

CHAPTER-V : Non-Tax Receipts

5.1 Results of Audit

Test-check of records of departmental offices relating to revenues of Mines and Minerals conducted during the year 2003-04 revealed under-assessment and losses of revenue amounting to Rs.70.47 crore in 77 cases which broadly fall under the following categories:

Sl. No.	Nature of irregularities	Number of cases	Amount (Rupees in crore)
1.	Review on Receipts from Mines and Minerals	1	68.40
2.	Non-recovery of royalty	59	1.72
3.	Non/short recovery of dead rent	6	0.02
4.	Non-recovery of contract money/interest	11	0.33
	Total	77	70.47

During the year 2003-2004, the Department accepted under-assessment of Rs.0.68 crore in 10 cases which were pointed out during the year 2003-04. Besides, Rs.3.59 crore recovered in 49 cases pertained to earlier years.

A review relating to "Receipts from mines and minerals" involving Rs.68.40 crore highlighting important cases is mentioned in this chapter. The Department accepted two observations involving Rs.8.57 crore and made part recovery of Rs.5.89 lakh in two cases.

5.2 Receipts from Mines and Minerals

Highlights

As on 31 March 2003 arrears of revenue under “Mines and Minerals” pending collection was Rs.6.29 crore.

(Paragraph 5.2.6)

Delay in auction of mining contracts of Ambala and Faridabad Districts resulted in loss of Rs.1.09 crore and Rs.9.15 crore respectively.

(Paragraph 5.2.7 and 5.2.8)

Non-forfeiture of security and advance lease money due to non-execution of agreement deeds led to a loss of Rs.3.24 crore.

(Paragraph 5.2.9)

Non-payment of dead rent and royalty in case of 65 leases led to a loss of Rs.6.28 crore including interest.

(Paragraph 5.2.10)

Penalty of Rs.29.98 crore due to violation of conditions of agreements was not levied.

(Paragraph 5.2.11)

Lack of action on the part of department resulted in a loss of Rs.11.43 crore.

(Paragraph 5.2.14)

Introductory

5.2.1 The mineral resources of a State may be broadly classified into two categories namely (i) major minerals (ii) minor minerals. The grant of concessions for prospecting and mining operations in respect of major minerals is regulated by the Mines and Minerals (Regulation and Development) Act, 1957, enacted by the Parliament and the Mines and Mineral Concessions (MMC) Rules, 1960, framed thereunder by the Government of India. The Punjab Minor Minerals Concession (PMMC) Rules, 1964, applicable to the State of Haryana, the Haryana Minerals (Vesting of Rights) Act, 1973, and the Haryana Minerals (Vesting of Rights) Rules, 1979, regulate the extraction of minor minerals. Receipts from mines and minerals are realised in the form of fees, dead rent, royalty, auction/contract money etc.

Audit Objectives

5.2.2 Detailed analysis of revenue receipts from mines and minerals was conducted with a view to:

- ascertain whether leases were auctioned correctly in accordance with the procedures/instructions issued by the Government from time to time;
- ascertain whether the rules/procedures are followed correctly for levying royalty/dead rent;
- ascertain whether internal control existed to monitor the receipts of royalty/dead rent etc. from the lessees and were properly accounted for.

Scope of audit

5.2.3 The records of the Director of Mines and Geology and 15* Mining Officers (MOs) for the period 1998-99 to 2002-03 were test-checked between July 2003 and January 2004.

Points noticed in audit have been commented in the subsequent paras, which have a financial impact of Rs.62.11 crore.

Organisational set up

5.2.4 Commissioner and Secretary to Government of Haryana, Revenue Department is overall incharge of the Department. The Director of Mines and Geology is responsible for administration and implementation of the provisions of the Acts and Rules. He is assisted by the State Mining Engineer, the Deputy District Attorney & Assistant Mining Engineer (AME) at the Headquarters. The work in the field is supervised through the AMEs and MOs of the district concerned under whose supervision the royalty, dead rent, fees, auction money etc. are collected.

Trend of Revenue

5.2.5 The budget estimates vis-a-vis mineral revenue receipts collected during the period from 1998-99 to 2002-03 in respect of major and minor minerals were as under:-

Year	(Rupees in crore)			
	Budget Estimates	Actual Receipts	Variation increase (+) decrease (-)	Percentage of variation
1998-99	65.80	65.94	(+) 0.14	0.21
1999-2000	72.40	84.80	(+) 12.40	17.12

* Mining officers: Ambala, Bhiwani, Faridabad, Gurgaon, Hisar, Jind, Kurukshetra, Narnaul, Panipat, Panchkula, Rohtak, Rewari, Sonipat, Sirsa and Yamunanagar.

	(Rupees in crore)			
Year	Budget Estimates	Actual Receipts	Variation increase (+) decrease (-)	Percentage of variation
2000-01	110.00	105.35	(-) 4.65	(-) 4.23
2001-02	150.00	139.87	(-) 10.13	(-) 6.75
2002-03	125.00	118.88	(-) 6.12	(-) 4.90

The increase in actual receipts during 1999-2000 over budget estimates was due to increase in the rates of royalty by the Central Government.

Arrears pending collection

5.2.6 Department has prescribed annual returns regarding arrears pending collection for each AME and MO. These are required to be submitted to Director Mines and Geology, who consolidates the position for the entire State. The arrears pending collection as on 31 March 2003 as furnished by the Department were as under:-

Year	Amount (Rupees in crore)
Upto 1998-99	4.34
1999-2000	0.30
2000-01	0.32
2001-02	0.53
2002-03	0.80
Total	6.29

A test-check of returns revealed that in Panchkula, Hisar, Kurukshetra and Rohtak, the actual arrears as per the returns were Rs.3.25 crore while Rs.3.01 crore were depicted by the Directorate in arrears statement.

Out of the arrears of Rs.6.53 crore, recovery for Rs.0.80 crore was stayed by the courts, recovery certificates for Rs.3.61 crore were issued but recovery was yet to be effected, recovery certificates for Rs.2.05 crore were still to be issued by the Department and for remaining amount of Rs.0.07 crore the contractors had either died or were un-traceable. Out of Rs.2.05 crore for which recovery certificates were not issued, an amount of Rs.0.84 crore pertained to the period 1982-83 to 1998-99.

Loss of revenue due to delayed auction

5.2.7 Under Rule 28 and 30 of Punjab Minor Mineral Concession Rules, contracts may be granted by the Government by auction or by tender. The auction shall be notified on the notice board of the Director and MOs and at least in one news paper as well as in Haryana Government gazette by

publishing the auction notice at least 10 days before the date of auction. The tender notice shall mention all the terms and conditions of the contract.

During the course of audit it was noticed that the State Government directed the Mining Department in May 2002 to examine the possibility of auctioning all 51 quarries of district Ambala as a single unit for maximizing the revenue. Accordingly, 51 units of the district were liable to be treated as one unit and auctioned together for three years with effect from 20 June 2002. However, the Department notified only 41 units against 51 units for auction twice on 20 May 2002 and 29 November 2002 respectively for which no bidder came forward. A fresh notification for auction of 51 units was issued on 8 January 2003. In this notification, the Department mentioned that out of 51 units, 16 units would be handed over to the lessee after the expiry of present contract period which fell between March 2003 to March 2004. Accordingly, the highest bidder was granted bid for Rs.1.85 crore on 5 February 2003. Delay in auctioning the remaining 35 non-operative units for the period between 20 June 2002 to 4 March 2003 resulted in loss of royalty of Rs.1.09 crore.

The matter was brought to the notice of the Department during November 2003. In reply the Department stated that there was no loss of revenue due to the reason that out of 51 quarries, 16 quarries were on contract i.e. six upto 31 March 2003 and ten upto March 2004. Thus, the Department had received contract amount from these quarries. Reply of the Department was not relevant as there was delay in settlement of the remaining 35 quarries, other than the 16 quarries, which were not auctioned for the period 20 June 2002 to 4 March 2003 resulting in loss to the Government.

5.2.8 A perusal of records of MO, Faridabad, revealed that 10 quarries were due for auction between August to November 2001. Out of these, eight quarries were auctioned while the remaining two quarries were not auctioned. The records further revealed that the lessees who operated these two quarries between August 1991 and August 2001 applied for renewal of licence which was rejected in December 2001. The Department had made no efforts for their auction for the period August 2001 onwards. Based on the previous royalty receipt the Government lost a revenue of Rs.9.15 crore for the period from August 2001 to May 2002.

The matter was brought to the notice of the Department in December 2003; reply had not been received (September 2004).

Non-forfeiture of security and advance lease money

5.2.9 As per rule 19 of Punjab Minor Mineral Concession Rules, where a mining lease is sanctioned, the lease deed in form 'F' shall be executed within three months of the order of sanctioning the lease and in case of default the lease shall be deemed to have been revoked and security and advance lease money paid under Rule 30 (2) (iv) of the rules ibid shall be forfeited to the Government by operation of law and the lease requires re-auction under rules.

During test-check of the records of the AME, Gurgaon, for the year 2001-03, two bids were accepted in November 2001 and November 2002, lease was granted and security and advance lease money of Rs.3.24 crore was received from the lessees. However, the lessees did not come forward to execute the lease deed despite issue of notices in July and September 2003. Consequently, the security and the advance lease money received was required to be forfeited by the Director, Mines and Geology. In addition, the mines were required to be re-auctioned. The Department neither forfeited the amount of security deposit and advance lease money nor the lessees entered into any lease deed.

The matter was brought to the notice of the Department during January 2004. Reply had not been received (September 2004).

Non/short recovery of dead rent/royalty and interest

5.2.10 As per provision of Rule 11 of Punjab Minor Mineral Concession Rules, a register called “lease register” is to be maintained in each MO/AME office. Royalty/dead rent etc. recovered is entered therein in the relevant columns. In case whole or any portion of royalty/dead rent remains unpaid, interest at the rate of 24 *per cent* per annum is recoverable.

During test check of records of six* MOs for the period from 1998-99 to 2002-03, it was noticed in October 2003 that in 65 leases an amount of dead rent and royalty of Rs.3.78 crore and interest of Rs.2.50 crore was either not realised or short realised. The MOs did not levy interest in these cases. This resulted in short realization of Rs.6.28 crore as detailed below :

- A contractor of Yamunanagar extracted sand, bazri and boulders and utilized the same for construction of barrage awarded by Irrigation Department in 1996 with out obtaining license from the mining department. The Department raised the demand of royalty of. Rs.1.01 crore from time to time for the period of extraction from March 1996 to September 1999. The contractor however, did not pay the royalty and continued the operation till the date of completion of barrage. No action was taken by the Department to recover the dues as arrears of Land Revenue or stop the unauthorized extraction of minerals. The last demand for royalty was raised in March 2002 but demand for interest of Rs.0.85 crore was not raised.

The matter was brought to the notice of the Department in October 2003. The Department stated in November 2003 that the recovery was being affected.

- Under section 9 and 9 A of Mines and Minerals (Regulation and Development) Act, and Rule 21 of Punjab Minor and Mineral Concession Rules, a lessee is required to pay the dead rent or the royalty whichever is higher in respect of each major/minor mineral.

* Faridabad, Gurgaon, Narnaul, Rewari, Sonipat and Yamunanagar .

A test-check of 53 leases, in operation during 1998-99 to 2002-03 in Faridabad, Gurgaon, Narnaul and Rewari revealed that:

- 33 leases had remained idle and dead rent of Rs.22.54 lakh was recoverable from the lessees but the Department raised no demand and the amount remained unrealized. Besides interest of Rs.12.24 lakh was also recoverable from the lessees.
- In 18 cases, dead rent of Rs.7.28 crore was recoverable between 1998-2003 out of which Rs.5.08 crore were recovered. No action was taken by the Department to recover the balance amount of Rs.2.20 crore. Besides interest of Rs.0.67 crore leviable was also not levied by the Department.
- In other two cases, royalty of Rs.1.89 crore was recoverable against which the lessee paid Rs.1.55 crore. No demand was raised to recover balance amount of Rs.0.34 crore. Interest of Rs.0.23 crore due on this amount was also not demanded by the Department.

The matter was brought to the notice of the Department in October and December 2003. The Department stated in November and December 2003 that efforts are being made to recover the amount.

- Eleven lessees of Yamuna-nagar, Faridabad , Gurgaon and Sonapat paid the amount of royalty/dead rent late by one to 1,015 days during 1999 to 2003. However, the Department did not levy/recover interest of Rs.0.63 crore from the contractor.

The matter was brought to the notice of the Department in December 2003. The Department stated in April 2004 that amount of Rs.30.22 lakh had been recovered and recovery of balance amount was being effected.

- **Non-levy of penalty**

5.2.11 Punjab Minor Mineral Concession Rules, provides that in case of repeated breaches of terms and conditions of the agreement by the lessee, penalty not exceeding twice the amount of annual dead rent/royalty may be imposed on such licensee.

In Faridabad and Rewari, five lessees were allotted leases for a period of seven years. The lessees were required to pay monthly installment of the lease money regularly. However, they either delayed the payment of the installments or did not pay them at all. An amount of Rs.14.99 crore was recoverable from them towards lease money. The Director of Mines and Geology issued notices to the lessees repeatedly but the lessees did not pay the installments. Thus the lessees were liable to pay a penalty of Rs.29.98 crore which was not imposed by the Department. There was nothing on record to indicate that the Director had exercised his discretion for levying the penalty. Inaction on the part of the Department resulted in loss of revenue of Rs.29.98 crore.

The matter was brought to the notice of the Department in October 2003. Reply had not been received (September 2004).

Non/short recovery of royalty from brick kiln owners

5.2.12 Rule 24 of Punjab Minor Mineral Concession Rules, provides that the brick kiln owners shall pay royalty at the prescribed rate in advance by 30 April of every year. In case of default, interest at the rate of 24 *per cent* per annum is chargeable for the period of default. A register called brick kiln owners (BKO) register is maintained at each mining office which acts as a monitoring register for levy and collection of royalty*. The permits of such BKO were required to be cancelled by the Department in case the royalty was not paid by them and any sum due from the permit holders on account of royalty and interest thereon was recoverable as an arrear of land revenue.

A perusal of BKO registers revealed that in 13 mining[#] offices, 225 brick kilns were issued permits for various periods between April 1998 to March 2003. The BKO were required to pay royalty before 30 April of each year. However, royalty of Rs.26.89 lakh was neither paid by the BKO nor was it demanded by the MOs. No action was taken to cancel the permit or to recover the dues. The lack of action on the part of the Department resulted in revenue loss of Rs.36.39 lakh including interest amounting to Rs.9.50 lakh.

The matter was brought to the notice of the Department in January 2004. The Department intimated during January to May 2004 that recovery of Rs.5.60 lakh had been effected. Action taken to recover the balance amount was still awaited.

Non-recovery of licence fee from owners of stone crushers

5.2.13 Under the Haryana Regulation & Control of Crushers Rules, 1992, every crusher owner is required to obtain licence after payment of fee of Rs.10,000. The licence is required to be renewed after three years on payment of fee of Rs.10,000. Further, the Rules provide that whoever contravenes any of the provisions shall be liable to fine which may extend to ten thousand rupees.

Scrutiny of stone crushers' record in the office of the Director of Mines and Geology, Haryana, Chandigarh for the period from 1998-2003 revealed that 150 owners of stone crushers of four Mining Offices[§] continued their operations even after the expiry of their licences. Neither did they get their licences renewed nor did the department ask for the same. The Department had no system to watch renewals of licences. This resulted in loss of Rs.0.58 crore (Renewal fee Rs.0.29 crore and Penalty Rs.0.29 crore).

* Each permit is issued for quarrying period of two years.

Ambala, Faridabad, Gurgaon, Hisar, Jind, Kurukshetra, Narnaul, Panchkula, Panipat, Rohtak, Sirsa, Sonapat and Yamuna-nagar.

§ Bhiwani, Faridabad, Gurgaon and Yamuna-nagar.

After this was pointed out in audit (July 2003) the Department recovered amount of licence fee of Rs.0.29 crore (April 2004). Amount of penalty was still to be recovered.

Lack of action on the part of the Department

5.2.14 In the following cases, the Department failed to take timely action resulting in loss of revenue of Rs.11.43 crore as discussed below:

- A contractor of Sonapat district did not allow reasonable facility to another contractor for access to quarry leased to him as required under Punjab Minor Mineral Concession Rules, 1964. The Department refunded the entire amount of Rs.1.53 crore deposited by the contractor as security and advance money without taking any action for providing the facility to him. The quarry remained idle from 15 March 1999 to 4 May 2000 thereby resulting in loss of royalty of Rs.5.24 crore

The matter was brought to the notice of the Department in September 2003; reply had not been received (September 2004).

- In Gurgaon a lessee was not given possession of land of two leases upto January 2003, though he had deposited the security and advance money in October 2001. The possession was to be handed over in 6 February 2002. The Department could not get the land demarcated from revenue authorities till December 2002 and January 2003 respectively. Meanwhile, the Supreme Court stopped the Mining operations in December 2002. Thus, non-operations of the quarries from 6 February 2002 to 9 December 2002 resulted in loss of royalty of Rs.1.70 crore .

The matter was brought to the notice of the Department in October 2003; reply had not been received (September 2004).

- Tender for a mine comprising a mining area of 13.65 hectare in Gurgaon was put to auction against which highest bid of Rs.55 lakh per annum was accepted for the period 2001-02. However, later on it was noticed by the lessee that actual area of the land was 68.35 hectares. The lessee informed the fact to the Department but even then agreement was made only for 13.65 hectares. Thus, the Department handed over possession of 68.35 hectares as against 13.65 hectares notified in the tender notice resulting in excess possession of 54.70 hectares of land. This resulted in loss of royalty of Rs.2.20 crore.
- Plot No. 4 of Manger area of Faridabad was allotted to the contractor from June 1991 to June 2001. Another person forcibly occupied the mine in August 2000. The contractor informed the facts regarding forcible occupation of mine to the Department as well as to the Deputy Commissioner and Superintendent of Police concerned but department took no action to get the mine evicted. The person who occupied the

mine forcibly kept on extracting the material and dispatching the same during August 2000 to June 2001 without payment of any royalty. This resulted in loss of revenue of Rs.2.29 crore.

The matter was brought to the notice of the Department in December 2003. The Department replied in March 2004 that the lessee stopped mining operation due to the reasons best known to him and started alleging that some person forcefully occupied the area. The reply of the Department was not tenable as that leaseholder informed the Department time and again about the facts of forceful occupation along with the details of trucks through which the material was lifted. But the Department did not taken any action in this regard.

Internal audit

5.2.15 The Mines and Geology Department did not have an internal audit system in operation.

Recommendations

5.2.16 The Government. may consider taking following steps to improve the effectiveness of the system -

- A suitable mechanism should be put in place for ensuring prompt receipts of royalty/dead rent/contract money and interest from the lessees/contractors.
- The functioning of the Department requires strict observance of rules/instructions to impose penalty for breach of agreement to realize more revenue.
- Internal audit needs to be introduced in the Department to monitor the proper functioning of the Department and plug leakages of revenue.

The matter was referred to the Government in May 2004. Reply had not been received (September 2004).