CHAPTER – V : NON-TAX RECEIPTS

5.1 Results of Audit

Test check of assessment records in the offices dealing with the following revenue receipts during 2003-2004 revealed non-payment of royalty on sand/stone/limestone/natural gas, locking up of revenue, etc. amounting to Rs.243.62 crore in 98 cases, which fall into the following categories :

(Rupees in crore)

Sl. No.	Particulars	No. of cases	Amount
1.	Mines and Mineral Receipts	3	0.03
2.	Forest Receipts	94	34.25
3.	**Review on Receipts from Mines and Minerals**	1	209.34
	Total:	**98**	**243.62**

During the year, the Department has accepted Rs.50.98 crore in 3 cases which had been pointed out during 2001-2002.

A few illustrative cases involving Rs.8.27 lakh and a review on **Receipts from Mines and Minerals,** involving financial effect of Rs.209.34 crore are mentioned in the following paragraphs:

A. GEOLOGY AND MINING

5.2 Review on Receipts from Mines and Minerals

Highlights

- Non-payment of royalty on the crude oil extracted by Oil and Natural Gas Corporation Limited (ONGCL) and Oil India Limited (OIL) during 1999-2000 to 2001-2002 as reflected in Indian Mineral Year Book against production shown in the returns to the State Government resulted in short receipt of revenue of Rs.35.28 crore.

(Paragraph 5.2.6)

- Adoption of incorrect formula by OIL for determining royalty payable on natural gas during 2001-2002 and 2002-2003 led to short payment of royalty of Rs.23.56 crore.

(Paragraph 5.2.7)

- Royalty to the tune of Rs.46.09 crore on crude oil extracted by OIL and ONGCL between December 1999 and March 2003 was lying outstanding for payment. The units were also liable to pay additional amount of Rs.86.25 crore for non-payment of royalty within specified period.

(Paragraph 5.2.8)

- Three units did not pay royalty to the tune of Rs.1.78 crore on coal extracted during 1998-99 to 2002-2003. The Department also did not levy interest of Rs.0.63 crore for non-payment of royalty in time.

(Paragraph 5.2.9)

- Government sustained loss of revenue to the tune of Rs.15.64 crore due to transportation loss of crude oil and excess utilisation of gas during mining operation.

(Paragraph 5.2.10)

Introduction

5.2.1 The extraction of minerals is governed by the Mines and Minerals (Development and Regulation) Act, 1957 (a Central Act), the Minerals Concession Rules, 1960, Petroleum and Natural Gas Rules, 1959 and Assam Minor Minerals Concession (Regulation and Development) Act, 1948. Coal, Crude Oil and Natural Gas are the major minerals. Limestone and boulders, shingles, sand stone, stone dust etc., are the minor minerals available in the State of Assam. Production and Mining of Coal is governed by the Coal Mines (Nationalisation) Act, 1973, and other minerals are regulated under the provisions of Mines and Minerals (Development and Regulation) Act, 1957 and Mineral Concession Rule, 1960. The Geology and Mining Department of the Government of Assam realises revenue from mines and minerals, which consists of royalty, dead rent, surface-rent, licence fees etc. from different units operating in the state.

Organisational Set up

5.2.2 The Director is the head of the Geology and Mining Department, Assam, who is assisted by four Joint Directors, one Deputy Director, one Chief Geologist, four Senior Geologists, one Senior Drilling Engineer, 16 Geologists (including one Resident Geologist at Dibrugarh), one Deputy Chief Chemist, one Mining Engineer, two Senior Chemists and 38 other technical personnel.

Scope of Audit

5.2.3 Detailed scrutiny of records maintained in the office of the Director, Geology and Mining Department in respect of seven out of eight units holding licences and mining lease for exploration and extraction of Crude Oil, Natural Gas, Coal, Limestone and Sand Stone for the period 1998-99 to 2002-2003 was conducted by audit during October-November 2003.

Audit objectives

5.2.4 A review was conducted with a view to -

- assess the correctness of payment of royalty on crude oil, natural gas, coal etc. to the State Government by various units ;
- detect incorrect reporting of collection/removal of coal/crude oil/ natural gas and limestone and failure in observance of norms laid down by the Government for payment of royalty ; and
- determine system failure leading to loss of Government revenue.

Budget estimates and actuals

5.2.5 The receipts from Mines and Minerals vis-à-vis the budget estimates and their percentage variation for the preceding five years ending March 2003 are shown below:

(Rupees in crore)

Year	Receipts from Mines and Minerals			
	Budget estimates	Actuals as per finance accounts	Variations between BEs and Actuals	Percentage of increase (+)/ shortfall (-)
1998-1999	306.29	307.15	0.86	(+) 0.28
1999-2000	378.86	347.39	(-) 31.47	(-) 8.31
2000-2001	425.13	399.27	(-) 25.86	(-) 6.08
2001-2002	455.54	454.56	(-) 0.98	(-) 0.21
2002-2003	532.76	582.17	49.41	(+) 9.27

As per information furnished by the Department, budget estimates were prepared taking into account the trend of production, prevailing rate of royalty and anticipated revision of rates of royalty during the year. The Department attributed the variation between the target and actuals during 1999-2000 to 2001-2002, to shortfall in production.

Test check of records maintained in the office of the Director, Geology and Mining, Assam, Guwahati revealed the following irregularities:

Non-payment/short payment of royalty by lessees

Crude Oil and Natural Gas

5.2.6 Petroleum and Natural Gas (PNG) Rules, 1959, stipulates that a lessee shall pay to the State Government a royalty on Crude Oil and Casing Head Condensate obtained from Mining operations at the rate fixed by the Central Government from time to time. "Crude Oil" means petroleum in its natural state before it has been refined or otherwise treated but from which water and foreign substances have been extracted.

Oil and Natural Gas Corporation Limited (ONGCL) and Oil India Limited (OIL) paid royalty on 146.49[1] lakh MT of crude oil extracted during 1999-2000 to 2001-2002 as reported to the State Government. Cross verification of figures included in "Indian Mineral Year Book 2002 and 2003" published by Indian Bureau of Mines, revealed that the units actually extracted/produced 153.22 lakh MT of crude oil valued Rs.8,067.70 crore during the same period from the oil fields in the State. Thus, there was net discrepancy of 4.63 lakh MT of Crude Oil (after wastage) between two sets of production figures resulted in short realisation of Rs.35.28 crore as detailed below:

[1] Gross production – 146.49 lakh MT

Year	Production as per Mineral Year Book 2002 and 2003 (in lakh MT)	Production as reported in returns			Difference	Wastage/other utilisation as reported to the State Govt.	Net discrepancy	Amount of royalty (Rs. in crore) (Rate per MT)
		OIL	ONGCL	Total				
		(In lakh Metric Tonne)						
1999-2000	50.28	30.53	17.73	48.26	2.02	0.36	1.66	10.03 (Rs.604)
2000-2001	51.09	30.56	18.70	49.26	2.73	0.87	1.86	15.81 (Rs.850)
2001-2002	50.95	30.11	18.86	48.97	1.98	0.87	1.11	9.44 (Rs.850)
Total:	**153.22**	**91.20**	**55.29**	**146.49**	**6.73**	**2.10**	**4.63**	**35.28**

While, the Department took up the matter of discrepancy for 1999-2000 with the Ministry of Petroleum and Natural Gas in May 2002, action was not taken in respect of the discrepancies for the years 2000-2001 and 2001-2002 as yet (September 2004). Further development in respect of discrepancy for the year 1999-2000 as reported to the Ministry concerned was awaited (December 2004).

This resulted in short receipt of royalty of Rs.35.28 crore.

5.2.7 PNG Rules, 1959, stipulates that a lessee shall pay to the State Government a royalty at 10 *per cent* of the value at well-head of the natural gas obtained by the lessee from the leased areas.

The Petroleum and Natural Gas Ministry (Government of India) vide letter dated 31 December 1991 fixed the price of natural gas with calorific value of 9,000 to 9,500 k cal per cu.m. at Rs.1,000 per thousand cu.m. with effect from 1 January 1992 for North Eastern Region. The discount available on this price on a case to case basis was limited to maximum of Rs.400 per thousand cu.m. It was further clarified that for gas with lower or higher calorific value than the range mentioned above, a rebate or premium to be calculated as per formula conveyed vide Ministry’s letter dated 17 February 1987, is to be deducted or added.

Between April 1999 and March 2003, OIL paid royalty to the State Government on 45,81,529 thousand standard cubic metre (scum) of natural gas at the rates ranging from Rs.33.91 to Rs.100.66 per thousand scum of natural gas. Whereas, ONGCL paid royalty at the average rates ranging between Rs.122.13 to Rs.137.55 per thousand scum. Scrutiny of departmental records revealed that OIL deducted post well-head cost of collection and distribution from sale value of natural gas for determining royalty payable to Government. Whereas, ONGCL did not deduct such cost while determining royalty payable to Government and paid royalty at 10 *per cent* of the sale value of natural gas.

Due to adoption of different formula by OIL for determining royalty payable on natural gas, the unit made short payment of royalty to the tune of Rs.23.56 crore during 1999-2000 to 2002-2003 as shown below:

Year	Quantity of natural gas (in thousand scum)	Average rate of royalty paid by ONGCL (Rs. per thousand scum)	Rate of Royalty paid by OIL (Rs. per thousand scum)	Difference of rates of royalty (Rs. per thousand scum)	Short payment of royalty (Rs. in crore)
April 1999	99,020	122.13	33.91	88.82	0.88
May 1999 to March 2000	9,78,590		59.89	62.24	6.09
April 2000	1,08,435	134.00	59.89	77.11	0.84
May 2000 to March 2001	11,29,635		77.83	56.17	6.35
April 2001	96,417	135.32	77.83	57.49	0.55
May 2001 to March 2002	10,01,932		100.66	34.66	3.47
April 2002 to March 2003	11,67,500	137.55	91.51	46.04	5.38
Total	**45,81,529**				**23.56**

Although, the Department, took up the matter in September 2003 with the Government, action taken, if any, by the Government in this regard was not on record.

5.2.8 PNG Rules, stipulates that a lessee shall pay to the State Government a royalty per metric tonne of Crude Oil and Casing Head Condensate obtained from Mining leased areas at the rate fixed by the Central Government from time to time. Further, royalties and other sums, if not paid within the time specified for such payment, shall be increased by ten *per cent* for each month or portion of a month during which such payments remain unpaid.

As per returns furnished to the State Government by the OIL, the unit paid royalty of Rs.862.22 crore on 93.71 lakh MT of crude oil between December 1999 to March 2003. But, the unit was liable to pay royalty of Rs.890.92 crore on the said quantity of crude oil as per rate fixed by the Central Government from time to time. This resulted in short payment of royalty of Rs.28.70 crore to the State Government as of September 2004. Besides this, an amount of Rs.32.08 crore was also payable as an enhanced amount as per provision of the Rules, ibid on Rs.26.96 crore due for the period from December 1999 to January 2003 (amount due for February and March 2003 omitted). The Department did not take any action for recovery of the amount due till September 2004.

Similarly, ONGCL was to pay royalty of Rs. 87.39 crore to the State Government at revised rate of Rs.1,445.50 per MT on 15.77 lakh MT of crude oil (Net) produced during April 2002 – March 2003. Against this, the unit paid Rs.70 crore in March 2003. As the department did not take steps for realisation of the dues, the balance amount of Rs. 17.39 crore remained unrealised (September 2004). In addition, an amount of Rs.54.17 crore was payable as an enhanced amount for default in payment of Rs.86.93 crore due for the period from April 2002 to January 2003 (amount due for February and March 2003 omitted).

Coal and Limestone

5.2.9 Mines and Minerals (Development and Regulation) Act, 1957, regulates payment of royalty from the lessee on the quantity of minerals removed or consumed from the leased area. Provisions of Mines and Minerals Concession Rules, 1960 (amended in January 2001) also empowers the State Government to charge simple interest at the rate of 24 *per cent* with effect from 1 April 1991 per annum on unpaid amount from the 60th day of the expiry of the last date (i.e. 10th day of the following month of production) of the monthly payment.

- North Eastern Coal Fields Limited (NECFL) removed 34.68 lakh MT of coal from the leased areas during 1998-99 to 2002-2003, but paid royalty only on 34.48 lakh MT. This difference occurred due to non-accounting of quantity of colliery consumption of coal by NECFL on which royalty was payable. This resulted in short payment of royalty of Rs.25.39 lakh and interest of Rs.14.38 lakh for delay in payment as indicated below:

Year	Quantity of coal removed from the leased areas (MT)	Quantity on which royalty paid (MT)	Differential quantity (MT)	Rate of royalty (Rs. per MT)	Amount of royalty	Interest leviable @ 24 *per cent* per annum
					(Rupees in lakh)	
1998-1999	7,09,128.22	7,07,043.12	2,083.10	120	2.50	2.40
1999-2000	8,36,062.57	8,23,432.95	12,629.62	120	15.16	10.91
2000-2001	7,65,138.31	7,64,036.04	1,102.27	120	1.32	0.63
2001-2002	6,23,339.47	6,22,224.15	1,115.32	120	1.34	0.32
4/2002 to 7/2002	1,43,845.46	1,42,859.75	985.71	120	1.18	0.12
8/2002 to 3/2003	3,90,477.32	3,88,120.54	2,356.78	165	3.89	--
Total:	**34,67,991.35**	**34,47,716.55**	**20,272.80**		**25.39**	**14.38**

- According to instruction issued by the Government of Assam in January 1983, all the licencee/lease holders engaged in mining operation in the areas under the jurisdiction of any District Council were to deposit 60 *per cent* of the due royalty into the relevant receipts head of accounts of the concerned District Council and the balance 40 *per cent* into relevant receipt head of account of the State Government.

Assam Mineral Development Corporation Limited (AMDCL) removed 1.23 lakh MT of coal during February 1998 to March 2003 from its leased areas, but did not pay royalty of Rs.65.32 lakh being 40 *per cent* share of royalty due to the State Government. The unit was also liable to pay interest of Rs.33.03 lakh for default in payment.

Similarly, M/s Vinay Cement Ltd., Guwahati removed 5.43 lakh MT of lime stone from its lease hold areas during February 2001 to March 2003 but did not pay royalty of Rs.86.88 lakh to the State Government as of May 2004. The unit was also liable to pay interest of Rs.16.48 lakh for default in payment.

In the absence of any system in the Department of issuing demand notice to the units in respect of royalty payable to the Government, arrears of royalty accumulated to Rs.1.78 crore excluding interest (Rs.0.63 crore) against the three units as mentioned above. Although, the Department took up the matter with Vinay Cement Limited in January 2003 in respect of arrear upto December 2002, the recovery was not effected till December 2004.

Non-payment of royalty due to transportation loss of crude oil

5.2.10 Under the PNG Rules, 1959, the licencee/lessee shall not pay royalty in respect of any crude oil, casing head condensate or natural gas which is unavoidably lost or is returned to the reservoir or is used for drilling or other operations relating to the production of petroleum or natural gas or both. But, the Rules do not provide for allowing exemption from payment of royalty on account of transportation loss

As per information furnished by the Department, ONGCL extracted 90.01 lakh MT of crude oil at well-head tank during 1998-99 to 2002-2003. Out of this, 1.96 lakh MT of crude oil was treated as transportation loss and the unit did not pay royalty to the tune of Rs.15.64 crore to the Government on this quantity for the years 1998-1999 to 2002-2003 as detailed below:

Year	Gross production of crude oil (MT)	Quantity treated as transportation loss (MT)	Rate of royalty (Rs. per MT)	Amount of royalty not paid (Rupees in lakh)
1998-1999	17,97,921	27,344	578.00	158.05
1999-2000	17,73,321	3,561 14,150 2,863 11,432	578.00 750.00 842.00 850.00	20.58 106.13 24.11 97.17
2000-2001	18,70,326	48,642	850.00	413.46
2001-2002	18,85,825	35,998	850.00	305.98
2002-2003	16,73,354	51,542	850.00	438.10
Total:	**90,00,747**	**1,95,532**		**1,563.58**

The Department did not pursue the matter with the unit concerned.

Non-levy of interest on delayed payment of royalty on coal

5.2.11 According to the State Government notification dated July 1988, royalty, fees etc. are to be deposited to Government account by 10th day of each calendar month for mineral produced during the preceding month. Provisions of Mines and Minerals Concession Rules, 1960, also empowers the State Government to charge simple interest at the rate of 24 *per cent* per annum on unpaid amount from the 60th day of the expiry of the last date (i.e. 10th day of the following month of production) of the monthly payment.

North Eastern Coal Fields Limited (NECFL) and Assam Mineral Development Corporation Limited (AMDCL) paid royalty of Rs.2.04 crore on coal for the period May 1998 – March 2002 belatedly. The delay ranged between four to 363 days. But, the Department did not levy interest for delay in making payment which worked out to Rs.10.79 lakh.

Lack of a system to raise demand

5.2.12 Though Geology and Mining Department realises revenue from mines and minerals, which consists of royalty etc. it was however observed that there existed no system in the Department to raise demand for Government dues promptly. The lessee themselves deposited the amount payable to the State Government even before a demand was raised.

Recommendations

5.2.13 In view of various lacunae/deficiencies as brought out in the forgoing review paragraphs, the following recommendations are made for consideration of the Government:

- Adequate internal control system mechanism is to be adopted to improve the entire system of collection of revenues from mines and minerals.

- Reconciliation of royalty payable as per reports/returns submitted by the units with that paid for by the units is to be conducted/enforced periodically.

Matters were reported to the Department and the Government in May 2004; their replies have not been received (December 2004).

B. FOREST RECEIPTS

5.3 Loss of revenue due to sale of forest produce by permit

Under the Assam Sale of Forest Produce, Coupes and Mahal Rules, 1977, forest produce is to be disposed of by tender or auction at competitive rates.

Test check of records of Divisional Forest Officer (DFO), Aie-Valley Division, Bongaigaon revealed Chaprakata Hill Stone Mahal was settled by competitive tenders for the period 2002-2004 at Rs.3.05 lakh for extraction of 2,000 cu.m. of stone. The rate per cu.m. thus worked out to Rs. 152.50 per cu.m. in case of stone.

But, the Division during the same period sold 5,150 cu.m. of stone from the mahal on permit on realisation of royalty at the rate of Rs.70 per cu.m for stone.

Thus, due to selling of stone on permit instead of through tender rates, the Department had to forgo an additional revenue of Rs.4.25 lakh calculated at the differential rates between Rs.152.50 and Rs.70.

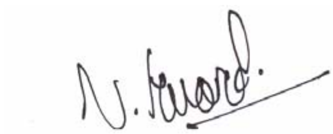
The matter was reported in December 2003 to the Department and the Government; their replies have not been received (December 2004).

5.4 Loss of revenue due to deterioration of timber

As per system prevalent in the Department, timber/logs are deposited in the nearest depot after their operation/seizure. Logs are then graded according to size and quantity and put on sale through tender. Protection of timber from the vagaries of weather, damage or theft is the primary responsibility of the Department. Under the Assam Sale of Forest Produce, Coupes and Mahal Rules, 1977, forest produce is to be disposed of by tender or through public auction or negotiations.

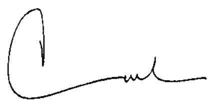
Test check of records of the Divisional Forest Officer, Sibsagar in June 2003, revealed that 291.0195 cu.m. of timber valued at Rs.6.63 lakh were lying in the various depots under the Division during 1998-99 to 2001-2002. Despite repeated calling of tender (9-10 times) between February 2000 and April 2002, the Division, as stated in May 2004, failed to dispose off the timber due to non-receipt of appropriate offer. However, the Department did not use alternative mode of sale i.e. sale through public auction or negotiation as provided under the rules. The Division reassessed the volume of timber in September 2002 and found that 178.49659 cubic metre (cu.m.) of timber had deteriorated due to exposure to sun and rain. Thus, due to failure of the Department either to use alternative mode of sale or protecting the quantities of timber from the vagaries of weather led to loss of Government revenue to the tune of Rs.4.02 lakh.

The case was referred to the Department and the Government in August 2003; their replies have not been received (December 2004).



GUWAHATI **(SWORD VASHUM)**
The **Principal Accountant General (Audit), Assam**

Countersigned



NEW DELHI **(VIJAYENDRA N. KAUL)**
The **Comptroller and Auditor General of India**