

CHAPTER-VII : MINING RECEIPTS

7.1 Results of audit

Test check of the records maintained in the office of the Deputy Directors of Mines and Mining Officers conducted during the year revealed non/short levy of royalty/dead rent/surface rent, non/short recovery of interest and non-levy of interest and other irregularities of Rs. 225.85 crore in 104 cases which fall under the following categories.

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
1.	Receipts from major minerals (A review)	1	206.20
2.	Non/short levy of royalty/dead rent/surface rent	52	7.31
3.	Non/short recovery of interest and non-levy of interest	11	0.05
4.	Other irregularities	40	12.29
Total		104	225.85

During the year 2007-08, the department accepted non/short levy of royalty/dead rent/surface rent, non/short recovery of interest and other deficiencies of Rs. 67 lakh in 47 cases pointed out in 2007-08. The department also recovered Rs. 23 lakh in 34 cases pointed out in earlier years.

After issue of draft paragraphs, the department recovered Rs. 3.74 lakh pertaining to a single observation pointed out by audit during 2007-08.

The findings of a review of **Receipts from major minerals** involving Rs. 206.20 crore are discussed in the following paragraphs.

7.2 Receipts from major minerals

Highlights

Due to the absence of a system of monitoring the settlement process, the directorate and the Government were not aware of the low percentage of settlement of lease applications which was only 4.93 per cent and consequent non-realisation of dead rent of Rs. 8.69 crore and stamp duty and registration fee of Rs. 8.94 crore.

(Paragraph 7.2.7)

Failure of the Government to safeguard the interest of the revenue before prescribing the basis for calculation of annual royalty for levy of stamp duty and registration fees led to loss of revenue of Rs. 4.94 crore.

(Paragraph 7.2.8)

For illegal mining of 10.22 lakh MT of minerals without a mining lease, Rs. 88.47 crore though realisable towards the cost of mineral was not realised.

(Paragraph 7.2.13)

Due to inaction of the department for disposal of left over minerals, revenue of Rs. 66.38 crore remained unrealised.

(Paragraph 7.2.14)

Due to non-adherence to the prescribed assessment procedure, there was non/short levy of royalty of Rs. 15.95 crore.

(Paragraph 7.2.15)

Due to non-initiation of proposals to resettle the non-working mines, the Government was deprived of revenue of Rs. 25.26 crore.

(Paragraph 7.2.17)

7.2.1 Introduction

Orissa holds a pre-eminent place amongst the states of India in mineral resources with large deposits of major and minor minerals and the receipts from mines and minerals constitute the largest source of non-tax revenue of the state. Minerals are broadly divided into two categories viz. major minerals such as bauxite, chromite, iron ore, coal, manganese, graphite, dolomite etc., and minor minerals such as stone, gravel, ordinary clay, decorative stone, ordinary sand etc. Prospecting and mining of major minerals, assessment, levy and collection of royalty and other mining revenue are governed by the Mines and Minerals (Development and Regulation) Act (MMDR Act), 1957 enacted by the Parliament and the Mineral Concession (MC) Rules, 1960 framed thereunder. The receipts from mines and minerals comprise of application fees

for lease/permit/prospecting licence, royalty, dead rent, surface rent, fines/penalties and interest for belated payment of dues. As on 31 March 2007, there were 600 lease cases spread over 1.16 lakh hectares.

A review on “Assessment, collection and recovery of mining dues from major minerals” covering the period 1998-99 to 2002-03 was incorporated in the report of the Comptroller and Auditor General of India for the year ended 31 March 2004. The current review on “Receipts from major minerals” covering the period 2003-04 to 2006-07 revealed a number of system and compliance deficiencies which have been discussed in the succeeding paragraphs.

7.2.2 Organisational set up

The regulation and development of mines and minerals are administered by the Steel and Mines Department headed by the Commissioner-cum-Secretary and the Director of Mines as the head of the department. The Director of Mines is assisted by the Joint Director of Mines at the headquarters. The State is divided into 14 circles, each under the charge of one Deputy Director of Mines (DDM)/Mining Officer (MO).

7.2.3 Audit objectives

The review was conducted with a view to ascertain whether:

- lease applications were settled within the stipulated time after observance of all codal formalities;
- the provisions of the Act/Rules and executive instruction governing realisation of royalty, dead rent, surface rent, application fees for lease permit/prospecting licence, fines, penalties and interest for delayed payment were adhered to; and
- an effective internal control mechanism exists for monitoring the functioning of various wings of the department and to prevent leakage of revenue.

7.2.4 Scope of audit

For the purpose of the review records for the years from 2003-04 to 2006-07 were test checked between March and May 2008 in the Steel and Mines Department, Directorate of Mines and eight⁴⁸ out of 14 circles. The circles were selected on the basis of stratified sampling method. In the course of the review, information obtained from the regional transport offices (RTOs), sub-registrars and Indian Bureau of Mines (IBM) were also cross verified with the records of the Steel and Mines Department.

7.2.5 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the Steel and Mines Department in providing necessary information and records for the review. The audit findings included in this review were forwarded to the Government in June 2008 and discussed in the audit review committee

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meeting held in August 2008. The replies of the Government have been suitably incorporated in the review.

Audit findings

7.2.6 Trend of revenue

The Orissa Budget Manual stipulates that the estimates of revenue receipts should be based upon the actual demand including any arrears of the past years and the probability of their realisation during the year. The controlling officers of the administrative departments are required to submit departmental estimates of revenue to the Finance Department for preparation of the budget estimate. The budget estimates and the actual revenue receipts from mines and minerals during 2003-04 to 2006-07 were as mentioned below.

(Rupees in crore)

Year	Budget estimates	Actual realisation	Variation	
			Amount	Percentage
2003-04	466.51	552.06	85.55	18
2004-05	640.87	670.52	29.65	5
2005-06	736.00	805.03	69.03	9
2006-07	900.00	936.60	36.60	4

The department did not furnish the detailed analysis on the basis of which the budget estimates were fixed.

System deficiencies

7.2.7 Disposal of lease applications

As per the provisions of the MC Rules, the Government is required to dispose of the application for grant of a mining lease within 12 months from the date of its receipt. The MMDR Act provides that dead rent at the prescribed rate is payable to the Government every year by the holder of a mining lease for the entire leasehold area if operation is not carried out. Further, if an application for renewal of mining lease is made at least one year before the date on which the existing lease is due to expire, the period of lease shall be deemed to have been extended by a further period till the State Government passes orders thereon. Application for renewal of mining lease is to be treated as application for fresh lease. Further, as per the Indian Registration Act, 1908, for a mining lease exceeding one year, a deed is required to be executed and registered on payment of the prescribed stamp duty and registration fee on the estimated annual royalty as consideration of the lease deed.

Audit scrutiny revealed that though the MC Rules provide for settlement of mining lease/renewal of lease cases within 12 months from the date of its application, there was no system of monitoring the timely settlement of the lease applications at any level. No report/return has been prescribed to be furnished by the circle officers to the directorate/Government to keep track of the receipt, settlement and pendency at various levels of the lease/renewal of lease applications.

7.2.7.1 Loss of dead rent due to non-finalisation of lease applications

Scrutiny of the records revealed that in eight selected circles, out of 1,624 applications received for the mining of major minerals during the years 2003-04 to 2006-07, only nine applicants were granted lease, 78 applications were rejected and 1,676 applications including 139 applications pertaining to the earlier years were pending as of 31 March 2007. The disposal of applications during the above period was therefore only 4.93 *per cent*. Test check of 808 cases out of the outstanding 1,676 cases revealed that these applications involving land of 3.51 lakh hectares could not be settled for periods ranging between one and 37 years. Consequently dead rent of Rs. 8.69 crore could not be realised of which Rs. 6.78 crore pertained to the last four years. Thus, due to the absence of a system of monitoring of the settlement process, the directorate and the Government were not aware of the low percentage of settlement of lease applications causing loss of Government revenue.

After this was pointed out, the Government stated that delay in disposal of mining lease applications was unavoidable as applications received were deficient and clearances from Forest and Revenue departments, technical reports and report on availability of the area are required before finalisation. The contention is not tenable as the applications were pending for periods ranging between one to 37 years which was in violation of the MC Rules. Moreover, there was no monitoring on the part of the department/Government on timely settlement of the lease applications and due to this, the lease applications remained unattended at various levels of the department.

7.2.7.2 Non-renewal of mining leases

Scrutiny of records revealed that though 29 applications for renewal of mining lease which expired between January 1996 and September 2006 were received in six⁴⁹ circles between January 1995 and September 2005, these cases were pending as of March 2007. Due to the absence of a system of monitoring the applications for renewal of leases, non-renewal of the mining leases for such a long period escaped notice of the department and the Government. This resulted in non-execution of lease deeds and consequent non-realisation of stamp duty and registration fee of Rs. 8.94 crore.

After this was pointed out, the Government stated that as in the case of sanction of lease, sanction of renewal of mining lease (renewal) also takes a lot of time. Further, stamp duty and registration fee were one time dues and would be realised on sanction of the renewal cases. It was also stated that the Public Accounts Committee (PAC) settled a similar para which appeared in the Audit Report - 2003-04. The fact remains that the PAC had settled the earlier para with a directive to dispose of all the pending applications within the stipulated time fixed by the Government of India. Thus, even the direction given by the PAC in additions to the existing provisions in the relevant rules, did not result in the desired action by the department.

The Government may consider strengthening the monitoring mechanism on receipt and disposal of lease application and renewal of lease cases and

⁴⁹ Baripada, Jajpur Road, Joda, Keonjhar, Sambalpur and Talcher.

devising a system for timely disposal of the cases. They may also consider prescribing reports/returns to be furnished by the circle officers to the directorate/Government so as to ensure monitoring of the unsettled cases.

7.2.8 Loss of revenue due to injudicious adoption of anticipated production

With a view to avoid loss of revenue, the State Government issued guidelines in February 1979 which prescribed that a realistic assessment of the quantity of expected production for computation of annual royalty, be made for levy of stamp duty and registration fee while registering the lease deed. As per the guidelines, the technical enquiry report of the DDM/MO should form the basis for the calculation of royalty since the figures shown in the applications for leases tend to be on the lower side. Audit scrutiny revealed that while issuing the guidelines, the Government failed to safeguard the interest of revenue by prescribing that stamp duty and registration fee would be levied on the basis of annual royalty calculated by the applicant or the technical enquiry report of the DDM/MO whichever is higher. Also, no system was prescribed to review the figures of the technical enquiry report of the DDM/MO, in case these are found to be lower than those indicated by the applicants.

Scrutiny revealed that in cases of six lease deeds in three⁵⁰ circles registered between January 2002 and June 2006, the anticipated production as per the technical enquiry report of the DDM/MO was adopted for computation of annual royalty though the figures were less than that shown by the lessees. This led to short determination of annual royalty by Rs. 24.17 crore. Thus, failure of the Government to analyse all the pros and cons before prescribing the basis for calculation of annual royalty led to loss of revenue of Rs. 4.94 crore towards stamp duty and registration fee.

The Government may consider modifying the guidelines issued in February 1979 for adopting the anticipated production as per the technical enquiry report or those shown by the lessee, whichever is higher, for the purpose of assessment of royalty for registration of lease deed.

7.2.9 Operation of mines without forest clearance

As per the Forest Conservation (FC) Act, 1980, non-forest activities such as mining operation in forest area cannot be undertaken without prior approval of the Central Government, even in case of renewal of mining lease. Audit scrutiny revealed that despite the blanket ban on non-forest activities in the forest areas without obtaining forest clearance from the Central Government, the Steel and Mines Department was allowing extraction of minerals from the mining areas where forest clearance was pending. Also, there was no system of monitoring the cases sent for forest clearance at any level of the department. Resultantly, the department/Government was not aware of the number of applications pending with the Forest and Environment Department/Central Government for forest clearance.

Test check of the records revealed that the DDM, Koira allowed two lessees to extract 1.91 lakh MT of manganese/iron ore valued at Rs. 7.89 crore between

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April 2005 and March 2007 though the divisional forest officer objected on the mining operation in the forest areas without forest clearance. Thus, due to the failure of the Steel and Mines Department to devise a mechanism for monitoring the cases requiring forest clearance and to take up these with the Forest and Environment Department for prior approval, such irregular allowance for extraction of minerals without forest clearance by the DDM remained unnoticed by the departmental authorities and the Government.

After this was pointed out, the Government stated that case wise study was being done. A report on further development has not been received (November 2008).

The Government may consider prescribing periodic reports/returns to be furnished by the DDMs/MOs indicating the cases requiring forest clearance and also the details of the cases which has already been sent for clearance of the Forest and Environment Department. Co-ordination between the Forest and the Steel and Mines Department may also be increased to facilitate quick disposal of the forest clearance cases in the interest of revenue of the State. The DDMs/MOs may also be made accountable for failure to stop extraction of minerals in cases where forest clearance has not been obtained.

7.2.10 Evasion of royalty due to lack of cross verification

As per the provisions of the Mineral Conservation and Development (MCD) Rules, 1988, the lessee is required to submit returns to the Indian Bureau of Mines (IBM) and the State Government showing minerals raised and despatched. Audit scrutiny revealed that there was no system of cross verification of the particulars of minerals raised and despatched as shown by the lessees in the returns with those furnished to the IBM or other departmental authorities to pre-empt any scope of evasion of royalty.

Scrutiny of the records revealed that five lessees of four⁵¹ circles, in their returns for the period between 2003-04 and 2006-07, disclosed production/despatch of 4.26 lakh MT of chromite and manganese ore and paid royalty accordingly. Cross verification of the returns furnished by the lessees to the IBM revealed that the dealer had produced/despatched 5.11 lakh MT of chromite and manganese ore during the aforesaid period. Thus, due to absence of a mechanism for cross verification of the figures returned by the lessees with those reported to the IBM, the difference of 85,151 MT remained unnoticed by the department resulting in evasion of royalty of Rs. 1.97 crore.

After the case was pointed out, the Government accepted the audit observation and stated that appropriate action would be taken. A report on further development has not been received (November 2008).

The Government may consider prescribing a system for cross checking of the returns furnished by the lessees with those furnished to the IBM and other departments in the interest of revenue of the State.

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7.2.11 Publication of rate of minerals by the IBM

Under the MC Rules, the State-wise average value for different minerals as published by the Indian Bureau of Mines, Nagpur in the “Monthly Statistics of Mineral Production” is the benchmark value for computation of royalty by the concerned State Government in respect of any mineral produced in any mine in that State. As per the MCD Rules, cost of production, in case of captive mines, is considered to represent the pit’s mouth value (PMV) in full whereas in other cases, the PMV is derived after deduction of the expenses on account of transportation, handling, duties etc., from the dispatched price disclosed by the lessees in their returns.

Audit scrutiny revealed that the grade-wise and month-wise sale price of chromite published by the IBM during 2003-04 to 2006-07 as per the guidelines envisaged in the MC and MCD Rules did not represent the actual market price because while 99 *per cent* of chromite is produced in the State of Orissa, most of the mines in Orissa are captive mines and the captive mine owners tend to consume the higher grade minerals and sell the lower grade minerals. Therefore, the PMV for lower grade mineral was fixed on the basis of the dispatched price whereas the PMV of higher grade mineral was based on the cost of production which was quite low and ultimately resulted in the price of the higher grade mineral published by the IBM being equal to or less than the lower grade mineral.

Although, this trend affected the revenue of the State adversely, the State Government had not initiated any step to take up the matter with the authorities at the appropriate level for fixation of sale price without considering the cost of production declared by the lessees in the best interest of revenue.

After this was pointed out, the Government stated that necessary proposal would be submitted to the IBM for fixing the average sale price of the minerals on the basis of the sale price instead of the cost of production declared by the lessees for captive consumption. A report on further development has not been received (November 2008).

The Government may approach the Central Government either to amend the relevant provisions of the MCD Rules or to issue necessary instruction for fixing the average sale price of minerals on the basis of actual sale price without considering the cost of production declared by the lessees for captive consumption so that the IBM can fix the average PMV on a realistic basis and consequent loss of revenue to the State can be avoided.

7.2.12 Internal audit system

Internal audit, also known as the control of all controls, is one of the tools of the internal control mechanism and functions as the ‘eyes’ and ‘ears’ of the management in evaluating the efficiency and effectiveness of the mechanism. It also independently appraises whether the activities of the organisation/department are being conducted efficiently and cost effectively.

A review of the functioning of the internal audit wing (IAW) revealed that during 2004-05 to 2006-07 against 45 units due for internal audit the IAW could inspect 22 units (49 *per cent*) leaving a balance of 23 units. The

information for 2003-04 was not available. It was seen that no training was proposed/imparted to the personnel involved in internal audit and the number of paragraphs issued by internal audit parties, number of paragraphs settled and number of paragraphs outstanding along with money value for the last four years ending on 31 March 2007 was not available with the directorate. Thus, due to lack of monitoring of the working of the IAW and follow up action on the observations raised by it, the IAW has been rendered ineffective.

After this was pointed out, the Government stated that all the mining circle offices have been audited upto 2006-07 in the meantime and the audit observations have been communicated to the respective circles for compliance. The reply was silent about the lack of monitoring on the functioning of the IAW.

The Government may consider strengthening the IAW and ensure compliance to the paragraphs raised by it to ensure that all the wings of the department function efficiently for optimum collection of revenue. Besides, monitoring of the working of the IAW may also be ensured.

Compliance deficiencies

7.2.13 Operation of mines without execution of lease deeds

Under the MMDR Act, no person shall undertake any mining operation in any area except under and in accordance with the terms and conditions of a mining lease. Whenever any person raises without any lawful authority any mineral from any land, the Government may recover from such person the minerals so raised or where such mineral has already been disposed of, the price thereof and royalty on such minerals. By an amendment of the MC Rules, mining operation on agency basis was ceased from 4 January 1999. The MMDR Act and the Rules made thereunder do not provide for grant of any working permission by the State Government in the absence of a lease.

Scrutiny of the records revealed that the State Government handed over one iron and manganese mine covering an area of 1,011.500 hectares including 793.350 hectares of forest land under DDM, Joda to a mining corporation in June 1982 to carry out mining operation on agency basis. It was noticed that though the MC Rules was amended in January 1999 withdrawing the provisions for mining operation on agency basis, mining operation was continued on agency basis till the Government directed (15 November 2000) it to stop mining operations. However, the Government again allowed the corporation to carry on the mining work for a period of one year from 23 November 2000 with the condition to obtain forest clearance from the Central Government. The corporation, however, continued mining activities up to 23 November 2006 without executing any lease deed and obtaining forest clearance. During the above period, 2.98 lakh MT of manganese ore and 7.24 lakh MT of iron ore of different grades valued at Rs. 88.47 crore were extracted. Since mining operation in any area cannot be carried out without a mining lease granted under the MMDR Act and the Rules made thereunder, extraction of 10.22 lakh MT of minerals by the corporation was illegal and hence the value of the minerals amounting to Rs. 88.47 crore was recoverable from them.

After this was pointed out, the Government stated that the mining operation was allowed to be carried out to avoid retrenchment of the labour force leading to labour unrest, possible law and order problem and clandestine mining operation. The contention was not tenable as the mining operation was allowed by the Government subject to forest clearance which was not obtained by the corporation. Moreover, the State Government is not empowered to allow mining operation without a mining lease overriding the provisions of the MMDR Act which is a Central legislation.

7.2.14 Non-disposal of left over minerals

As per the conditions of the lease agreement, the lessee on expiry of the lease term, shall remove the ores or minerals excavated and other properties within six calendar months from the date of expiry and thereafter if the minerals are not removed within one month after notice in writing is issued requiring their removal, those shall be deemed to be the property of the Government.

Scrutiny of the records revealed that a lessee under DDM, Rourkela applied for renewal of its limestone mine spread over 230.525 hectares in December 1998. The renewal application was rejected by the Government in October 2006. Despite lapse of more than 17 months (upto March 2008) the department neither issued the required one month notice nor initiated any action to take possession of the left over quantity of 5.51 lakh MT limestone and 11.69 lakh cum of rejected limestone lying in stock from October and February 2003 respectively and dispose of the same. Further, the department was also not aware (August 2008) of the physical existence of the minerals as the physical verification of the limestone was conducted more than four years ago in March 2004. Moreover, annual inspection of the mine was also not conducted after cessation of the mining operation. Thus, due to inaction of the department, revenue of Rs. 66.38 crore towards the cost of the left over material remained unrealised.

After the case was pointed out, the Government while admitting the facts stated (August 2008) that instruction/guidelines would be issued to the circle office to initiate immediate action in this regard.

7.2.15 Non/short levy of royalty due to non-adherence to the prescribed assessment procedure

Under the provisions of the MMDR Act, the holder of a mining lease is liable to pay royalty in respect of any mineral removed from the leasehold area or consumed therein. The lessee is required to furnish monthly returns disclosing the details of opening balance, production, consumption/removal and closing balance along with the particulars of payment of royalty. The returns are to be scrutinised by the officer in-charge of the circle who shall assess the amount of dead rent, surface rent, royalty etc., payable by the lessee. The assessing officers (AO) may also check the accounts of minerals maintained by the lessee and carry out field survey or spot inspection to satisfy themselves regarding the minerals raised by the lessee.

7.2.15.1 Short levy of royalty on limestone

As per the notification issued by the Government of India (GOI) in September 1961, limestone was to be treated as a minor mineral only when used in kilns for manufacture of lime used as building material and in all other cases would be deemed to be a major mineral.

Scrutiny of the records revealed that in DDM, Rourkela, two lessees removed 28.62 lakh MT of limestone during 2003-04 to 2006-07 as minor minerals with the nomenclature “rejected limestone boulders” on payment of royalty applicable to ordinary boulders under the Orissa Minor Mineral Concession Rules. As the lease was granted for extraction of limestone as major mineral and the rejected limestone boulders were removed for the purpose other than for use in kilns for manufacture of lime, royalty of Rs. 12.39 crore was leviable treating these as major minerals against which royalty of Rs. 5.27 crore only was levied. This resulted in short levy of royalty of Rs. 7.12 crore.

After the case was pointed out, the Government stated that royalty was levied considering the chemical composition of the limestone and there was no short levy. The contention is not tenable as the lease was granted for extraction of limestone as major mineral after necessary testing and the minerals were extracted for the purpose other than use in kilns.

7.2.15.2 Short levy of royalty on iron ore

According to the provisions of the MC Rules, in case of processing of run-of-mine (ROM)⁵² minerals within the leasehold area, royalty shall be charged on the output after processing the minerals. However, in case of processing of mineral other than ROM, royalty is chargeable on unprocessed mineral i.e. mineral extracted from the seam.

Scrutiny of the assessment records and monthly returns of seven iron ore mines under the DDM, Joda revealed that during the year 2006-07, the lessees fed 53.82 lakh MT of unprocessed minerals in their processing plants and paid royalty of Rs. 10.61 crore classifying the minerals as ROM minerals. The AO without carrying out any field inspection accepted the returns of the lessees and levied royalty accordingly. It was noticed that the output was equal to the input minerals i.e. 53.82 lakh MT which indicates that the minerals fed were not ROM minerals and thus royalty of Rs. 13.89 crore should have been levied on the unprocessed minerals. This resulted in short levy of royalty of Rs. 3.28 crore.

After the cases were pointed out, the Government stated that demand of Rs. 2.39 crore was raised after verification of process of screening, crushing and the grade of the ore fed and obtained. It was also stated that Rs. 6.42 lakh had been realised in one case. A report on recovery of the balance amount has not been received (November 2008).

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

7.2.15.3 Non-levy of royalty on shortage of coal

Scrutiny of the records revealed that in Sambalpur and Talcher circles, two mines of Mahanadi Coal Fields Ltd. disclosed closing stock of 68.09 lakh MT coal in their returns for the months between March 2004 and March 2007.

Cross verification of the returns with the closing stock of the coal as on these months measured by the Coal India Limited (CIL) disclosed stock of 63.78 lakh MT. Thus, there was a shortage of 4.31 lakh MT. The AOs, however, accepted the returns without conducting field survey or spot inspection to verify the actual stock position from the audited accounts. This resulted in non-levy of royalty of Rs. 2.82 crore.

After this was pointed out, the Government stated that demand for royalty on the shortage quantity of coal has been raised. A report on realisation has not been received (November 2008).

7.2.15.4 Non-levy of royalty on short accounting of coal

- Scrutiny of the records revealed that in Rourkela and Sambalpur circles, two collieries disclosed balance of 3.47 lakh MT of coal in their returns for the month ending March 2007. Cross verification of the returns with the stock measurement report of the CIL revealed that there was a balance of 6.94 lakh MT of coal in the leasehold area on that date. Thus, there was excess stock of 3.47 lakh MT coal which was not accounted for in the returns. The AOs, however, accepted the returns without scrutiny and conducting any spot inspection to verify the actual stock position. Consequently demand for royalty on the differential stock could not be raised resulting in non-realisation of royalty of Rs. 2.42 crore.

After the case was pointed out, the Government stated that compliance would be furnished after reconciliation of the discrepancies in respect of Sambalpur circle. No reply has, however, been furnished in respect of Rourkela circle.

- Scrutiny of the records revealed that in two cases of Joda and Baripada circles, the opening balance of minerals (iron ore and quartzite) reported in the monthly returns was 23,278.450 MT and 614.569 MT as on 1 April and 1 June 2006 respectively against the corresponding closing stock of 30,478.450 MT and 1,614.569 MT at the end of the previous months. Thus, there was short accounting of minerals of 8,200 MT. This resulted in non-levy of royalty of Rs. 2.14 lakh.

After the case was pointed out, the Government stated that Rs. 1.94 lakh has been realised in respect of Joda circle. Compliance in respect of Baripada circle has not been received (November 2008).

7.2.15.5 Short levy of royalty on bauxite

As per the MC Rules, in deciding the amount of royalty payable on bauxite, the foreign exchange rate for conversion of rupee which is the selling rate on the last date of the period of computation as published in the newspaper "The Economic Times", is one of the factors. The exchange rate of rupee as published in "the Economic Times" contains two types of rates, one for telegraphic transfer (TT), and the other for payment against sale bills.

Test check of the records of the DDM, Koraput revealed that a lessee paid royalty on monthly basis in respect of a bauxite mine through bank drafts. For the purpose of calculation of royalty, the rate of conversion of rupee at TT rate was taken into account instead of the rate for sale bills. This resulted in short levy of royalty of Rs. 28.77 lakh for the period from 2003-04 to 2006-07.

7.2.16 Short levy of surface rent

Under the MC Rules read with the instruction of October 1984 of the Director of Mines, Orissa, the lessee of a mine is liable to pay annual surface rent in respect of the area used for the purpose of mining operations at such rate not exceeding the land revenue assessable on the land. As per the Government of Orissa notification of May 1963, rent at the rate of one *per cent* of the premium *i.e.* market value of the land is leviable in respect of land used for commercial purpose. Besides, cess at the rate of 75 *per cent* of rent is also leviable. Mining operation being a commercial activity, surface rent is leviable at the rate of one *per cent* of the market value.

Scrutiny of the records revealed that in four⁵³ circles, 942.271 hectares out of the total area of 1,610.05 hectares land leased out between January 2002 and September 2003 to six lessees for the purpose of mining operation was assessable to land revenue. The AOs, however, levied annual surface rent at the rate of Rs. 10 per hectare, *i.e.* the rate applicable for land not assessable to land revenue for the entire area of land instead of the appropriate rate. As a result, there was annual loss of revenue of Rs. 74.79 lakh calculated on the area assessable to land revenue. The loss of revenue during the period 2003-04 to 2006-07, thus, works out to Rs. 2.99 crore.

After the case was pointed out, the Government stated that the matter was under scrutiny for enhancement of the rate of surface rent. A report on further development has not been received (November 2008).

7.2.17 Loss of revenue due to non-working of mines

The MMDR Act provides that the lessee of a mining lease is liable to pay royalty on the minerals extracted or the dead rent of that area whichever is greater. As per the MC Rules, where mining operation is not commenced within a period of two years from the date of execution of lease deed or is discontinued for a continuous period of two years after commencement of such operation, the State Government shall by an order declare the mining lease as lapsed and communicate the declaration to the lessee. In such case, the left over property including ore shall be deemed to become the property of the Government if the minerals are not removed by the lessee within six months after determination of the lease and thereafter within one calendar month after notice in writing requiring their removal.

7.2.17.1 Scrutiny of the records revealed that in seven circles⁵⁴, mining operations in 34 mines were discontinued between 1991 and 2004. Though the mines remained as non-working mines for period ranging between three and 16 years, the proposals for termination of leases were not finalised and

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consequently the left over materials could not be taken over by the Government. In 20 cases, the proposals were not initiated by the circles and in 14 cases the proposals were pending with the higher authorities. This resulted in non-realisation of Rs. 14.72 crore towards the cost of the leftover minerals.

After the case was pointed out, the Government stated that appropriate action was being taken to declare the non-working leases as lapsed and dispose of the minerals. A report on further development has not been received (November 2008).

7.2.17.2 A bauxite mine under Koraput circle over an area of 1,388.74 hectares was leased out for a period of 30 years from December 1998 in favour of M/s OMC Ltd. The lease was transferred in favour of another lessee in June 2000. The lease deed was executed in November 2000 and surface right for 1,387.230 hectares was granted between May 2004 and October 2004. Despite lapse of seven years, the lessee could not commence mining operations nor had it intimated the reasons for delay in commencement of mining operation. The DDM also did not initiate proposal for termination of lease to throw up the mines for fresh lease. Thus, the Government was deprived of royalty amounting to Rs. 6.99 crore calculated on the anticipated royalty for the period from November 2002 to March 2007.

After this was pointed out, the Government stated that the mining operation could not be carried out due to non-functioning of the plant in which the minerals were to be processed. The contention is not tenable because the Act and rules provide for declaring the mining lease as lapsed in the event of its non-operation for a continuous period exceeding two years. Further, the lessee also did not keep the department informed of the reason for non-operation of the mine.

7.2.17.3 In Talcher circle, a coal mine of over 671.276 hectares leased out for 30 years from 1979 remained inoperative since January 1998. Neither was any application explaining the reason for non-operation furnished by the lessee nor a proposal for declaring the lease as lapsed initiated by the mining authority. Due to non-declaring the lease as lapsed, the Government was deprived of royalty of Rs. 3.55 crore for the period from January 1998 to March 2007 of which Rs. 1.92 crore pertained to the last five years.

After the case was pointed out, the Government stated that mining operation was discontinued due to non-recovery of coal and want of clearance from the Government of India for closure of the mine. The reply was, however, silent about the reasons for non-initiation of lapse proposal by the circle office after expiry of two years of non-operation of the mine.

7.2.18 Non-realisation of revenue due to non-disposal of seized minerals

The Government of Orissa in September 1977 framed rules for auction sale of surplus and unserviceable minerals, stores *etc.* Further, as per the Government instruction of March 1998, all kinds of ores and minerals seized in the field should be disposed of within three months of their seizure.

Scrutiny of the records revealed that in four⁵⁵ circles, 13,788.953 MT minerals (chromite, iron ore, quartz and manganese) seized between 1993-94 and 2006-07 were lying undisposed of as of March 2008 resulting in blockage of mining revenue of Rs. 3.30 crore calculated on the value of minerals published by the Government in the activity report 2007-08.

After the case was pointed out, the Government stated that action was being taken to dispose of the seized minerals promptly. A report on further development has not been received (November 2008).

7.2.19 Illegal transportation of minerals

Under the MMDR Act, no person shall transport or store or cause to be transported or stored any mineral otherwise than in accordance with the provisions of the Act. In case of violation, the vehicle used for transportation along with the minerals shall be liable to be seized and confiscated so that on disposal, the cost price of the minerals can be realised. Further, as per the Transit Pass Regulations, 1973, the mine owner can remove the minerals only after obtaining due permission for removal supported by the transit pass challan supplied by the concerned mining authority.

Scrutiny of the records revealed that in Sambalpur circle, a lessee transported 8,185.824 MT coal from its own leasehold mines prior to obtaining transit permit and using transit pass. The DDM called for the reason for such illegal transportation in October 2006. Though the irregularity was admitted by the lessee the DDM did not initiate any action. Thus, failure of the DDM to seize the vehicle along with the minerals resulted in loss of Rs. 81.85 lakh towards the cost of the minerals.

After this was pointed out, the Government stated that show cause notice was issued for realisation of the cost of the mineral and as per decision of the Collector Rs. 5.32 lakh had been realised.

7.2.20 Non-initiation of certificate proceedings

Under the MMDR Act, royalty, dead rent and other mining dues are required to be paid within the prescribed period. In case of default, the recovery is to be made as arrear of land revenue under the Orissa Public Demand Recovery Act, 1962.

Scrutiny of the demand, collection and balance position furnished by the Director of Mines revealed that out of the total arrears of Rs. 86.11 crore as of 31 March 2007, arrears of Rs. 10.98 crore was more than one year old. Of this, Rs. 1.65 crore was covered under court cases and Rs. 3.33 crore was under dispute. Though arrears of Rs. 6 crore could have been covered under certificate cases, yet certificate proceedings for Rs. 1.64 crore only was initiated leaving a balance of Rs. 4.36 crore.

The position of institution and disposal of certificate cases during 2003-04 to 2006-07 in respect of five⁵⁶ circles covered in the review is as mentioned in the following table.

55 Baripada, Joda, Keonjhar and Talcher.

56 Joda, Keonjhar, Koraput, Rourkela and Talcher.

(Rupees in lakh)

Year	Opening balance		Cases instituted	Total		Cases disposed		Closing balance	
	No. of cases	Amount		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2003-04	54	43.96	Nil	54	43.96	Nil	Nil	54	43.96
2004-05	54	42.89 ⁵⁷	Nil	54	42.89	5	1.07	49	41.82
2005-06	49	35.93 ⁵⁸	Nil	49	35.93	2	2.41	47	33.51
2006-07	47	33.51	Nil	47	33.51	1	0.09	46	33.42
Total						8	3.57		

Note : Of the remaining three circles covered in the review, Baripada and Sambalpur circles did not furnish the requisite data while no certificate case is pending in the Jajpur Road circle.

Thus, against 54 cases involving Government revenue of Rs. 43.96 lakh due for disposal during the period 2003-04 to 2006-07, only eight cases involving Rs. 3.57 lakh could be settled during the past four years where the realisation of revenue is a meagre 8.12 *per cent*. Despite the poor position of the disposal of certificate cases, no action was taken by the DDMs to pursue the cases with the recovery officers to ensure prompt disposal of the pending cases.

After this was pointed, the Government stated that the arrears were being collected through administrative action as the certificate proceedings were delayed.

7.2.21 Enforcement and control mechanism

7.2.21.1 Inadequacy of check gates and weighbridges

Under the MMDR Act, State Governments are delegated with powers to make rules for preventing illegal mining, transportation and storage of minerals. Such rules may provide for establishment of check posts for checking of minerals under transit, establishment of weighbridges to measure the quantity of minerals being transported and maintenance of registers and forms for the purpose of these rules.

Scrutiny of records of the eight circles covered in the review revealed that there were no Government check-gates in six⁵⁹ circles and no Government weighbridges in four⁶⁰ circles. Due to lack of check-posts/weighbridges, the minerals were transported without any check of the quality and quantity. In the absence of Government weighbridges, weighments were done at the private weighbridges leaving scope for leakage of revenue. On verification of the information obtained from the concerned regional transport offices, the following deficiencies were noticed.

- cross verification of the transit passes available in the Baripada circle with the information of the concerned regional transport office revealed that in

57 The difference in closing balance and opening balance is due to short exhibition of opening balances by Rs. 1.07 lakh by Rourkela circle.

58 The difference in closing balance and opening balance is due to short exhibition of opening balances by Rs. 6.96 lakh by Rourkela circle.

59 Baripada, Jajpur Road, Joda, Keonjhar, Koraput and Talcher.

60 Jajpur Raod, Joda, Sambalpur and Talcher.

60 cases the vehicle numbers mentioned in the transit passes in which minerals were claimed to have been carried related to motor cycles;

- cross verification of the records of two⁶¹ circles with the concerned regional transport offices revealed that in 71 transit passes, the unladen weight of the vehicles were shown in excess ranging between three and 19 quintals resulting in transportation of excess quantity of minerals from the leasehold areas.

After this was pointed out, the Government stated that steps were being taken to install more number of weighbridges and check gates.

7.2.21.2 Inspection of mines

As per the instructions of July 1987 issued by the Director of Mines, Orissa, the DDMs/MOs are required to inspect all the working mines at least once in six months, non-working mines once in a year and large mines at least once in each quarter. The inspection reports are required to be sent to the Directorate by 15th of the following month. A quarterly review was to be conducted by the Director and a copy thereof was to be forwarded to the Government.

Scrutiny of the records of the eight circles revealed that inspections were not conducted as per the above norms. Out of 1,798 inspections required to be conducted in respect of working mines, 262 inspections were conducted during 2003-04 to 2006-07. Similarly, in respect of non-working mines, out of 505 inspections due, inspection in only two cases was conducted. Quarterly review required to be conducted by the Director was never done.

After this was pointed out, the Government stated that inspection of mines was not mandatory and annual programme was being prepared by each circle. The reply is not tenable as inspection of the mines is to be conducted as per the executive instructions of the Director of Mines and moreover inspections are meant for greater control of the department on the extraction and transportation of minerals and realisation of revenue thereagainst which was in the interest of the revenue of the State.

7.2.21.3 Transit pass

As per the Transit Pass (TP) Regulations, the book number and serial number of the transit pass should be machine numbered. The original copy of the transit pass is to be retained by the mine owner and duplicate and triplicate copies prepared through carbon process are to be given to the carrier, of which the duplicate copy shall be surrendered at the check gate for submission to the circle office. The DDM/MO shall call for the used books from the lessee and get it checked with the duplicate copy received at the check gate. The person in charge of the check gate may verify the quantity and quality of ore so carried and shall retain the duplicate copy of the chalan.

A test check of TP challans received at check posts/weighbridges in four⁶² out of eight circles revealed the following deficiencies:

61 Koraput and Sambalpur.

62 Baripada, Keonjhar, Sambalpur and Talcher.

- book numbers/serial numbers of the TP books were not machine numbered leaving scope for use of the same serial numbers in different book numbers and same book number against different serial numbers;
- signature of the check gate official was not recorded on the face of the transit pass surrendered at the check gates. This indicates that no checks were exercised at the check gates/weighbridges; and
- the date of checking recorded on the TP was different from the date of actual transportation indicating lack of checking of the minerals transported.

After this was pointed out, the Government stated that transit pass books were printed by the lessees due to non-availability of the same from the Government press. The reply was, however, silent regarding acceptance of the TPs by the DDMs/check gate authorities without machine numbering which was a pre-requisite as per the TP Regulation.

7.2.21.4 En-route checking

Director of Mines, DDM, MO and Senior Inspector of Mines are authorised to check and verify the vehicles carrying ores from the mines.

Scrutiny revealed that in four⁶³ circles, no en-route checking was done during 2003-04 by any of the officers. During the period from 2004-05 to 2006-07, no checking was done in Baripada circle and in the other three circles the number of checks conducted ranged between nine and 107. In no case was sample drawn during en-route checking for submission to the Government laboratory for analysis. As the department had no check gate in three⁶⁴ out of the four circles test checked, lack of en-route checking of vehicles by the departmental officers allowed the transporters of minerals a free run without verification of minerals actually carried vis-à-vis that authorised to be carried, which was fraught with the risk of evasion of royalty.

After this was pointed out, the Government stated that en-route checking was being done though not effectively due to want of adequate field staff. It was further stated that action was being taken for effective checking.

7.2.21.5 Measurement of mines

Scrutiny of the records revealed that in three circles⁶⁵, the measurement of the mines was not kept on record before commencement as well as after completion of the lease periods. As no records for this purpose were maintained, the department was not in a position to cross verify the correctness of the figure of the total quantity of minerals extracted by the lessees from their respective mines during the lease periods and the royalty paid thereon.

After this was pointed out, the Government stated that the measurement was now being checked from the map appended to the mining plan and plans maintained at the mine site.

63 Baripada, Jajpur Road, Joda and Sambalpur.

64 Baripada, Jajpur Road and Joda.

65 Jajpur Road, Joda and Sambalpur.

7.2.22 Conclusion

Audit noticed a number of deficiencies in enforcement of the provision of the MMDR Act, MC Rules and executive instructions which affected the collection of revenue adversely. The prescribed procedures for grant/renewal of lease, levy and collection of mining dues were not observed. The time frame prescribed for disposal of mining lease applications was not adhered to by the Government which led to pendency of cases with consequential adverse impact on revenue. Cases of illegal mining remained undetected. Inspection of mines was not conducted regularly to have proper control over mining operation.

7.2.23 Summary of recommendations

The Government of Orissa may consider the following steps to enhance the effectiveness of the machinery for assessment, levy and collection of revenue on major minerals:-

- strengthening the monitoring mechanism on receipt and disposal of lease application and renewal of lease cases and devising a system for timely disposal of cases. They may also consider prescribing reports/returns to be furnished by the circle officers to the directorate/Government so as to ensure monitoring of the unsettled cases;
- modifying the guidelines issued in February 1979 for adopting the anticipated production as per the technical enquiry report or that shown by the lessee, whichever is higher, for the purpose of assessing the royalty for registration of lease deed;
- prescribing periodic reports/returns to be furnished by the DDMs/MOs indicating the cases requiring forest clearance and also the details of the cases which has already been sent for clearance of the Forest and Environment Department. Co-ordination between the Forest and the Steel and Mines Department may also be increased to facilitate quick disposal of the forest clearance cases in the interest of revenue of the State.
- prescribing a system for cross checking of the returns furnished by the lessees with those furnished to the IBM and other departments;
- approaching the Central Government to amend the MCD Rules, for fixation of the average sale price of minerals determined on the basis of sale price of the sellers without considering the cost of production declared by the lessees for captive consumption; and
- strengthening the IAW and ensure compliance to the paragraphs raised by it to ensure that all the wings of the department function efficiently for optimum collection of revenue.