

CHAPTER-VII: Mineral Concession, Fees and Royalties

7.1 Results of audit

Test check of the records of the Mining Department, conducted during 2006-07, revealed underassessments and loss of rent, royalty, fee etc. amounting to Rs. 234.42 crore in 592 cases, which broadly fall under the following categories:

(Rupees in crore)

Sl. No.	Category	No. of cases	Amount
1	“Levy and collection of mining receipts” (A review)	1	203.59
2	Non-initiation of certificate proceedings	143	14.32
3	Non/short levy of dead rent/surface rent	50	7.40
4	Non-levy of royalty on coal consumed by workmen	59	5.05
5	Non-levy of penalty/fees	63	3.02
6	Non/short levy of royalty	189	0.76
7	Non/short levy of auction money due to non-settlement/irregular settlement of sand <i>ghats</i>	55	0.14
8	Non-levy of interest	29	0.09
9	Short levy of royalty due to downgrading of coal	1	0.04
10	Other cases	2	0.01
Total		592	234.42

During 2006-07, the department accepted cases of non/short levy of royalty, dead rent/surface rent, penalty, interest; non-initiation of certificate cases etc. of Rs. 71.27 crore involved in 410 cases of which 228 cases involving Rs. 10.34 crore were pointed out in audit during 2006-07 and the rest in earlier years.

A review of “Levy and collection of mining receipts” involving Rs. 203.59 crore is mentioned in the following paragraph:

7.2 Review of “Levy and collection of mining receipts”

7.2.1 Highlights

- Failure of the department to grant mining leases and issue notification for granting of fresh lease in case of surrendered leases resulted in the mines remaining idle and consequent loss of revenue of Rs. 42.88 crore as surface rent and dead rent.

[Paragraph 7.2.8]

- Failure of the DMOs/AMOs to scrutinise the returns submitted by the lessees resulted in non/short levy and evasion of revenue of Rs. 35.54 crore.

[Paragraph 7.2.9]

- Absence of a system of inter departmental cross verification of information resulted in non/short realisation of royalty and evasion of revenue of Rs. 28.97 crore.

[Paragraph 7.2.10]

- Failure of DMOs to maintain the register of illegal mining resulted in non-levy of penalty/loss of revenue of Rs. 57.32 crore.

[Paragraph 7.2.11]

- Failure of the DMOs to cross verify the returns filed by the lessees with the register of issue and utilisation of TCs resulted in non-imposition of penalty of Rs. 38.08 crore.

[Paragraph 7.2.12]

- Failure of eight DMOs to initiate certificate proceedings, issue demand notices and distress warrants against the defaulters resulted in non-realisation of dues of Rs. 21.42 crore.

[Paragraph 7.2.13]

- The internal controls of the department were weak. Vigilance - enforcement and inspection wing of the department was not operational defeating the very purpose for which it was created.

[Paragraph 7.2.14]

7.2.2 Introduction

Mines and Geology Department is the largest non-tax revenue collecting department of the State. Minerals are divided into two categories viz. major minerals such as coal, bauxite, iron ore etc., and minor minerals such as stone, brick, marble etc. Prospecting and mining of major minerals, assessment, levy and collection of royalty and other mining dues are governed by the Mines and Minerals Development and Regulations (MMDR) Act, 1957 and Mineral Concession Rules (MC), 1960 framed thereunder. The Bihar Minor Minerals Concession (BMMC) Rules, 1972 as applicable to Jharkhand and executive

instructions issued by the department from time to time govern prospecting and mining of minor minerals and assessment, levy and collection of royalty and other mining dues. After the creation of the State of Jharkhand with effect from 15 November 2000, the BMMC Rules was replaced by the Jharkhand Minor Minerals Concession (JMMC) Rules, 2004 with effect from July 2004. The recovery of outstanding mining dues is governed by the Bihar and Orissa Public Demands Recovery (PDR) Act, 1914.

The mining receipts comprise mainly of application fees for lease/permit/prospecting licence, royalty, dead rent, surface rent, fines and penalties and interest for belated payment of dues etc.

A review of the functioning of the Mines and Geology Department regarding levy and collection of mining receipts was conducted which revealed a number of system and compliance deficiencies which are mentioned in the succeeding paragraphs.

7.2.3 Organisational set up

At the Government level, the Secretary cum Commissioner, Mines and Geology department and at the departmental level, the Director of Mines is responsible for the administration of the Acts and Rules in the Mines and Geology Department. The Director of Mines is assisted by an Additional Director of Mines (ADM), Deputy Director of Mines (DDM) and a District Mining Officer (DMO)/Assistant Mining Officer (AMO) at headquarter level. The State is divided into five circles^{*}, each under the charge of DDM. The circles are further divided into 18 district mining offices[♦], each under the charge of DMOs/AMOs. The DMOs/AMOs are responsible for levy and collection of royalty and other mining dues. They are assisted by Mining Inspectors (MIs) who are authorised to inspect the lease hold area, production and despatch of minerals.

7.2.4 Audit objectives

The review has been conducted to ascertain whether:

- the provisions of laws/rules and departmental instructions are adequate and enforced accurately to safeguard the revenue of the State;
- there exists an internal control mechanism within the department, which is effective and working efficiently to check non/short levy and evasion of the Government revenues.

^{*} Dhanbad, Dumka, Hazaribag, Palamu and Ranchi.

[♦] Bokaro, Chaibasa, Palamu, Dhanbad, Deoghar, Dumka, Garhwa, Giridih, Godda, Gumla, Hazaribag, Jamshedpur, Koderma, Latehar, Lohardaga, Pakur, Ranchi, and Sahebganj.

7.2.5 Audit scope and methodology

Test check of the records of the offices of the Director of Mines, three* out of five mining circles and 10* out of 18 district mining offices for the period 2001-02 to 2005-06 was conducted between August 2006 and August 2007. The circles/districts were selected for audit on the basis of maximum revenue earned. During the course of audit, the information obtained from Commercial Taxes Department, Railways and Indian Bureau of Mines (IBM) were also cross verified with the records maintained in these mining offices. An entry conference was held with the Secretary, Department of Mines and Geology in July 2006 bringing out the audit objectives, scope and methodology of the review.

7.2.6 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the Mines and Geology Department in providing necessary information and records for audit. The draft review report was forwarded to the Government and department in May 2007 and was discussed in the Audit Review Committee meeting held in August 2007. Secretary cum Commissioner, Mines and Geology Department represented the Government while the Director represented the department. All observations made by audit were accepted by the department and necessary remedial action was assured. Views of the Government/department have been incorporated in the relevant paragraphs.

Audit findings

7.2.7 Trend of revenue

According to the provisions of the Bihar Financial Rules Vol. I (BFR), the responsibility for the preparation of estimates of revenues vests in the Finance Department. The Secretary, Mines and Geology Department is responsible for the compilation of the correct estimates and sending it to the Finance Department on the date fixed by the latter. The Rules also enjoin the Secretary to ensure regular reconciliation of the figures of the department with those booked by Accountant General (A&E).

Variations as mentioned below were noticed between the budget estimates (BEs) and actual receipts during 2001-02 to 2005-06.

(Rupees in crore)

Year	BE	Actual	Variation	Percentage of variation
2001-02	927.22	709.13	(-) 218.09	(-) 24
2002-03	813.13	802.72	(-) 10.41	(-) 01
2003-04	975.31	919.94	(-) 55.37	(-) 06
2004-05	1,010.00	937.41	(-) 72.59	(-) 07
2005-06	1,151.40	1,013.15	(-) 138.25	(-) 12

* Dhanbad, Hazaribag and Ranchi.

* Bokaro, Chaibasa, Dhanbad, Hazaribag, Jamshedpur, Latehar, Lohardaga, Pakur, Ranchi and Sahebganj.

The department, despite being requested, did not produce the BEs prepared by it and sent to the Finance Department. The extent to which the preparation of BEs was based on scientific methods could not, therefore, be assessed.

After this was pointed out, the department stated in May 2007 that BEs were prepared by the Finance Department on the basis of estimated production and despatch of minerals but due to some technical reasons, actual production and despatch fell below estimated production which adversely affected the collection during these years. The technical reasons, however, were not clarified by the department. Also, the 'technical reasons' could not have persisted year after year.

System deficiencies

7.2.8 Grant of lease

The MC Rules stipulate that available area for grant of mining lease should be notified in the official gazette specifying a date from which such area shall be available for grant of lease. The MC Rules and the JMMC Rules prescribe the procedure for grant of lease for major and minor minerals respectively. In case of minor minerals, lease must be granted within 120 days from the date of receipt of the application. **For major minerals, there is no limitation of time.** Each DMO is required to send a progress report indicating disposal of lease applications to the DDM, who in turn has to send it to the Director of Mines.

For maximising its revenues, the Government has to install systems to ensure quick decisions on the applications received for grant of lease. The department, despite being requested in July 2006, did not furnish the information regarding the number of applications received for grant of lease, lease granted, number of applications rejected and number of pending applications. The information collected by audit from five DMO*s revealed that only 14 applicants of major minerals were granted lease during 2001-02 to 2005-06 and 1,219 applications were pending at the end of March 2006 as mentioned below:

Year	Opening balance	Application for new leases	Total	Total lease granted	Closing balance
2001-02	163	48	211	06	205
2002-03	205	56	261	02	259
2003-04	259	155	414	02	412
2004-05	412	385	797	03	794*
2005-06	741*	479	1,220	01	1,219
Total		1,123		14	

Thus, of 1,123 applications received for grant of lease, only 14 were decided during 2001-02 to 2005-06. **Since the disposal rate of one per cent only**

* Bokaro, Chaibasa, Jamshedpur, Hazaribag and Pakur.

* The closing balance of 2004-05 did not tally with the opening balance of 2005-06.

results in large pendency of cases with consequential adverse impact on revenues, the Government may specify a time frame for disposal of applications for grant of lease of major minerals and issue of gazette notification for granting fresh lease in case of surrendered leases. Also, the fact that the opening balance of 2005-06 as shown in the earlier table does not tally with the closing balance of 2004-05, raises questions about the credibility of the data base. The Government needs to look into this area and streamline the system and procedures for maintaining data. Two cases of loss of revenue due to inaction are mentioned below:

7.2.8.1 Loss of revenue due to non-grant of lease

Three DMOs* called for applications for grant of mining lease of 35 premises covering an area of 9,798.756 acres containing coal, lime stone, fireclay etc. in 35 *mauzas*[§] between 1985 and 2005. Twenty five persons applied for grant of lease but no lease was granted upto March 2006. The mines remained idle, resulting in loss of revenue of Rs. 9.37 crore as surface rent and dead rent for 2001-02 to 2005-06.

7.2.8.2 Loss of revenue due to non-settlement of surrendered lease

In Sahebganj and Hazaribag DMOs, it was noticed that 23 lessees of china clay, fireclay etc. covering a leasehold area of 2,870.47 hectares, surrendered their leases before February 2002. Thereafter, no efforts were made by the department to identify the areas that could be leased out again. No gazette notification for granting of fresh lease was issued in any of the cases. This resulted in loss of Rs. 33.51 crore as surface rent and dead rent for 2001-02 to 2005-06.

After the cases were pointed out, the Government stated in August 2007 that gazette notification in this regard was being issued.

7.2.9 Non-levy of royalty

Under the MC Rules, the holder of a prospecting licence or a mining lease for major minerals shall furnish to the State Government such returns and statements and within such period as may be specified by it. Part V of the lease agreement specifies the time frame for submission of such returns and statements and payment of dead rent, surface rent and royalty. Under the BMMC Rules, every lessee or permit holder for minor minerals shall submit every month a return by the fifteenth of the following month to which it relates. In case, a lessee or a permit holder fails to furnish the required return within the prescribed period, he shall be liable to pay as penalty a sum of Rs. 20 for every day after the expiry of the prescribed date subject to a maximum of Rs. 2,500. These returns are to be scrutinised by AMO/DMO who shall assess the amount of dead rent, surface rent and royalty payable by the lessees at the end of the prescribed period. The AMOs/DMOs are enjoined

* Hazaribag, Pakur and Sahebganj.
§ Small villages are called *mauzas*.

to inspect, verify and check the accounts of minerals. **Failure to scrutinise the prescribed returns resulted in non/short levy and evasion of revenues. The superior authorities also remained unaware of the deficiencies as no internal control measure in the shape of periodical reports/returns was prescribed to enable them to know, on a regular basis, the number of returns filed, scrutinised and found deficient and assessments made.** The succeeding paragraphs bring out cases of non-compliance with laws, rules and executive orders and also non-observance and absence of internal control measures.

7.2.9.1 Non-raising of demand

Under the MMDR Act, the holder of the mining lease shall pay royalty in respect of any mineral removed or consumed by him from the leased area at the rate prescribed from time to time.

In four DMOs[∞], 15 lessees did not pay royalty of Rs. 11.12 crore for the minerals[∇] despatched by them from the leased areas between 2003-04 and 2005-06. **Though the lessees had filed the returns, the DMOs made no efforts to verify them and raise the demand.** This resulted in non-realisation of royalty of Rs. 11.12 crore.

After the cases were pointed out, the Government stated in August 2007 that Rs. 6.35 lakh had been recovered in two cases and in respect of the remaining cases demand notices have been issued for realisation of the dues.

7.2.9.2 Failure to verify the grading of coal

Royalty is payable in accordance with the grading of coal notified by the Coal Controller.

In three DMOs, 43.64 lakh MT of coal, extracted by three lessees during 2004-05 and 2005-06, was incorrectly graded in the monthly returns furnished by the lessees to the department. **The department failed to verify the grades claimed by the lessees with those notified by the Coal Controller.** This resulted in short levy of royalty of Rs. 20.55 crore as mentioned below:

(Rupees in lakh)

Sl. No.	Name of office	Year	Qty involved (MT)	Nature of observation	Royalty
1	Hazaribag	2004-05 and 2005-06	19,28,058.61	Coal Controller had declared the coal grade as washery III, while the lessees graded the coal as washery IV and paid royalty at the rate of Rs. 115 per MT instead of Rs. 165 per MT.	964.03

[∞] Bokaro, Jamshedpur, Hazaribag and Sahebganj.

Mineral	Amount (in crore)
Coal	10.87
Stone	0.21
Stone set	0.04
Total	11.12

2	Pakur	2005-06	20,614	The State Geological Laboratory, Hazaribag declared the grade of coal as washery II, while the lessees graded the coal as grade E and F and paid royalty at the rate of Rs. 65 and Rs. 85 per MT instead of Rs. 165 per MT.	19.25
3	Dhanbad	2005-06	20,68,267.77	The Coal Controller had declared the coal grade as washery IV but the lessees graded the coal as grade E and paid royalty at the rate of Rs. 85 per MT instead of Rs. 115 per MT.	620.48
		2004-05 and 2005-06	79,556	The Coal Controller declared the coal grade as washery III but the lessee graded the coal as grade C and paid royalty at the rate of Rs. 115 per MT instead of Rs. 165 per MT.	39.78
		2005-06	37,463	The Coal Controller declared the coal grade as washery I but the lessee graded the coal as washery III and paid royalty at the rate of Rs. 165 per MT instead of Rs. 250 per MT.	31.84
		2005-06	2,30,116	The Coal Controller declared the coal grade as washery I but the lessee graded the coal as grade D and paid royalty at the rate of Rs. 85 per MT instead of Rs. 250 per MT.	379.69
		Total	43,64,075.38		2,055.07

After the cases were pointed out, the Government stated in August 2007 that notices had been issued to the concerned lessees.

7.2.9.3 Non-payment of royalty at enhanced/revised rates

According to a notification issued by the Government in October 2004, the rate of royalty on major minerals was revised/enhanced with effect from 14 October 2004.

In three DMOs[‡], scrutiny of the returns filed by seven lessees revealed that royalty was paid at the pre-revised rate on despatch of 19.17 lakh MT of iron ore, limestone, coal etc. between October 2004 and March 2006. **Failure of the DMOs to scrutinise the returns resulted in the payment of royalty at the pre-revised rate which resulted in loss of Rs. 2.94 crore.**

After the cases were pointed out, the Government stated in August 2007 that in one case, Rs. 5.41 lakh had been recovered and in other cases demand notices were being issued.

7.2.9.4 Short levy of royalty due to suppression of production

Under the BMMC Rules, royalty is payable on the total quantity of mineral removed from the leasehold areas. Further, by a notification issued in July 1998, quantity of dust generated has been fixed at 10 *per cent* of stone used in the crusher for production of stone chips from the boulders.

In three DMOs[¶], five lessees had shown production of 26.94 lakh cft. of stone chips and 6.93 lakh cft. of stone dust in the monthly returns during 2003-04 to

[‡] Bokaro, Chaibasa and Hazaribag.

[¶] Bokaro, Chaibasa and Pakur

2005-06, whereas according to the norms fixed, the production of stone chips worked out to 70.75 lakh cft. Thus, the lessees had suppressed the production of stone chips by 43.81 lakh cft. **Failure to effectively scrutinise the returns by the DMOs resulted in short levy of royalty of Rs. 30.99 lakh.**

After the cases were pointed out, the Government intimated in August 2007 that the demand for entire amount had been raised in June 2007.

7.2.9.5 Non-submission of monthly returns

In seven DMOs*, 164 lessees in 2,476 cases did not furnish monthly returns for various months between January 2002 and March 2006. **The DMOs failed to detect non-filing of returns and impose penalty in any of the cases even after lapse of 51 months.** This resulted in non-levy of penalty of Rs. 61.90 lakh.

After the cases were pointed out, the Government intimated in August 2007 that demand notice for Rs. 18.40 lakh had been issued by two DMOs and in other cases, efforts were being made for realisation of the amount.

The Government may consider prescribing a system of periodical reporting to the superior authorities of the results of the submission of prescribed returns and correctness of royalty etc. paid or payable by the lessees.

7.2.10 Absence of inter departmental cross verification of data

The Government has not specified any system for cross verification of returns filed by the lessees with the data/information of minerals raised and despatched by lessees from the leasehold areas from Indian Bureau of Mines (IBM), Railways and other departments/undertakings of the State/Union Governments to check short payment or evasion of royalty. Cross verification of the transactions depicted in the returns of some lessees with the records of other agencies/departments revealed a number of discrepancies as mentioned below.

7.2.10.1 Under the MC Rules, every owner/lessee/manager of a mine shall submit monthly and annual returns to the department, of minerals raised and despatched. Lessees are also required to submit such annual returns to the IBM.

Cross verification of the details of raising and despatch of bauxite collected by audit from IBM, Ranchi for 2002-03 to 2005-06, with the records of the DMO, Lohardaga revealed suppression of production of 49,941 tonnes of bauxite. **Lack of a mechanism to cross verify the figures returned by the lessees with those of the IBM resulted in the evasion of royalty of Rs. 35.57 lakh as mentioned below:**

* Bokaro, Chaibasa, Hazaribag, Jamshedpur, Pakur, Ranchi and Sahebganj.

Year	Name of mineral/ Number of lessee	Production as reported by IBM (in tonnes)	Production as per departmental records (in tonnes)	Difference (in tonnes)	Rate of royalty per MT (in Rupees)	Evasion of royalty (Rupees in lakh)
2002-03 to 2005-06	Bauxite/7	6,98,563	6,48,622	49,941	Between 59.34 and 79.51	35.57

7.2.10.2 Under the BMMC Rules read with the JMMC Rules, works contractors are required to purchase minor minerals only from the lessees/permit holders and authorised dealers. The rules further provide for submission of affidavits in form 'O' and particulars in form 'P' by the works contractors indicating therein the details of source of purchase of minerals, price paid and quantity procured along with the bills. The Works Department was required to forward the photocopies of form 'O' and 'P' to the Mining Department for verification of the furnished details of minerals. If the furnished details were found to be false, either wholly or partly, it was to be presumed that the minerals concerned were obtained by illegal mining and the defaulters were liable to pay the price of the mineral as penalty. **Audit scrutiny revealed that the Works Department was not furnishing the photocopies of the forms 'O' and 'P' to the Mines and Geology Department and the same had also not been demanded by the department.** This resulted in illegal mining and consequential loss of revenue.

- Cross verification of information collected by audit in respect of three contractors from South Eastern Railway (SER), Ranchi with the records of DMO, Ranchi in May 2007 revealed that contractors had submitted declaration forms 'O' & 'P' for only 10,534 cum against the actual supply of 1,56,200 cum of stone ballast for construction of Ranchi-Lohardaga rail track during 2002-03 to 2005-06. Thus, 1,45,666 cum of stone ballast was required to be treated as illegally mined for which the contractors were liable to pay the price of mineral as penalty of Rs. 10.40 crore. The failure of the department to cross verify the data resulted in non-recovery of Rs. 10.40 crore.
- In eight DMOs*, test check of bank drafts/cheques and daily receipt registers revealed that Rs. 10.72 crore had been received from the works contractor of the Public Works Department (PWD) as royalty for minerals used by them during 2004-05 and 2005-06. But the contractors failed to submit declarations in form 'O' and particulars in form 'P' for procurement of minerals. In the absence of the forms, the entire quantity of the mineral was required to be treated as illegal extraction and price of the mineral was to be recovered from the lessees. But PWD failed to adhere to the provisions, resulting in short realisation of Rs. 10.72 crore♦.

* Bokaro, Chaibasa, Dhanbad, Hazaribag, Jamshedpur, Pakur, Ranchi and Sahebganj

♦ The price of the mineral are not available in the records as such price equivalent to royalty has been adopted.

After the cases were pointed out, the Government intimated in August 2007 that three DMOs had raised a demand of Rs. 5.79 crore in January 2007 while remaining five DMOs stated that the cases involving Rs. 4.93 crore had been taken up. Further reply has not been received (November 2007).

- In DMO, Jamshedpur, cross verification of details of despatch of gold, silver and copper disclosed by one lessee during 2000-01 and 2001-02 with the records of the Commercial Tax Department and the Annual Reports of an assessee revealed that the lessee had suppressed despatch of 26,407.998 MT of copper, 730.589 kg of gold, 12,112.354 kg of silver. This resulted in non-realisation of royalty amounting to Rs. 7.49 crore. The details are mentioned below:

(Rupees in lakh)

Mineral	Period	Actual despatch (MT) as per the Commercial Tax Department	Despatch as per return in the Mining Department (MT)	Difference (MT)	Rate of royalty	Amount
Copper	2000-01	19,748.845	3536	16,212.845	Rs. 2,458 per MT	398.51
	2001-02	12,957.153	2762	10,195.153	Rs. 2,345 per MT	239.08
	Total	32,705.998	6298	26,407.998		
Gold	2000-01	443.317 kg	31.230 kg	412.087 kg	Rs. 9,178 per kg	37.82
	2001-02	341.975 kg	23.473 kg	318.502 kg	Rs. 9,821 per kg	31.28
	Total	785.292 kg	54.703 kg	730.589 kg		
Silver	2000-01	6,865.785 kg	499.393 kg	6,366.392 kg	Rs. 370 per kg	23.56
	2001-02	6,111.960 kg	365.998 kg	5,745.962 kg	Rs. 329 per kg	18.90
	Total	12,977.745 kg	865.391 kg	12,112.354 kg		
Grand total						749.15

The Government may consider ensuring close coordination with IBM for cross checking of returns of lessees; and instituting a system for inter departmental cross-verification of information/data with the returns of the lessees.

7.2.11 Non-levy of penalty on illegal mining

The MC Rules and JMMC Rules provide that no person shall undertake any mining operation in any area unless he possesses a valid mining lease or permit. In case of illegal mining, the lessee is liable to pay the price of the mineral as penalty. The MIs and DMOs/AMOs are responsible for prevention and detection of cases of illegal mining. **The DMOs/AMOs are responsible for maintenance of registers and imposition of penalty.**

7.2.11.1 Illegal mining of major minerals

According to a notification issued in 1986, MIs/DMOs were required to undertake sectional measurements to verify the data of production and despatch furnished by the lessees in their returns. Further, the MC Rules provide that no lease or its right, title or interest shall be transferred without the consent of the State Government and prior approval of the Central Government. In case of such unlawful transfer the lessee was liable to pay the price of mineral as penalty.

In two DMOs, a lessee of coal depicted less quantity of coal in his return by 52.20 lakh MT as compared to the inspection reports submitted by the mining inspector after sectional measurements. Besides, lease file of two leases revealed that 3.64 lakh MT of iron ore were transferred without the consent of State Government and prior approval of Central Government. No register of illegal mining was maintained by the DMOs. **Failure of the DMOs to maintain the register resulted in non-detection of the mistake.** This resulted in non-levy of penalty of Rs. 49.05 crore as mentioned below:

Name of office	Mineral	Year	Quantity (MT)	Rate (Rs. Per MT)	Amount (in lakh)
Latehar	Coal	1990-91 to 2001-02	52,20,322.596	65	3,393.21
Chaibasa	Iron ore	2005-06	1,35,145.16(F) 2,14,010.45 (L)	360 437	486.52 935.23
		2004-05 to 2005-06	14,705.235	615	90.44
				Total	4,905.40

After the cases were pointed out, the Government stated in August 2007 that in case of coal a State level committee had been constituted while in other cases it was stated that matter was under examination.

7.2.11.2 Illegal mining of stone chips

In DMO, Hazaribag, no register for illegal mining was maintained during the period of audit scrutiny. In six DMOs^o, the registers for illegal mining were not being maintained properly. During 2001-02 to 2005-06, 112 cases of illegal mining were recorded in illegal mining register. Audit detected another 19 cases of illegal mining from the inspection reports submitted by the mining inspectors, available in the files of the lessees in these six DMOs. Of Rs. 10.59 crore leviable as price of minerals in 131 cases, only Rs. 2.85 crore in 29 cases was levied. **Failure to maintain or improper maintenance of the register and non-initiation of stipulated action against offenders by the DMOs resulted in loss of Rs. 7.74 crore.**

After the cases were pointed out, the Government intimated in August 2007 that demand for Rs. 2.64 crore had been raised and in other cases notices had been issued.

^o Bokaro, Chaibasa, Jamshedpur, Hazaribag, Pakur and Ranchi

7.2.11.3 Illegal mining of brick-earth

Under the BMMC Rules, and notification of March 1992, as adopted by the Government of Jharkhand, every brick kiln owner/brick earth remover shall pay the prescribed consolidated royalty based on categories of brick kilns before the issue of permit. Further, Rule 40 (8) provides that whoever removes minor minerals without valid lease/permit shall be liable to pay the price thereof as penalty. A brick kiln register is required to be maintained by each DMO which contains the names of the licensees and the details of royalty paid by them.

In four DMOs⁹¹, a scrutiny of the brick kiln register revealed that the register was not reviewed by the respective DMOs. The MIs noticed that 223 brick kilns were operated without payment of consolidated royalty and without obtaining any permits during 2004-05 and 2005-06. Though the owner of brick kilns were liable to pay price of brick earth as penalty, yet in no case demand for recovery of price of mineral was raised against the defaulters. **There was no system to ensure that the Director of Mines reviewed the brick kiln registers maintained by the DMOs to monitor non-payment of royalty by the defaulting brick kiln owners.** This resulted in non-recovery of Rs. 52.95 lakh.

After the cases were pointed out, the Government stated in August 2007 that demand for entire amount of royalty along with interest has been raised and Rs. 1.31 lakh was recovered from one lessee in Ranchi.

The Government may consider ensuring proper maintenance of illegal mining register and action thereon. The DMOs/AMOs should be made accountable for illegal mining to prevent leakage of revenue. Review by the Director Mines of the brick kiln registers maintained by the DMOs may also be prescribed with appropriate periodicity for monitoring purpose.

7.2.12 Illegal transportation of minerals

Under the provisions of MMDR Act, the State Government may by notification in the gazette make rules for preventing illegal mining, transportation and storage of minerals and for the purposes connected therewith. The JMMC Rules also provide that transportation of minerals without a valid transportation *challan* (TC) was illegal. In the event of illegal transportation of minerals, royalty equivalent to the price of the minerals was recoverable from the lessee. The State Government issued instructions in 2006 for use of new central mines TCs for transportation of major and minor minerals, effective from 1 January 2006. The new TCs were mandatory for all the lessees transporting major and minor minerals. **The DMOs/AMOs maintain a register of the names of the lessees in their jurisdiction. The AMOs/DMOs also maintain a control register for watching issue and utilisation of TCs to/by the lessees. The MIs were required to inspect the**

⁹¹ Bokaro, Chaibasa Hazaribag and Ranchi.

vehicles transporting the minerals. Further, MIs and DMOs/AMOs were to ensure that the earlier issued unutilised *challans* were surrendered. A report of the inspections conducted by the MIs is required to be sent to Director of Mines through DMOs/DDMs. There existed no system for cross verification of issue and utilisation of TC register with the returns filed by the lessees.

The details of inspection carried out by MIs were not produced to audit despite repeated reminders. In the absence of these details, audit is unable to comment on the efficiency of the system of inspections which is a vital internal control to detect illegal transportation of minerals. It was noticed in seven DMOs that in 101 cases mineral was despatched either without TCs or TCs issued were unauthorised/invalid. The concerned DMOs had failed to detect the mistakes while scrutinising the returns filed by lessee. This resulted in non-imposition of penalty of Rs. 38.08 crore as mentioned in the following paragraphs.

7.2.12.1 Transport of coal without TCs

In DMOs, Hazaribag and Ranchi, cross verification of issue and utilisation of TCs register with returns filed by the lessees revealed that TCs were not issued to/obtained by 23 collieries* between January and March 2006. The collieries transported 31.81 lakh MT of coal during that period. Transportation of coal without TCs was illegal. **Failure of the DMOs to cross verify the returns with the TCs utilisation register and detect the mistake resulted in non-imposition of penalty equivalent to price of minerals which worked out to Rs. 33.95 crore.**

7.2.12.2 Use of unauthorised TCs

Cross verification of issue and utilisation TCs register with the returns filed by the lessees in five DMOs^v revealed that 21 lessees used 16,426 TCs for transporting stone chips during 2001-02 and 2005-06. Of these, 126 TCs were utilised by three lessees prior to the date of their issue by the department. The lessees had transported 1,435 cum of stone chips on these TCs. Further, 18 lessees transported 93,736 cum of stone chips during 2001-02 to 2005-06 using 16,300 TCs which were not issued by the competent authority. **Failure of the DMOs to detect the unauthorised use of TCs by cross verification of TC utilisation register with the returns filed by the lessees resulted in non-imposition of penalty of Rs. 3.35 crore.**

After the cases were pointed out, the Government intimated in August 2007 that DMO, Chaibasa has raised a demand of Rs. 2.80 lakh while in remaining cases, it was stated that demand would be raised after examination of the cases.

* Collieries of Central Coalfield Limited.

^v Chaibasa, Dhanbad, Hazaribag, Jamshedpur, and Pakur

7.2.12.3 Despatch of minor minerals without TCs

Cross verification of issue and utilisation TCs register with the returns filed by the lessees in three DMOs^Δ revealed that three lessees transported 5,710 cum of stone chips during 2002-03 to 2005-06 (upto December 2005) without TCs. **Failure of the DMOs to detect the unauthorised transportation of minerals by cross verification of TC utilisation register with the returns resulted in non-imposition of penalty of Rs. 25.25 lakh equivalent to the price of minerals.**

After these cases were pointed out, the Government stated in August 2007 that show cause notices had been issued to the defaulters.

7.2.12.4 Non-surrender/use of invalid TCs

Cross verification of issue and utilisation TCs register with the returns filed by the lessees in three DMOs^Ω revealed that 158 invalid TCs, issued before January 2006, were used for transportation of 780 cum of stone chips by 10 lessees in January and February 2006. Further, 1,930 TCs issued prior to January 2006 were not returned by 26 lessees to the mining offices for cancellation. All the lessees were dealing in transportation of stone chips. A minimum quantity of 10,932 cum could be transported on these TCs. **The department failed to detect the use of invalid TCs as no cross verification of the returns filed was conducted with the TC utilisation register.** Under the circumstances, misuse of these TCs for illegal transportation of minerals cannot be ruled out. The lessees were liable to pay Rs. 53.15 lakh as penalty, equivalent to price of minerals.

After the cases were pointed out, the Government stated in August 2007 that demand notices had been issued.

The Government may prescribe a system of cross verification of utilisation of TC register with the returns filed by the lessees for proper monitoring of issue and use of TCs to/by lessees to prevent illegal transportation.

7.2.13 Arrears pending collection

Under the MMDR Act and the MC Rules read with the BMMC Rules, royalty, dead rent and other mining dues are required to be paid within the prescribed period. In the case of default, recovery is to be made as arrears of land revenue and must be certified within six months. According to the instructions of the Board of Revenue, the requiring officer (RO) and the certificate officer (CO) were jointly responsible for prompt disposal of certificate cases and bound to bring any undue delay to each other's notice and, if necessary, to the notice of the Collector. The RO is primarily responsible for systematic application for certificates, prompt disposal of objection and early application for execution.

^Δ Bokaro, Chaibasa and Pakur

^Ω Jamshedpur, Pakur and Ranchi

The CO is responsible for prompt disposal of certificate cases. When a certificate is filed with the CO, he has to serve a notice in the prescribed form along with a copy of the certificate for recovery of dues on the certificate debtor. The CO may call for para wise comments on the petition and any other additional information relevant for the disposal of certificate cases from the RO.

7.2.13.1 Position of certified arrears

Details of actual certified arrears were called for in July 2006 followed by reminders in April 2007 and July 2007. However, these were not furnished. The reliability of the data base and the system of its maintenance could not, therefore, be verified in audit. The information collected by audit from three DDM cum CO offices was as under:

(Rupees in crore)

Sl. No.	District	Year	No of cases	Amount of pending dues
1	Dhanbad	2005-06	2,497	72.96
2	Hazaribag	2005-06	1,428	65.18
3	Ranchi	2005-06	3,527	32.38
Total			7,452	170.52

Thus, recovery of Rs. 170.52 crore in 7,452 cases was pending as on 31 March 2006 in these three offices alone.

- Age wise certificate cases above five years, as furnished by DDM cum CO, Hazaribag was as under:

(Rupees in crore)

Period	No of cases	Amount
Above 20 years	204	16.95
Above 15 years	450	25.81
Above 10 years	510	13.58
Above 5 years	168	11.12
Total	1,332	67.46

- In DDM cum CO, Ranchi, Rs. 22.67 crore pertaining to 3,495 certificate cases were pending. No age wise analysis was, however, available.
- The position of pendency of the certificate cases in respect of DDM cum CO, Dhanbad was not made available.

7.2.13.2 Variation between the figures of cases in which certificate proceedings are to be initiated

Demands are raised through the DCB registers maintained in the office of the DMOs. Under the provisions of Rules 5 and 6 of the PDR Act, certificate proceedings are initiated for realisation of arrears for which the RO sends the proposal to the CO and enters the details of such cases in Register-IX. These

are in turn entered in Register-X, maintained by the office of the CO for issue of certificates for realisation of dues. **It was noticed in audit that these registers, which were important tools of internal control, were not being maintained properly.**

In two offices of DMO, Hazaribag and Dhanbad, in nine cases, Register-IX reflected the total dues under certificate as Rs. 15.86 lakh at the end of March 2006. Cross verification with the figures of Register-X of DDM cum CO, Hazaribag and Dhanbad revealed the certificate dues as Rs. 12.66 lakh. The difference of Rs. 3.20 lakh involved in these cases remained undetected by the department.

After the cases were pointed out, the department stated that entries had been corrected in Register-X.

7.2.13.3 Non/short institution of certificate proceedings

According to the instructions/ notifications issued by the Government in 1986, in case of non-payment of mining dues by the lessees, certificate proceedings are required to be instituted after six months. Non-payment of mining dues is to be watched through the DCB register.

In eight DMOs*, mining dues of Rs. 5.28 crore, outstanding against 234 lessees, during 2004-05 to 2005-06 were not sent to the CO for institution of certificate proceedings. This resulted in non-institution of certificate cases for Rs. 5.28 crore.

After the cases were pointed out, the department stated that certificate proceedings need not be initiated as a normal method for collecting public demand. The reply of the department is not tenable as certificate proceedings are required to be initiated after six months of non-payment of mining dues in accordance with the extant provisions.

7.2.13.4 Non-issue of demand notices

Under the provisions of the PDR Act, a notice is essential to confer jurisdiction on the CO for executing the certificate. The issue of notice is watched through the Register X. **It was noticed in audit that Register-X was not being maintained properly.**

In two DDM offices*, test check of Register-X revealed that in 388 certificate cases, involving Rs. 15.35 crore, instituted between 1986-87 and 2005-06, notices were not issued after institution of certificate cases till April 2007. The chances of recovery of Rs. 15.35 crore were remote, as some of the cases were as old as 20 years.

* Bokaro, Chaibasa, Dhanbad, Hazaribag, Jamshedpur, Pakur, Ranchi and Sahebganj.

* Dhanbad and Ranchi.

After the cases were pointed out, the Government stated in August 2007 that action was being taken under the provisions of the PDR Act.

7.2.13.5 Distress warrants[#] issued but not executed

The COs are required to issue a notice to the defaulters. In case, the defaulters do not response or do not pay the sums due within the dates prescribed by the COs, a distress warrant is issued to the defaulters.

Test check of the certificate case records and Register-X in two DDM cum COs, Hazaribag and Ranchi revealed that 376 certificate cases involving Rs. 78.63 lakh, instituted between 1975-76 and 2004-05, remained pending as distress warrants issued, could not be executed. The responsibility for execution of distress warrants lies mainly with the Police Department. Due to lack of coordination between the two departments, revenue of Rs. 78.63 lakh remained unrealised. These, chances of recovery are remote as some of the cases are over 30 years old.

After the cases were pointed out, the Government stated in August 2007 that active co-operation of police administration was required for serving warrants. The reply is not tenable as the department should take up the issue of distress warrants with the Home Department and elicit its effective co-operation.

7.2.13.6 Short accounting of dues involved in certificate cases

Reports and returns are important internal controls for the superior authorities for effective tax administration and realisation of revenues due. It was noticed in audit that the returns being sent to the Director of Mines were discrepant.

Perusal of two annual returns sent by DDM cum CO, Hazaribag and Ranchi to the Director of Mines revealed that 4,923 certificate cases involving Rs. 92.66 crore were outstanding as on 31 March 2006. Verification by audit of the amounts outstanding against these cases mentioned in the returns from the concerned registers revealed that it actually worked out to Rs. 104.62 crore. There was, thus, a discrepancy of Rs. 11.96 crore, the reasons for which need to be investigated.

After the cases were pointed out, the Government stated in August 2007 that steps were being taken for reconciliation of the outstanding amount.

The Government may consider strengthening the mechanism for ensuring prompt issue of demand notices, timely and speedy initiation/disposal of certificate cases and for verification of the amounts mentioned in the returns with the concerned registers in the interest of revenue. There should be effective pursuance of service and action on distress warrants.

[#] An official authorisation for recovery of the dues recoverable from defaulters by attachment and auction of the property.

7.2.14 Weak internal controls

Every department is required to institute appropriate internal controls for its efficient and cost effective functioning by ensuring proper enforcement of laws, rules and departmental instructions. The internal controls also help in creation of reliable financial and management information system for prompt and efficient services and for adequate safeguard against non/short collection or evasion of revenues. The internal controls instituted should also be reviewed and updated from time to time to maintain their effectiveness.

The department in reply to an audit enquiry about existence and effectiveness of internal controls stated in May 2007 that internal controls were being exercised through meetings at the apex level and inspections by superior officers. **There were, however, no minutes of the meetings held, no schedules for inspections by officers of any level, no records of inspections conducted, no inspection notes issued and no record of follow up action consequent to such inspections.** The succeeding paragraph brings out non-observance of major prescribed internal controls.

7.2.14.1 Non-maintenance of important registers

Records like raising and despatch register (RD) to depict production and despatch of minerals by each lessee and Demand and Collection (DCB) register for watching raising and collection of demand are required to be maintained as important internal controls to facilitate monitoring of returns and collection of mining revenues. Further, according to the Government instructions of July 1986, mining officers were required to compare every quarter the figures from the files of the lessees with the figures of demand and collection register (DCB) to ascertain their correctness.

In five DMOs[≈], scrutiny of the RD and DCB registers for 2001-02 to 2005-06 revealed that both the registers were not being maintained properly. Entries in respect of 110 cases were found missing in both the registers, though the mines were in operation during that period. As a result, the actual quantity of minerals raised, despatched and mining dues could not be ascertained. Non-observance of this major internal control has serious implications for the revenue earned by the State.

After this was pointed out, the Government accepted the audit observation in August 2007 and stated that steps were being taken for proper maintenance and updating of registers.

7.2.14.2 Working of vigilance - enforcement and inspection wing

In the Mines and Geology Department, the Vigilance-enforcement and inspection wing was set up under the charge of ADM. The wing is entrusted the work of search and seizure, detection of fraud and evasion cases and prevention of illegal mining and illegal transportation of mineral. **It was**

[≈] Dhanbad, Jamshedpur, Pakur, Ranchi and Sahebganj.

noticed that the wing remained inoperational and several instances of loss of revenue came to notice of audit, which could have been averted had the wing been functional. Thus, the Government was left vulnerable to the risk of loss of revenue

After this was pointed out, the department stated in August 2007 that non-operation of wing was due to shortage of staff. It was further stated that steps were being taken to revive the wing.

The Government should prescribe a system to check whether entries were being properly made in the RD and DCB registers and these were being cross checked with the files of the lessees. Since failure to do so has serious implications for the revenue earned by the State, the Government should also prescribe a system for ensuring accountability for failure on the part of the concerned personnel in discharging their assigned functions. The Vigilance - enforcement and inspection wing may also be made operational.

7.2.15 Internal audit

Internal audit is generally defined as control of all controls as it is a means of an organisation to assure itself that the prescribed systems were functioning reasonably well. The Finance Department ordered in May 1960 that internal audit of the Mining Department would be conducted by the former's audit wing. The internal audit parties are required to conduct *cent per cent* audit of all returns submitted, issue of demand notices, accounting of royalty collection upto verification of deposit of amount with treasury records and thereby credit to the consolidated fund of the State.

However, no internal audit was ever conducted in any of the offices from 2001-02 to 2005-06.

In the absence of internal audit, the department remained unaware of the areas of malfunctioning of the systems and did not, therefore, have any opportunity of taking remedial action.

The Government may consider conducting regular internal audit of the department.

Compliance deficiencies

7.2.16 Short realisation of security money

According to JMMC Rules, security money in case of minor minerals shall be realised at the rate of Rs. 1,000 or dead rent for one year, whichever is higher.

In three DMOs[§], it was noticed that 129 lessees deposited Rs. 32.02 lakh as security money instead of the correct amount of Rs. 100.10 lakh during 2004-05 to 2005-06. This resulted in short realisation of Rs. 68.08 lakh.

After the cases were pointed out, the Government stated in August 2007 that Rs. 65,000 had been recovered and efforts were being made to recover the balance.

7.2.17 Non-realisation of dead rent

Under the provisions of the MMDR Act and JMMC Rules, dead rent shall be charged at the rates specified in Schedule III and Schedule I for major and minor minerals respectively, for all the areas included in the instrument of lease.

In four DMOs[∞], it was noticed that 13 lessees holding mining lease for manganese and stone over 380.192 hectares and 76.84 acres respectively, were liable to pay dead rent of Rs. 10.63 lakh. But it was neither paid by the lessee nor was it demanded by the department. This resulted in non-realisation of the revenue.

After the cases were pointed out, the Government stated in August 2007 that Rs. 3.34 lakh had been recovered in three cases of one lessee while in other cases notices of demand for recovery were being issued.

7.2.18 Conclusion

Mining receipts are the largest non-tax receipts and second largest receipts of the State. Audit review revealed a number of deficiencies in the system of levy and collection of mining receipts leading to leakages of revenue of levy and collection of these receipts and also in illegal and unauthorised mining operations not being detected. No time frame has been prescribed for the disposal of applications for grant of lease of major minerals. This has resulted in large pendency of cases with consequential adverse impact on revenues. The Government has not specified any system for cross verification of returns filed by the lessees with the data/information of minerals raised and despatched by lessees from the leasehold areas from Indian Bureau of Mines (IBM), Railways and other departments/undertakings of the State/Union Governments to check short payment or evasion of royalty. Consequently, there were large scale leakages of revenue for reasons like non/short levy of royalty, non-raising of demands, applications of incorrect rates, non-realisation of dead and surface rents, misclassification of minerals, illegal mining, unauthorised use of TCs etc. The Vigilance - enforcement and inspection wing remained inoperational since its creation. Since there was no internal audit, the department remained unaware of the areas of malfunctioning of the systems and did not, therefore, have any opportunity of taking remedial action.

[§] Hazaribag, Pakur and Sahebganj.

[∞] Chaibasa, Jamshedpur, Hazaribag and Pakur.

7.2.19 Summary of recommendations

The Government may consider implementation of the following recommendations for rectifying the system and other issues:

- specifying a time frame for disposal of applications for grant of lease for major minerals;
- prescribing a system of periodical reporting to superior authorities of the results of submission of prescribed returns and correctness of royalty etc. paid or payable by the lessees;
- ensuring close co-ordination with IBM for cross checking of returns of lessees and instituting a system for inter departmental cross verification of information/data with the returns of the lessees;
- ensuring proper maintenance of illegal mining register and action thereon. The MIs and DMOs/AMOs should be made accountable for illegal mining to prevent leakage of revenue;
- prescribing a system of cross verification of utilisation of TC register with the returns filed by the lessees for proper monitoring of the issue and use of TCs to/by lessees to prevent illegal transportation;
- strengthening the mechanism for ensuring prompt issue of demand notices, timely and speedy initiation/disposal of certificate cases and for verification of the amounts mentioned in the returns with the concerned registers in the interest of revenue. There should be effective pursuance of service and action on distress warrants;
- the vigilance-enforcement and inspection wing may also be made fully operational; and
- making the internal audit operational to ensure timely detection and correction of errors in the levy and collection of revenue.