DD, Kakinada that royalty for despatches of crude oil during the year 2002-03 was not fully paid by due date. During this year an amount of Rs.21.57 crore was paid as against Rs.39.37 crore of royalty due leaving a balance of Rs.17.80 crore. Balance amount due to Government attracted penalty of Rs.1.78 crore which was not levied and collected.

After this was pointed out, Department replied in July 2005 that assessments would be revised duly charging penalty.

### **8.2.11 Short levy of licence fee for mining petroleum**

Under Rule 10 of Petroleum Exploration Licence (PEL) Rules, a licence was to be granted initially for four years, extendable only twice by one year each. In April 2003, Central Government relaxed this limit extending it till the expiry of exploration period. The rate of renewal of PEL for subsequent years was Rs.600 per annum upto 31 March 2003 and Rs.1,000 per annum thereafter.

During the course of audit of AD, Rajahmundry, it was noticed in February 2005 that M/s. ONGC, obtained two PELs in Krishna and Godavari river basin and renewed from time to time. However, renewal fees from 1998 to 2004 was levied at lesser rates instead of Rs.600 per annum upto March 2003 and Rs.1,000 per annum thereafter. This resulted in short levy of revenue of Rs.1.75 crore during above period out of which Rs.1.07 crore pertains to the last five years viz 1999-2000 to 2003-04.

The observation was accepted by Department in July 2005 and demand notice issued to ONGC.

## **Coal**

### **8.2.12 Unauthorised exemption of interest**

Levy of royalty or any charges including interest on major minerals is governed by MMRD Act, and MC Rules. Any change to the provisions of the Act is to be empowered through Union legislation. The State Government has no jurisdiction to relax the rate of interest under the head 'charges' of the Act.

During the course of audit of DMG it was noticed in January 2005 that State Government in their memo<sup>∞</sup> reduced simple interest from 24 *per cent* to 12 *per cent* chargeable under Rule 64(A) of MC Rules on dues of royalty payable by SCCL from October 1996 to 2002-2003. Though the DMG apprised the provisions of Act/Rules to Government with regard to competence of the powers, the State Government allowed relief at lower rate of interest to the lessee. This resulted in loss of revenue of Rs.98.62 crore.

## **Limestone**

### **8.2.13 Short levy of royalty and interest**

Under Section 9 of the MMRD Act, holder of a mining lease shall pay royalty in respect of any mineral removed or consumed by him from the leased area. Further, under Rule 64(A) of the MC Rules, belated payments of royalty/dead

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<sup>∞</sup> Govt. memo No.26804/063(2)/01-1 of Industries & Commerce (MI) department dated 1 July 2002

rent beyond 60<sup>th</sup> day from due date attracts interest at the rate of 24 *per cent* per annum in respect of major minerals.

- State Government in their orders<sup>o</sup> dated September 2000 included shale as an additional mineral out of extraction of limestone in the lease granted to a company.<sup>\*</sup> DMG instructed all ADs in July 2001 to verify whether chemical composition of shale is falling within the specification given therein before issuing permits which was challenged by lessee in Hon'ble High Court of A.P. The Hon'ble High Court permitted the State Government to issue necessary orders under relevant rules based on opinion of Indian Bureau of Mines (IBM), which classified shale as low grade limestone. Despite this directive, orders classifying shale as low grade limestone were not issued.

It was noticed that a company despatched 4,02,500 MT of shale during assessment years 2000-01 to 2003-04, paying royalty at 44 paise per MT as against Rs.40 per MT payable for low grade limestone. Thus, non issue of orders classifying shale as low grade limestone, resulted in short levy of royalty of Rs.1.59 crore for the above period.

Department replied in July 2005 that the matter was referred to Government of India in June 2005 for change of mining plan from shale to limestone. The reply is not tenable as the powers are vested with State Government and the issue need not have been referred to GOI.

- A lessee<sup>†</sup> did not furnish the annual returns for the year 2001-02. The assessing authority treated despatches as nil and assessed dead rent of Rs.3,539. The lessee furnished the returns for the year 2001-02 on 30 July 2003 along with returns for the year 2002-03 and perusal of the same revealed that the lessee had despatched 2,11,320 MT of limestone during 2001-02. Accordingly he was liable to pay royalty and interest thereon of Rs.1.25 crore which was neither demanded by the Department nor paid by the lessee. The above facts indicated that the concerned AD had neither inspected the mine to ascertain the extraction of mineral from it nor obtained returns from the lessee during the year 2001-02 as required under the departmental manual. This resulted in short levy of royalty amounting to Rs.84.49 lakh in addition to interest of Rs.40.56 lakh leviable from April 2002 to March 2004.

After this was pointed out it was replied that the mineral revenue assessments would be assessed.

- It was noticed in March 2005 during test check of records of AD, Dachepalli that quantity of limestone on which royalty was paid during the years 2001-02 and 2002-03 by a firm<sup>♦</sup> was less than the quantity consumed and depicted in the annual accounts of the lessee as detailed

<sup>o</sup> G.O.Ms.No.501, Industries & Commerce (M II) department dated 11 September 2000

<sup>\*</sup> M/s L&T Ltd., Tadipatri

<sup>†</sup> M/s Panyam Cements and Mineral Industry, Kurnool District

<sup>♦</sup> Sri Chakra Cements Ltd.

below:

Year	Qty depicted in Annual A/cs by lessee in MTs	Quantity on which royalty paid by lessee in MTs	Variation Excess despatches in MTs	Short levy of royalty at Rs.40/- per MT	(Rupees in lakh)	
					Interest to be levied to the end of March 2004	
					Period (years)	At 24% per annum
2001-02	2,76,808	1,80,356	96,452	38.58	2	18.52
2002-03	3,08,970	2,08,209	1,00,761	40.30	1	9.67
<b>Total</b>			<b>1,97,213</b>	<b>78.88</b>		<b>28.19</b>

AD did not cross verify the accounts submitted by lessee with those of annual accounts of the lessee company which resulted in short levy of royalty on 1,97,213 MTs of limestone to the tune of Rs.1.07 crore including interest of Rs.28.19 lakh thereon.

After this was pointed out, it was stated that the assessments would be revised.

#### **8.2.14 Non realisation of royalty**

MMRD Act provides for payment of royalty by the lessee on the quantity of mineral removed or consumed from the leased area. According to judgment of the Hon'ble Orissa High Court<sup>λ</sup>, removal from the seam in mine and extracting the same through the pit's mouth to the surface satisfy the requirement of Section 9 in order to give rise to liability for payment of royalty. A similar judgment was also delivered by the Hon'ble Patna High Court, Ranchi Bench<sup>μ</sup>.

During the course of audit of AD, Yerraguntla in July 2004 it was noticed that 49,084 MT of limestone was lying undisposed since 1999-2000 in the stock in respect of two mines held by M/s India Cements Ltd. In these cases, demands for royalty were not raised and realised in accordance with the judicial pronouncements and as per the provision of the Act. Due to non raising of demands, royalty of Rs.19.63 lakh remained uncollected since 1999-2000 onwards.

The Department's contention that royalty is payable only on despatches from leased area and not before, is not tenable in wake of the above verdicts and Rules *ibid*.

#### **8.2.15 Suppression of stock of limestone**

As per the MC Rules and the orders of the State Government, the details of opening balance, production, consumption and closing stock of minerals were required to be submitted by the lessee every month to the concerned AD

<sup>λ</sup> Case No. 909 of 1974

<sup>μ</sup> CWJC of 1996 [R]

along with other documents for the purpose of assessment of royalty.

It was noticed in March 2005 during test check of records of AD, Nandigama that 2,50,144.73 MT of limestone was deducted from the stock by a lessee<sup>f</sup> during 2003-04 without the permission of the Department, stating that CaO (Calcium Oxide) content of the above limestone was less than their plant requirement. The Department did not verify the accounts while finalising the assessments for the year 2003-04. This resulted in loss of royalty of Rs.1 crore.

### **8.2.16 Short levy of interest on belated payments of royalty in respect of limestone**

A cement firm<sup>Π</sup> licensed to extract limestone in Kurnool district was granted two years moratorium by State Government in December 2002<sup>↔</sup> from payment of arrears of royalty as on 1.11.2002. Interest at 12 *per cent* per annum was to be charged, instead of 24 *per cent* prescribed, only on these dues.

However, interest at concessional rate was charged even on the dues accrued after the stipulated date i.e., 1.11.2002. This resulted in short levy of interest of Rs.2.13 lakh on current arrears of Rs.17.75 lakh till end of March 2004. Further, the company extracted and despatched a quantity of 1,25,835 MT of limestone without obtaining permits in excess of the permitted quantity of 25,000 MT during 2003-04. Royalty payable on this quantity amounted to Rs.50.33 lakh, and interest on these dues for the period August 2003 to March 2004 worked out to Rs.5.85 lakh, for which demand has not been raised. Thus, total short/non levy of interest for short/non payment of royalty during 2002-03 and 2003-04 works out to Rs.7.98 lakh.

After this was pointed out, Department stated in July 2005 that the mineral revenue assessments were revised.

## **Slate**

### **8.2.17 Loss on account of dead rent**

As per Section 3(e) of MMRD Act read with Government of India notification<sup>3</sup> issued in June 1958, the mineral shale/slate when used for building or decorative purpose is treated as minor mineral. If it is consumed for manufacture of 'writing slates' (educative purpose) it is treated as major mineral. Dead rent and seigniorage fee leviable for minor mineral are higher than that for major mineral. The dead rent payable for major mineral was Rs.200 per hectare per annum while for minor mineral it was Rs.15,000 per hectare per annum upto May 2000 and Rs.20,000 per hectare per annum

<sup>f</sup> M/s Visakhapatnam Steel Plant

<sup>Π</sup> M/s Panyam Cements and Mineral Industry

<sup>↔</sup> G.O.Ms.No.488 Industries and Commerce Department dated 23.12.2002

<sup>3</sup> Government of India notification No. M II/52 (18) 54-A-II

thereafter.

Ten mining leases were sanctioned for extraction of 'slate' to an extent of 339.200 hectares in Prakasam district and slate extracted was used for building purpose. The lessees requested the authorities to treat the mineral as minor mineral, as there was no demand for writing slates. The Department did not take any action on the representations made by the lessees.

As a result, Government could earn only Rs.2.39 lakh towards dead rent from 1999-2000 to 2003-04 instead of Rs.2.21 crore by not treating it as a minor mineral as requested by the lessees.

After this was pointed out, Department stated in July 2005 that separate orders will be issued by Government with regard to collection of dead rent and seigniorage fee applicable to quarry lease.

## MINOR MINERALS

### 8.2.18 Non recovery of seigniorage fee

As per APMMC Rules, no specified minor mineral shall be despatched from the leased area without a permit issued by the concerned AD. Any unauthorised drawl of mineral attracts levy of penalty five times the normal seigniorage fee. The Hon'ble High Court<sup>▼</sup> held that even if the contractor fails to pay seigniorage fee the consuming authorities ultimately become the defaulter and are liable to pay the fee. The minor mineral was despatched without taking permit and without payment of seigniorage fee in advance which resulted in non recovery of seigniorage fee of Rs.134.61 crore as detailed below.

(Rupees in crore)

Sl. No.	Gist of the case	Amount involved
1.	It was noticed in four AD offices in Chittoor, Kadapa, Ongole and Kurnool districts that 1,37,88,477 cum of ordinary earth was supplied to various works without payment of seigniorage fee in advance. Public works departments had also not deducted the seigniorage fee from contractors' bills. The matter was brought to the notice of Government in October 2002 by Department and with the request to advise the consuming Departments to recover seigniorage fees from the bills of contractors or pay the fees themselves. However no orders were issued (September 2005).	107.55
2.	It was noticed in two AD offices, Khammam and Warangal in December 2004 that 52,702.74 cum of building stone, 46,597.42 cum of stone and metal and 61,940.31 cum of sand was utilised on the works of construction of school buildings during 1999-2000 to 2001-02. Show cause notices were issued in October 2002 and November 2004 respectively. But no demand notices were issued (September 2005). This resulted in non realisation of seigniorage fee to that extent.	3.08

▼ L. Venkateswara Rao Vs M/s. SCCL, AP High Court judgement dated 17.10.1998

(Rupees in crore)

Sl. No.	Gist of the case	Amount involved
3.	Despite the Department bringing to the notice of Railway authorities in March 2001 to effect recovery of seigniorage fee from the work bill of contractors, no recovery was effected on quantities of 72,284.86 cum of ballast material and 35,70,367.80 cum of ordinary earth utilised by contractors on various railway works in Ananthapur, East Godavari and Nellore Districts for the period from August 2000 to March 2004. No orders have been issued (September 2005).	23.98
<b>Total</b>		<b>134.61</b>

In the above three cases the amounts were not taken into DCB.

### 8.2.19 Non remittance of seigniorage fee

Industries and Commerce Department ordered<sup>⊗</sup> in October 1994 that seigniorage fee collected on minerals under the provisions of MMRD Act, be credited to the Consolidated Fund of the State and then transferred to local bodies separately at rates prescribed.

Test check of records of nine<sup>⊗</sup> mines and geology offices between July 2004 and March 2005 revealed that Rs.4.64 crore was collected from work bills of contractors by local bodies but not remitted to Mines Department as detailed below:

(Rupees in lakh)

Sl. No.	Name of the Consuming Department	Period	Amount
1	Municipal Corporation of Vijayawada	October 2002 to January 2004	71.66
	Other local bodies	1997-98 to 2001-02 <sup>□</sup>	160.84
	AP State Housing Corporation	2003-04	6.78
2	Municipal Corporation of Rajahmundry	2003-04	82.54
3	Mandal Praja Parishads in Guntur District	1999-2000 to 2002-03	18.06
	Gram Panchayats in Guntur dist.	2002-03	51.00
4	Nellore Municipality	2002-03 and 2003-04	20.37
5	Ananthapur Municipality	2000-01 to 2003-2004	10.18
6	Karimnagar Municipality, Agriculture Market Committee, Choppadandi	2002-03	9.70
		2002-03	4.43
7	Kadapa Municipality and CDPO, Kadapa	2002-03 to 2003-04	7.26
		2001-02	6.29
8	CDPO, Chittoor	2001-02	6.27
9	EE, CPW, Vijayawada	2000-2001	5.00
10	Markapur Municipality	2003-04	3.47
<b>Total</b>			<b>463.85</b>

It was replied by the concerned Asst. Directors that the matter would be pursued with the concerned local bodies/Departments.

⊗ G.O.Ms.No.404 Industries and Commerce Department dated 5 October 1994

⊗ A.D.s, Ananthapur, Chittoor, Guntur, Kadapa, Karimnagar, Markapur, Nellore, Rajahmundry and Vijayawada

□ Details were not available in the department

### **8.2.20 Black granite seized by Department lying undisposed with Andhra Pradesh Mineral Development Corporation (APMDC)**

As per rule 12 (5) (h) (xv) of APMMC Rules, mineral stock left over in the leased premises on determination of a lease shall be the property of the State Government.

Three<sup>o</sup> leases were determined in June 2003 in R.L. Puram village, Prakasam district and a total quantity of 765.155 cum., black granite was seized from the respective mining areas and handed over to M/s APMDC in June 2003. No action was taken to dispose of the mineral either to the corporation or to outsiders, which resulted in blocking up of cost of mineral to the tune of Rs.1.15 crore.

After this was pointed out, it was replied that the seigniorage fee shall be collected from APMDC as and when there is demand created for such stocks. The reply is not tenable as the seized stocks were the property of Government and should have been disposed of instead of handing them over to the company.

### **8.2.21 Non forfeiture of security deposits**

Under Rule 18 of APMMC Rules, Department may forfeit all sums paid by lessee in case of default in execution of lease during stipulated period.

Four<sup>f</sup> black granite leases were determined in June 2003 but security deposit amounting to Rs.16.16 lakh (postal savings bank) was not forfeited for more than one year by AD, Ongole.

After this was pointed out, it was replied that the matter was reported to DMG and action will be taken on receipt of orders.

### **8.2.22 Incorrect issue of demand notice**

As per APMMC Rules, if no documentary proof is produced by any person, in token of having paid price of the mineral extracted or consumed by him, he is liable to pay five times as penalty in addition to normal seigniorage fee leviable.

A company<sup>λ</sup> consumed building stone, gravel, sand etc., without payment of seigniorage fee and penalty of Rs.1.01 crore. The Department raised the demand against the company. On an appeal filed by the company, Government memo<sup>®</sup> of November 2003 was issued to serve notices to the actual suppliers of the mineral (instead of the construction company) calling for production of proof of payment of seigniorage fee which was against the

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<sup>o</sup> M/s Ashan Minerals Export Pvt. Ltd. 337.49 cum, M/s RLP Granites Pvt. Ltd., 296.322 cum, M/s Ongole mineral exports Pvt. Ltd 131.343 cum

<sup>f</sup> M/s Ashan Minerals Export Pvt. Ltd., M/s RLP Granites Pvt. Ltd., M/s Ongole Mineral Exports Pvt. Ltd , M/s ISRA Minerals Exports Pvt. Ltd.

<sup>λ</sup> M/s Prajay Engineers Syndicate, Hyderabad

<sup>®</sup> 18246/MII(i)/2003/2(Industries and Commerce)\_(M-II) dated 28 November 2003

provisions of APMMC Rules. This resulted in loss of revenue of Rs.1.01 crore as on September 2001.

### **8.2.23 Acknowledgement**

The findings of the review were sent to the Government in May 2005 for incorporation of Government view point. The Chief Secretary to Government was requested to nominate a Government representative for attending audit review committee meeting in May 2005. The meeting was held on 18 July 2005. Though the Government nominated Secretary to Commerce and Industries Department as Government representative, he failed to attend the review meeting. The Department was represented by DMG. The review was discussed and views of the DMG were taken into consideration while drafting the review. A copy of the minutes of the meeting was sent to Government in August 2005.

### **8.2.24 Conclusion**

Internal controls existing in the Department were not adequate to prevent illegal mining/quarrying and need to be strengthened by proper monitoring at apex level. Department did not follow important matters vigorously to secure interest of revenue. Further, State Government issued orders in areas governed under a Central Act and beyond their competence, consequently there was loss of revenue to the State.

## **B. REVENUE DEPARTMENT**

### **COMMERCIAL TAXES**

#### **8.3 Short levy of rural development (RD) cess**

In order to generate funds for creating infrastructural facilities in rural areas, Andhra Pradesh Rural Development Act 1996 (RD Act) was enacted with effect from 30 December 1995. Cess shall be levied and collected at the rate of five *per cent* ad valorem on the quantum of purchase of paddy. Collections so made are to be constituted under Section 8 of the Act as Andhra Pradesh Rural Development Fund (RD), which shall vest in a board and be spent for the purpose specified under Section 9 of RD Act exclusively. Cess is payable by millers/dealers on paddy purchases made by them. However, on the value of paddy involved in sale of levy rice to Food Corporation of India (FCI), FCI pays cess component to rice millers who in turn pay it to Commercial Tax Department.

During the course of audit in four circles<sup>♦</sup>, it was noticed between April 2003 and December 2004 in 150 cases relating to the assessment years 1999-2000 to 2002-03 finalised between April 2002 and March 2004 that instead of levying and collecting cess on total purchase value of paddy by millers, assessing authorities limited it to only the value of levy rice sold to FCI. Cess payable on the balance paddy was either exempted or adjusted towards subsidy, which was not provided in the Act. Due to violation of the Act and adoption of incorrect procedure there was short levy of Rs.7.47 crore.

After this was pointed out, Department stated in September 2005 that in one case demand of Rs.7.10 lakh was raised and in another case assessing authority stated in July 2004 that subsidy was allowed before allocation of budget which is nothing but subsidy to be sanctioned and remitted back to Government, hence there is no loss of revenue. The reply is not tenable since there is no provision under the Act for adjusting cess towards subsidy yet to be sanctioned. In another case it was stated in December 2004 that subsidy was allowed on quantity of paddy involved in levy free rice sold within the State as per government instructions<sup>•</sup> dated 6 September 1997. The reply is not tenable as allowance of subsidy is not admissible under the provisions of Act. In remaining one case, assessing authority replied in May 2003 that necessary action would be taken.

The above matter was referred to Government in June 2005, response was not received (September 2005).

#### **8.4 Non levy of interest on RD cess**

Under the provision of RD Act, if any dealer fails to pay the amount of cess levied, he shall in addition to cess, be liable to pay interest on cess due from him at the rate of Rs.1.50 for every Rs.100 or part thereof for each month or part thereof, from the date of default.

During the course of audit of Janagoan circle, it was noticed in 10 cases in November 2003 that assessee collected RD cess at the rate of five *per cent* from FCI during the years 1999-2000 and 2000-01. Out of these cases, amount of Rs.5.07 lakh was not remitted in four cases and in remaining six cases amount of Rs.27.43 lakh was partly or fully paid with delays ranging from 15 to 33 months. Interest on RD cess collections retained by assessee working out to Rs.12.33 lakh remained unlevied.

After this was pointed out, assessing authority replied in November 2003 that matter would be examined and RD cess dues would be collected along with interest.

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<sup>♦</sup> Chittoor-II, Kasibugga, Mandapeta and Warangal (Fort Road)  
<sup>•</sup> G.O.Ms.No.734 Revenue (CT-II) Department dated 6 September 1997

The above matter was referred to Department in April 2005 and to Government in June 2005, response was not received (September 2005).

### **8.5 Incorrect allowance of set off of RD cess**

In terms of Government memo<sup>Σ</sup> dated 23 August 1997, amount of RD cess paid on cashew nut under RD Cess Act may be given set off against tax paid under APGST or CST Act.

During the course of audit of Kasibugga circle it was noticed in December 2004 in seven cases that while finalising assessments for the year 2002-03, RD cess payable on purchase value of cashew nuts was given set off against sales tax payable, though cess was not actually paid. This resulted in incorrect allowance of set off of RD cess amounting to Rs.5.70 lakh.

After this was pointed out, Department in September 2005 stated that the tax collected was adjusted at the time of finalising assessments of RD cess and APGST. The reply is not correct as cess payable was given set off against sales tax payable in the final assessment orders.

The above matter was referred to Government in June 2005, response was not received (September 2005).

## **C. IRRIGATION AND COMMAND AREA DEVELOPMENT**

### **DEPARTMENT**

### **IRRIGATION WING**

### **8.6 Short collection of royalty charges**

According to board standing orders, royalty charges for estimated quantity of water based on previous year's quantity of water drawn for industrial/power generation purposes at rates prescribed by Government from time to time shall be paid by the licensee in advance, before 10<sup>th</sup> April every year. Government, in April 2002<sup>Ψ</sup> revised the rates of royalty payable for industrial and power generation purposes. The rates of royalty for water drawn from natural sources for industrial purpose is Rs.1.50 per 1,000 gallons of consumptive use and 1.5 paise per one gallon of non consumptive use.

During course of audit of Executive Engineer, (IB division), Bhadrachalam, it was noticed in May 2004 that two industrial units were supplied with 334,73,19,360 gallons of water for consumptive use and 627,30,96,720 gallons for non consumptive use for the period from April 2002 to March 2004. The royalty payable was Rs.51.15 lakh. However, the Department

<sup>Σ</sup> Government memo No.87763/CT-II/95 dated 23 August 1997

<sup>Ψ</sup> G.O.Ms.No.39 I&CAD dated 2 April 2002

levied royalty of Rs.3.48 lakh resulting in short levy of royalty by Rs.47.67 lakh.

After this was pointed out, Executive Engineer replied in May 2004 that the difference would be collected.

The above matter was referred to the Department in April 2005 and to Government in May 2005, response was not received (September 2005).

### **8.7 Non/short levy of royalty due to non execution of agreement**

According to Standing Order No.11-A of erstwhile Board of Revenue, diversion or use of water from Government sources should not be made by a private individual or group of individuals or a corporate body without a licence issued by or permission obtained from the authority empowered under the standing order. For water used in generation of electric power, wherever the source of water is under charge of the Public Works Department, concerned Superintending Engineer (SE) is required to execute an agreement with the power generating unit. Government in April 2002 fixed the rates of royalty payable depending upon the water consumed and capacity of Hydel Electricity project.

During the course of audit of Executive Engineer, KC Canal Division, Nandyal in February 2005, it was noticed that M/s. Sagar Power Ltd., Hyderabad commissioned a power generating unit in September 1998 in Kurnool. However, the SE initiated action to enter into an agreement with the unit in June 2003 i.e. after a delay of more than four years, only by forwarding draft agreement for approval to the Engineer-in-Chief. The agreement was not executed even upto February 2005. In the meantime, the unit paid royalty charges upto 2002-03 based on their own calculation and did not pay any royalty for 2003-04 and 2004-05. The royalty payable for 2002-03 to 2004-05 (upto December 2004) at the prescribed rates is Rs.38.52 lakh whereas the amount paid by the unit is only Rs.1.06 lakh. This resulted in short/non levy of royalty charges by Rs.37.46 lakh.

After this was pointed out, Executive Engineer replied in February 2005 that agreement has not yet been concluded by the Engineer-in-Chief with the unit and royalty charges would be collected after conclusion of agreement. The reply is not tenable as water was supplied regularly even in absence of an agreement and the unit paid royalty upto the year 2002-03.

The above matter was referred to Government in April 2005, response was not received (September 2005).

**Hyderabad**

**The**

**(Sudarshana Talapatra)  
Accountant General  
(Commercial & Receipt Audit)  
Andhra Pradesh**

**Countersigned**

**New Delhi  
The**

**(Vijayendra N. Kaul)  
Comptroller and Auditor General of India**