

CHAPTER-VI FOREST AND MINING RECEIPTS

6.1 Results of audit

Test check of the records maintained in various forest divisions as well as in the office of the Principal Chief Conservator of Forests (PCCF), Orissa and Deputy Director of Mines (DDM) and mining officers (MOs) conducted during the year 2006-07, revealed non/short levy/recovery of royalty/interest, dead rent/surface rent, loss of revenue, and other irregularities etc., of Rs. 81.01 crore in 4,369 cases which broadly fall under the following categories:

(Rupees in crore)

Sl. No.	Category	No of cases	Amount
Forest Receipts			
1.	Loss of revenue due to short delivery/shortage of forest produce	82	1.19
2.	Non/short levy of interest on belated payment of royalty.	1,117	0.51
3.	Non-realisation of royalty	444	14.15
4.	Other irregularities	2,303	10.08
Total		3,946	25.93
Mining Receipts			
1.	Irregularities of miscellaneous nature	354	45.04
2.	Non/short levy of royalty/dead rent/surface rent	57	9.55
3.	Non/short recovery of interest and non levy of interest	12	0.49
Total		423	55.08
Grand total		4,369	81.01

During the year 2006-07, the departments accepted under assessment and other deficiencies of Rs. 25.49 crore in 3,889 cases pointed out in 2006-07 and recovered Rs. 2.99 crore in 14 cases.

After issue of draft paragraphs, the department recovered Rs. 5.36 lakh pertaining to a single observation pointed out in audit during 2006-07.

A few illustrative cases highlighting important audit observations involving Rs. 9.77 crore are discussed in the following paragraphs.

Forest Receipts

6.2 Non-disposal of timber and poles

The Government of Orissa, Forest and Environment Department in their order of July 1989 and August 2005 issued instructions for early disposal of timber and poles seized in undetected (UD) forest offence cases either by prompt delivery to the Orissa Forest Development Corporation Limited (OFDC) within two months from the date of seizure or by public auction in order to avoid loss of revenue due to deterioration in quality and value on account of prolonged storage.

Test check of the records of 39 forest divisions³⁷ conducted between May 2006 and February 2007 revealed that 24,089.54 cft of timber and 2,077 poles valued as Rs. 51.17 lakh seized in 1,307 UD forest offence cases registered between 2004-05 and 2005-06 were lying undisposed as of March 2007. Inaction of the department to dispose the timber and poles either by delivery to OFDC or by public auction resulted in non-disposal of forest produce involving Government revenue of Rs. 51.17 lakh.

After the cases were pointed out, the Government stated in May 2007 that 5,943.48 cft of timber and 758 poles valued as Rs. 14.29 lakh were disposed of in 410 cases. Final reply in other cases has not been received (November 2007).

6.3 Non-levy of interest on belated payment of royalty on timber

Under the Orissa Forest Contract Rules, 1966, if a contractor fails to pay any instalment of royalty for sale of forest produce by the due date, he is liable to pay interest at the rate of 6.25 *per cent* per annum on the amount of default. As per the provisions contained in the Government of Orissa order of February 1977, OFDC is also liable to pay interest for default in payment of royalty.

Test check of the records of 26 forest divisions³⁸ conducted between April and December 2006 revealed that OFDC paid royalty of Rs. 5.71 crore belatedly for the period from 2000-01 to 2004-05. Despite delays ranging from 6 to 56 months, the DFOs did not levy interest of Rs. 50.59 lakh on OFDC as mentioned below.

37 Angul, Athagarh, Athamalik, Bamra (WL), Balliguda, Boudh, BBSR City, Berhampur, Banei, Bolangir(W), Bolangir (E), Bhadrak (WL), Baragarh, Baripada, Balasore, Cuttack, Deogarh, Dhenkanal, Ghumusur (N), Ghumusur (S), Hiraakud (WL), Koraput, Khurda, Karanjia, Kalahandi (S), Khariar, Keonjhar, Keonjhar (WL), Malkangiri, Nawarangpur, Nayagarh, Phulbani, Paralakhemundi, Rairakhole, Rourkela, Rayagada, Sambalpur (S), Sambalpur (N) and Sundargarh.

38 Angul, Athamalik, Bamra (WL), Balliguda, BBSR City, Berhampur, Banei, Bolangir(W), Bolangir (E), Baragarh, Balasore (WL), Cuttack, Deogarh, Dhenkanal, Ghumusur (N), Jeypore, Khurda, Karanjia, Kalahandi (S), Kalahandi (N) Malkangiri, Nawarangpur, Nayagarh, Puri (WL), Rairakhole, Rayagada.

(Rupees in lakh)

Period	No. of lots	Amount of royalty	Interest payable
Up to 12 months	739	363.95	17.75
13 to 24 months	229	86.44	9.00
25 to 56 months	248	120.71	23.84
Total	1,216	571.10	50.59

After the cases were pointed out, the Government stated in August 2007 that all the DFOs had raised demand for interest on belated payment of royalty. A report on realisation has not been received (November 2007).

Mining Receipts

6.4 Short accounting of stock in the returns leading to non-realisation of royalty

Under the provisions of the Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act), the holder of a mining lease is liable to pay royalty in respect of any minerals removed from the lease hold area or minerals consumed therein. The Mineral Concession (MC) Rules 1960, stipulate that the lessee is required to submit a monthly return in a prescribed form (Form A³⁹) disclosing the details of opening balance, production, consumption/removal and closing balance to the concerned mining circle along with the particulars of payment towards royalty. The assessing officer (AO) is also liable to carry out field survey or spot inspection to satisfy himself regarding the minerals raised by the lessees.

During the audit of the records of the DDM, Sambalpur in December 2006, it was noticed that a lessee⁴⁰ disclosed closing stock of 8.45 lakh MT, 18.63 lakh MT and 11.05 lakh MT of different grades of coal in form A for the years 2003-04, 2004-05 and 2005-06 respectively in respect of six⁴¹ of its collieries. Cross verification of these with the audited book balance of coal, however, revealed that the actual closing stock of coal at the pit's head was 14.43 lakh MT, 21.89 lakh MT and 11.67 lakh MT during the same period. Thus, there was a differential stock of 9.86 lakh MT of coal. The AO, however, accepted the returned figure as per form A and did not conduct field survey or spot inspection to verify the actual stock position from the audited accounts and consequently demand for royalty on the differential stock could not be raised. This resulted in non-realisation of royalty of Rs. 6.46 crore⁴².

After the case was pointed out, the DDM, Sambalpur agreed to raise the demand. A report on recovery has not been received (November 2007).

39 Form-A serves as the basic record for determination of royalty by the assessing officer

40 M/s. Mahanadi Coal Field Ltd.

41 Belpahar, H. Bundia Incl., Hingiri Rampur, Lajkura, Lakhanpur and Samaleswari

42 Royalty at the rate of Rs. 65 per MT for 9.60 lakh MT of F grade coal and royalty at the rate of Rs. 85 per MT for 0.26 lakh MT of D grade coal.

The matter was brought to the notice of the department/Government in April 2007; their reply has not been received (November 2007).

6.5 Short levy of royalty on high grade iron ore

As per the MC Rules, in case of processing of mineral other than run of mine⁴³, royalty is chargeable on unprocessed mineral i.e. mineral extracted from the seam.

Test check of the records of Joda and Koira mining circles between October 2006 and January 2007 revealed that 14 lessees extracted and consumed 87.23 lakh MT of unprocessed mineral in their processing plants from 18 mines during the years 2004-05 and 2005-06 on which royalty of Rs. 19.88 crore was leviable. The AO, however, classified these as processed minerals and levied royalty of Rs. 17.25 crore. This resulted in short levy of royalty of Rs. 2.63 crore.

After the cases were pointed out, the Government stated in March 2007 that demands totalling Rs. 40.63 lakh were raised against seven lessees. A report on recovery and reply in respect of the remaining cases has not been received (November 2007).

6.6 Non-levy of interest on delayed payment of mining dues

Under the provisions of the MC Rules as amended from time to time, in case of belated payment of royalty, simple interest at the rate of 24 *per cent* on the unpaid amount is chargeable from the sixtieth day after the expiry of the due date till the payment of dues in full.

Test check of the records of four mining circles⁴⁴ between June 2006 and January 2007 revealed that royalty of Rs. 2.24 crore was paid belatedly during the period between March 2002 and June 2006, though the due date of payment was between April 2001 and April 2006. Interest of Rs. 9.36 lakh for delay in payment of dues ranging from 81 to 1,404 days was not levied.

After the cases were pointed out, DDMs, Rourkela, Koira and MO, Cuttack agreed between June 2006 and January 2007 to raise the demand. The MO, Keonjhar stated in August 2007 that demand would be raised after receipt of clarification from Director of Mines. A report on further development has not been received (November 2007).

The matter was brought to the notice of the department/Government in March 2007; their reply has not been received (November 2007).

43 The blasted materials containing ore with other foreign materials brought to the crushing plant.

44 Cuttack, Koira, Keonjhar and Rourkela.

6.7 Non-levy of royalty on coal damaged by fire

Under section 9 of the MM (DR) Act, the holder of a mining lease is liable to pay royalty in respect of any mineral removed or consumed from the mines at the rates specified in the Act. No loss or wastage is admissible under the Act. It was judicially held⁴⁵ by the Supreme Court that removal from the seam in the mine and extracting the same through the pit's mouth to the surface satisfied the requirement of section 9 for levy of royalty.

Test check of the records of the DDM, Rourkela circle in November 2006 revealed that 9,532.157 MT of 'E' grade coal was damaged by fire in the stockyard of a lessee. Since the mineral was removed from the mine and royalty was realisable the moment minerals were removed from the mine, the lessee was liable to pay royalty of Rs. 8.10 lakh on the quantity of coal damaged by fire. No demand was, however, raised by the DDM.

After the case was pointed out, the DDM, Rourkela stated that necessary action would be taken after investigation. Further reply has not been received (November 2007).

The matter was brought to the notice of the department/Government in April 2007; their reply has not been received (November 2007).

45 State of Orissa Vs. M/s. SAIL 1990 (6) SC 281.