

CHAPTER-VII: Non-Tax Receipts

7.1 Results of audit

Test check of the records of the Mining Department, conducted in audit during the year 2004-2005, revealed non/short recovery of mining revenue amounting to Rs.329.14 crore in 1,704 cases, which broadly fall under the following categories:

Sl. No.	Category	Number of cases	Amount (Rs. in crore)
A. Devasthan Department			
1.	Devasthan Receipts and Property Management	1	4.25
B. Mines and Geology Department			
1.	Non/short recovery of dead-rent and royalty	144	49.97
2.	Unauthorised excavation	129	97.77
3.	Non forfeiture of security	116	0.40
4.	Non levy of penalty/interest	397	5.57
5.	Other irregularities	916	14.58
6.	Review "Receipts from Mines and Minerals"	1	156.60
Total		1,704	329.14

During the year 2004-05, the Department accepted short realisation etc., of Rs.21.54 crore in 738 cases, of which 316 cases involving Rs.13.73 crore had been pointed out in audit during the year 2004-05 and rest in earlier years. Further, the Department recovered Rs.1.50 crore in 195 cases of which 14 cases involving Rs.83 lakh had been pointed out in audit during the year 2004-05 and rest in earlier years.

Important audit observation on Devasthan Receipts and Property Management and audit findings of the review on **Receipts from Mines and Minerals** involving Rs. 160.85 crore are given in following paragraphs:

A. Devasthan Department

7.2 Devasthan Receipts and Property Management

7.2.1 Introduction

Devasthan Department controls and maintains all the temples and other religious endowments of the State. The Department is also entrusted with the registration of public trusts. It controls 994 temples under various categories i.e. direct charge 390, self supporting 204 and supurdgi¹ 400.

The Department derives revenue mainly from the (i) rent of buildings/dharmshalas, land and shops/hotels attached to the temples and religious institutions; (ii) offerings (cash and kind) from devotees; and (iii) proceeds by disposal of properties and interest on interest bearing personal deposit (PD) account.

The records in the offices of the Commissioner, Devasthan, Rajasthan, who is head of the department and 10 Assistant Commissioners (ACs)² covering the period from 1999-2000 to 2003-04 were test-checked in audit during July 2004 to February 2005 which revealed the following:-

7.2.2 Financial management

- The budget estimates and actuals thereagainst during the last five years ending March 2004 was as under:

(Rs. in lakh)

Year	Budget estimates	Actuals	Shortfall	Percentage of shortfall
1999-2000	50	30	20	40
2000-2001	100	91	9	9
2001-2002	100	99	1	1
2002-2003	112	74	38	34
2003-2004	115	97	18	16

The above table shows that targets of revenue realisation were not achieved during 1999-2000, 2002-03 and 2003-04. The shortfall during these years ranged between 16 and 40 *per cent*. The targets achieved during 2000-01 and 2001-02 were on account of increase of rental income due to implementation of new rent policy from April 2000. The reasons for shortfall in revenue realisation, were attributed by Commissioner in July 2005 mainly

¹ Temples which were constructed by ex rulers or their family members and handed over to pujaries for day to day management and puja.

² Ajmer, Bharatpur, Bikaner, Jaipur (temple and trust), Jodhpur, Kota, Rishabhdeo, Udaipur and Vrindavan.

to litigation and non recovery of outstanding rent from Government departments.

- The Rajasthan Treasury Rules, require that departmental receipts collected daily should be deposited into treasury immediately.

It was noticed in the office of AC (Temple), Jaipur that the rent realised from the properties of various temples were not deposited in the treasury, in contravention of above rules. Heavy cash balances remained with AC as shown under:

(Rs. in lakh)

Year	Amount
1999-2000	8.44
2000-2001	11.32
2001-2002	9.25
2002-2003	8.58
2003-2004	7.34

7.2.3 Position of arrears

Records of Commissioner Devasthan, Rajasthan, Udaipur and eight ACs³ revealed that a sum of Rs.2.16 crore was outstanding as on 31 March 2004 against tenants on account of rent of residential/commercial properties attached to various temples and other religious endowments. Year-wise break up of arrears though called for was not made available to audit. The various stages of arrears are as under:

(Rs. in crore)

1.	Arrears due from various Government departments	1.07
2.	Arrears locked under litigation/other reasons	1.09
	Total	2.16

After this was pointed out, the Department stated (July 2005) that directions have been issued in May 2005 to effect the recovery in accordance with the provisions of Land Revenue Act, 1956.

7.2.4 Property management

Manual of Devasthan Department prescribes that the Department should (i) conduct survey of immovable properties including agricultural land attached to the temples and valuation thereof, (ii) verify the title after due investigation from old records of their own Department and keep such records in safe

³ Bharatpur Rs.1.10 lakh, Bikaner Rs.0.60 lakh, Jaipur Rs.123.56 lakh, Jodhpur Rs.54.06 lakh, Kota Rs.7.61 lakh, Rishabhdeo Rs.2.51 lakh, Udaipur Rs.22.89 lakh and Vrindavan Rs.3.75 lakh.

custody, (iii) take immediate action in case of unauthorised occupation and make report to the Collector concerned for taking action under Rajasthan Land Revenue Act, 1956 (Act). In case, agricultural land pertaining to temples is transferred in the revenue records unauthorisedly in the name of pujari/other person necessary action may be taken under the Act to get the land restored.

As per information made available by seven ACs⁴, details of agricultural land measuring 10,363 bigha⁵ and 11 biswa⁶ attached to 63 direct charge temples in the departmental records was as under: -

	Bigha
Records of entrustment not available	2,496.02
Unauthorised possession of trespassers/pujaris	5,832.10
In the name of other persons / pujaris	936.06
Under departmental possession	1,098.13
Total	10,362.31
	say 10,363.11

Due to non-availability of records of entrustment in respect of 2,496.02 bigha land valued at Rs.1.30 crore the Department failed to derive any income therefrom or to initiate action for restoration in case it was under unauthorised possession. The land measuring 5,832.10 bigha valued at Rs.3.03 crore (worked out at minimum rates approved by DLC) was under unauthorised possession of trespassers/pujaris. Records were, however, silent as to whether any efforts were made at any stage to get the land restored in accordance with the provisions of Act to evict trespassers.

Records of AC Bikaner, Kota, Udaipur and Vrindavan revealed that in 10 cases land measuring 936.06 bigha recorded in the names of 10 direct charge temples, in revenue records, was transferred/recorded in the names of pujaris/other persons. No action was initiated to get the land restored except in six cases involving land measuring 561.05 bigha wherein references made were, however, pending in various revenue courts.

After this was pointed out, the Department stated in July 2005 that action to restore the land and to evict the trespassers was being initiated.

7.2.5 Rent Receipt

Under new rent policy applicable from April 2000, rent of buildings and shops belonging to direct charge temples was recoverable at the rate of 30 *per cent* of rent determined in accordance with PWD standing orders of 1995 from individuals and at the rate of 100 *per cent* from Government departments, autonomous bodies and public welfare societies. The rent so determined was

⁴ Ajmer, Bharatpur, Bikaner, Kota, Rishabhdeo, Udaipur and Vrindavan.

⁵ Bigha is a unit of measurement of land which denotes normally 3025 square yards.

⁶ Biswa is unit for measurement of land which denotes 1/20th part of a Bigha.

to be increased at the rate of 15 *per cent* after every three years. Further, PWD Manual provides that when Government hires private building for official use, the rent is to be determined at the rate of nine *per cent* of cost of building and when Government property is let out to a private person/body, rent at the rate of 10 *per cent* per month is to be recovered.

- Test check of the records of eight ACs⁷ revealed that rent in respect of buildings belonging to direct charge temples let out to private individuals for residential/ commercial purposes was worked out at nine *per cent* of the cost of building instead of 10 *per cent*. Consequently there was short recovery of Rs.12.75 lakh (being 30 *per cent* of the rent so determined at PWD rates) during the period from April 2000 to March 2004.

After this was pointed out, the Department stated in July 2005 that assessment of rent at the rate of nine *per cent* was made in accordance with circular issued by PWD in March 1995. The reply is not tenable as said circular is applicable to hiring of private buildings by Government.

- Records of ACs Jodhpur and Vrindavan revealed that recovery of rent in respect of four buildings was effected from autonomous bodies/public welfare societies during the period from 2000-01 to 2003-04 at the rate of 30 *per cent* instead of 100 *per cent* of the rent determined at PWD rates which resulted in short recovery of Rs.4.03 lakh.

After this was pointed out, the Department stated in July 2005 that no building has been let out to public welfare societies at Vrindavan. The reply is not tenable as properties in two cases at Vrindavan have been let out to public welfare societies.

7.2.6 As per Government orders issued in April 1993, when properties of Devasthan Department are to be let out to Government Departments, autonomous bodies and public welfare societies the rent is to be determined according to their use.

- Records of four ACs⁸ revealed that 29 properties belonging to 17 direct charge temples which were let out to various Government departments, autonomous bodies and public welfare societies for non-residential purpose were erroneously determined at residential land rate instead of commercial land rates, which resulted in short recovery of Rs.2.50 crore during the period from April 2000 to March 2004.

After this was pointed out, the Department stated in July 2005 that it was not appropriate to determine rent in respect of these buildings at commercial rates as these were not being used for commercial purposes. The reply is not tenable as these properties were let out for non residential purposes.

⁷ Bharatpur Rs.0.02 lakh, Bikaner Rs.0.11 lakh, Jaipur (temple) Rs.5.18 lakh, Jodhpur Rs.4.30 lakh, Kota Rs.1.39 lakh, Rishabhdeo Rs.0.30 lakh, Udaipur Rs.0.93 lakh and Virandavan Rs.0.52 lakh.

⁸ Jaipur (temple) Rs.210.53 lakh, Jodhpur Rs.24.39 lakh, Kota Rs.14.53 lakh and Udaipur Rs.0.85 lakh.

- Records of AC Jaipur (temple) revealed that three portions of a property under direct charge temple Shri Anand Krishan Behariji, Chandni Chowk, Jaipur were let out between December 1986 and December 1993 to "Rajasthan Jyotish Parishad Avam Shodh Sansthan". The rent was determined in one case at the rate of 7.5 *per cent* of commercial land rate and in remaining two cases at nine *per cent* of residential land rate instead of commercial land rate at the rate of 10 *per cent*. Besides as against cent percent recovery of rent determined in accordance with new rent policy for autonomous body/public welfare societies, the rent was recovered at 30 *per cent* thereto. This resulted in short recovery of Rs.6.31 lakh.

After this was pointed out, the Commissioner stated in July 2005 that recovery of rent was made after seeking approval of the administrative department. The reply is not tenable as the said approval was not based on rent policy framed by Government.

7.2.7 As per Government orders issued in October 1996 land measuring 8,076.25 square feet pertaining to Sarai Fateh Memorial at Udaipur (direct charge) was handed over to Indian Oil Corporation (IOC) in October 1996 at monthly rent of Rs.7,500 pending final decision of PWD. The PWD determined in January 1998 monthly rent at the rate of Rs.1.51 lakh. The Commissioner, Devasthan recommended the case to the Government in March 1998 for sanction. The Government returned the case in May 1998 to PWD for reconsideration as the rent determined was considered excessive and impracticable. The Executive Engineer, City Division replied in June 1998 that rent determined was correct and reasonable and in accordance with rules. The Commissioner reported the same to Government in July 1998 followed by reminders in February and June 1999 for sanction. But no sanction has been issued so far. In absence of Government sanction, IOC continued to pay rent at the rate of Rs.7,500 per month.

This resulted in short recovery of rent of Rs.86.10 lakh during the period from April 1999 to March 2004.

After this was pointed out, the Department accepted the facts and intimated (July 2005) that action will be taken to recover the rent as per directions of Government.

7.2.8 As per Government orders issued in September 2000 rent fixed in terms of new rent policy or old rent, whichever is higher will be charged.

Property of the Sarai Fateh Memorial, Udaipur was leased out to Tourism Department in October 1994 on a monthly rent of Rs.13,800. Tourism Department continued to pay rent as per old terms and conditions of lease fixed in December 1993 which included increase of 10 *per cent* every year. Though AC Udaipur determined the rent at the rate of Rs.57,340 per month with effect from April 2000 under new policy but the same was not demanded. This resulted in short recovery of rent amounting to Rs.15.56 lakh during the period from April 2000 to March 2004.

The AC Udaipur replied that the lessee was making payment of rent after including increase of 10 *per cent* and as such new rent policy was not applicable in this case. The reply of AC was not tenable as higher rent of Rs.57,340 per month was determined under the new policy and accordingly higher rent was thus chargeable.

7.2.9 The Rajasthan Civil Services (Allotment of Residential Accommodation) Rules, 1958 envisaged that Government accommodation allotted to Government employee was required to be vacated within two months in case of retirement. In case, the house was not vacated within the prescribed period, the allottee will be liable to pay the market rate of rent up to next two months. On the expiry of above period, eviction process shall be initiated. The Rules further provide that in case the rent is not paid within the prescribed period, interest at the rate of 18 *per cent* per annum shall be charged.

Records of AC Kota revealed that residential property of direct charge temple Shri Phool Bihariji at Kota allotted to an AC in 1983 was not vacated by him after his retirement from service in December 1996 till date. The Executive Engineer, City Division, Kota determined market rent at the rate of Rs.4,053 per month with effect from 1997 in January 2004. The building was neither vacated by the official nor any rent was paid till date. This resulted in non-recovery of Rs. 3.54 lakh including interest chargeable at the rate of 18 *per cent* thereon during the period from 1999-2000 to 2003-04. The Department had also failed to evict the occupant.

7.2.10 Loss of revenue due to incorrect regularisation

In terms of rent policy of 2000, tenancy in favour of sub-tenants of property of Devasthan is to be regularised from April 2000 after recovery of 120 times of determined rent in *lump sum*.

Test check of records of five ACs⁹ revealed that in the case of 27 sub tenants the tenancy was regularised during the period between March 2001 to March 2003 in contravention of above provisions after obtaining 30 *per cent* of determined rent. This resulted in loss of Rs.38.41 lakh.

After this was pointed out, the Department did not accept the observation and stated in July 2005 that *lump sum* amount was recovered at 30 per cent being rent payable by tenants. The reply is not tenable as *lump sum* amount was required to be recovered 120 times of the determined rent instead of rent payable in terms of rent policy of 2000.

7.2.11 Other topics of interest

Commissioner issued instructions in October 2000 that ACs should carry out physical verification of all immovable properties under his jurisdiction every year and furnish a certificate to this effect in the April of following year.

⁹ Bikaner, Jaipur, Jodhpur, Udaipur and Vrindavan.

Scrutiny of the records of all ACs revealed that no physical verification of immovable properties was carried out by them during the period from October 2000 to March 2004.

Physical verification conducted in July 2004 by AC Ajmer revealed that direct charge temple of Shri Bannathji was sold out in January 1986 to a private company and the temple of Shri Mahadeoji at Asind in Bhilwara district had become non existent. No action on the findings of physical verification had been initiated as of February 2005.

Had physical verification been carried out regularly such situation could have been avoided. Value of these properties could not be worked out in the absence of full particulars thereto.

After this was pointed out, the Department accepted in July 2005 the facts.

The above matter was reported to Government (April 2005). However, no reply was received (July 2005).

B. Mines and Geology Department

7.3 Review on Receipts from Mines and Minerals

Highlights

In two cases, excavation and despatch of mineral valued Rs.105.22 crore was made unauthorisedly beyond the period of working permission.

(Paragraph 7.3.8)

Holder of prospecting licence carried away 22,892 MT of various minerals valued at Rs.1.76 crore in excess of quantities specified in licence without payment of cost thereto.

(Paragraph 7.3.13)

Royalty of Rs.4.89 crore on use of brick clay for production of bricks was not charged.

(Paragraphs 7.3.17)

Cost of minerals amounting to Rs.11.75 crore due to excess excavation than permitted was not charged.

(Paragraph 7.3.18)

7.3.1 Introduction

Rajasthan is called museum of minerals and different types of minerals are found in different areas.

The exploitation of mineral wealth is carried out by granting mining leases under the provisions of Mines and Mineral (Regulation and Development) Act, 1957 (MMRD), Mineral Concession Rules 1960 (MCR), Mineral Conservation and Development Rules 1988 (MCD) Rules and Rajasthan Minor Mineral Concession Rules, 1986 (RMMCR).

Receipt from mines and minerals mainly consist of application fee, licence fee, permit fee, dead rent, development charges, royalty and prospecting charges.

7.3.2 Organisational set up

Secretary, Mines and Petroleum is the overall incharge of the Mines and Geology Department. The Director, Mines and Geology (DMG) is the head of the Department who is assisted by five Additional Directors (Mines) who exercise control through seven circles headed by Superintending Mining Engineers (SME). There are 38 Mining Engineers/ Assistant Mining Engineers (ME/AME) who are responsible for assessment and collection of revenue and prevention of unauthorised extraction of mineral wealth in areas under their

control. The Department has a separate vigilance wing controlled by two SMEs (Vigilance) Jaipur and Rajsamand.

7.3.3 Audit Objectives

The review was conducted to ascertain as to whether;

- renewal of mining or quarrying leases on expiry was timely,
- proper computation and realisation of various fees, rents and royalty were made,
- adequate internal control and monitoring mechanism have been devised in departmental functioning to prevent loss or leakage of revenue;
- follow up action in case of default or illegal extraction of minerals has been adequate so as to ensure that such instances are pursued to their logical conclusion;

7.3.4 Scope of Audit

With a view to ascertain the adequacy and effectiveness of the system and procedure to realise revenue, records for the years 1999-2000 to 2003-04 of 16¹⁰ out of 38 MEs/AMEs alongwith those maintained by Secretary Mines and Petroleum (Secretary) and Director Mines and Geology at Udaipur were test checked.

The audit findings were reported to the Government/Department in May 2005 Meeting of Audit Review Committee to discuss findings in the review was held on 20 July 2005 so that the viewpoint of the Government/Department could be taken into account before finalising the review. Government was represented by the Deputy Secretary (Mines) and the Mining Department represented by the Financial Advisor. The viewpoint of Government/Department in the meeting has been considered while finalising the review.

7.3.5 Audit findings

Audit findings based on the provisions of the MMRD Act, Rules made thereunder and departmental instructions issued from time to time are recorded in the succeeding paragraphs.

7.3.6 Arrears of revenue

Year-wise details of revenue pending collection during the last five years ending 31 March 2004 was as under:

(Rupees in crore)

¹⁰ ME:-Ajmer, Amet, Bhilwara, Bikaner, Bundi-II, Jaipur, Rajsamand I, II, Sirohi, Sojat City, and Udaipur ..
AME: Jaisalmer, Kotputli, Rishabhdeo, Sriganganagar and Tonk .

Year	Opening Balance	Demand raised during the year	Total	Recovery realised	Balance	Percentage of shortfall
1999-00	36	269	305	267	38	12
2000-01	38	283	321	279	42	13
2001-02	42	330	372	331	41	11
2002-03	41	375	415	364	51	12
2003-04	51	437	488	425	63	13

The stagewise position of arrears was as under:

(Rs. in crore)

S. No.	Description	Amount
(i)	Recoveries stayed by High Court and Judicial authorities.	20
(ii)	Recoveries under Revenue Recoveries Certificates.	29
(iii)	Recoveries stayed by Government/Department.	3
(iv)	Other reasons	11
	Total	63

Major minerals

7.3.7 Non-recovery of financial assurance

MCD Rules provide that financial assurance (cost of rehabilitation of environment) is to be deposited as security at the rate of Rs.25,000 and Rs.15,000 per hectare for A and B category mines¹¹ subject to a minimum of Rs.2 lakh and Rs.1 lakh respectively as fixed deposits receipts with effect from April 2003. If the authority competent has reason to believe that reclamation and rehabilitation measures had not been or will not be carried out by the lessee in the event of closure of mines he shall forfeit the sum assured.

- While checking the records of seven MEs/AMEs¹², it was noticed that cost of rehabilitation of environment amounting to Rs.44.05 crore (at minimum rate) in respect of 316 mining leases covering an area of 28,821 hectares currently in operation was not deposited by the lessees.
- Test check of records of DMG revealed that 13 lessees had abandoned leases covering an area of 894 hectares during April 2003 to March 2004 without payment of financial assurance of Rs.1.34 crore. This resulted in revenue loss of Rs.1.34 crore for reclamation and rehabilitation of mines as the

¹¹ A category mines: complete mechanised mine having a full time mining engineer and 150 workers.

B category mines: a mine having part time mining engineer and workers below 150.

¹² MEs: Bhilwara, Jaipur, Sirohi and Sojat City, AMEs: Kotputli, Rishabhdeo and Sriganganagar,

Government would have to bear the expenditure on reclamation and rehabilitation thereto.

The fact that the Department failed to collect the deposits indicated lack of any monitoring mechanism.

7.3.8 Mining without valid sanction

As per provision of MMRD Act, whenever any person raises, without any lawful authority, any mineral from any land, the State Government may recover from such person the mineral so raised or where such mineral has already been disposed of, the price thereof. In addition, the concerned person is liable to pay rent, royalty or tax, as the case may be for the period during which the land was occupied by such person without any lawful authority.

- As per the records of AME Jaisalmer it was noticed that the Rajasthan Mineral Development Corporation (RSMDC) was granted working permission in April 1997 for excavation of limestone (steel grade) over an area of 1,000 hectares near village, Sanu for a period of one year with effect from 1 April 1997. The RSMDC continued mining beyond the period of working permission and excavated 30.32 lakh metric tonne (MT) steel grade limestone which was despatched unauthorisedly during the period from April 1999 to March 2004. As such the cost of mineral amounting to Rs.99.21 crore was recoverable which has not been done.

- Record of AME Sriganganagar revealed (October 2004) that three lessees¹³ excavated gypsum 5.46 lakh MT during 1999-2000 to 2003-04 from eight mines covering an area of 2,281 hectares after expiry of working permission between May 1996 to April 2003. Neither any action was taken to extend the lease nor any working permission granted. Though the lessee had paid the royalty, no action was taken to recover the cost of material valued at Rs.6.01 crore excavated unauthorisedly.

This indicates lack of monitoring system to ensure that mining is done against valid sanction only.

7.3.9 Non-establishing of cement plant by the lessee

As per MCR where mining operations are not commenced within a period of two years from the date of execution of lease or are discontinued for a continuous period of two years after commencement of such operations, the lease shall be lapsed.

Test check of records of four MEs/AMs revealed that four leases of limestone were sanctioned subject to the condition of establishment of cement plants within a specified period. There was, however, no provision in the lease agreements to charge penalty in case of failure to establish the cement plants which could deter the lessees from non adhering to the contractual provisions.

¹³ RSMDC/RSMM and Fertiliser Corporation of India (FCI).

During the course of audit it was found that no cement plant was established by the lessees as per condition of the lease agreements as shown under :

Sl. No.	Name of ME/ AME	Name of lessee	Area	Date by which cement plant was to be established	Period for which lease area held	Capacity of cement plant per year	Usable limestone per year (MT in lakh)
1	Banswara	Mahi Cement Ltd. (19.6.96 to 20 years)	65.82 hectares	19.6.1998	6 years	5 million tonne	76.00
2	Nagaur	Indo Nippon Special Cement Ltd. (21.9.88 to 20 years)	10 sq.km.	21.9.1998	11 years	4 million tonne	60.80
3	Chittorgarh	Oriental Paper Industries Ltd. (16.2.99 to 20 years)	7.2456 sq.km.	16.2.2001	3 years	1.5 million tonne	22.80
4.	Sojat City	D.L.F, Industries (13.6.97 to 20 years)	183.53 hectares	13.6.1999	5 years	1.5 million tonne	22.80
	Total						182.40

Inspite of non establishment of cement plants no action to cancel the lease was initiated by the Department. Besides, no penalty for non-installation of cement plant could be imposed for want of provisions thereto in the lease agreement.

Thus non establishment of cement plants deprived the Department of royalty chargeable in use of minimum quantity of 182.40 MT of limestone as indicated above.

7.3.10 Non-observance of mineral conservation rules resulted in loss of royalty.

MCDR provides that overburden¹⁴ and waste material obtained during mining operation shall not be mixed with non-saleable or sub-grade ores/minerals and it shall be dumped and stacked separately on the ground earmarked for the purpose. The holder of a mining lease is liable to pay royalty in respect of any minerals removed or consumed from the lease hold area at the rates specified in the second schedule of the Act.

Records of AME Jaisalmer and the returns submitted by RSMM (lessee) revealed in September 2004 that the lessee excavated 7,04,949 MT saleable grits of lime stone (steel grade) of size 10 to 30 mm during 1999-2000 to 2003-04 from the mine but dumped it in the mining area with waste material and earth etc instead of stacking separately. The action of the lessee of mixing saleable quantity with waste and earth etc. resulted in loss of royalty and development charges amounting to Rs.4.23 crore because there is no possibility of retrieving the mineral.

¹⁴ Overburden is useless run out from mines which is excavated/removed to find out the useful mineral.

7.3.11 Non-recovery of service charge on gypsum

The State Government, in addition to development charges and royalty, levied service charges at the rate of Rs.50 per MT on despatch of gypsum from the areas where mining operation was carried out on working permission by Fertilizer Corporation of India (FCI).

Records of AME Sriganaganagar revealed that four mines of gypsum were allocated to the FCI for excavation of mineral on working permission with effect from September 1966. The working permissions were extended from time to time by the Government. Scrutiny of records, however, revealed that though FCI despatched 4.09 lakh MT gypsum during the years 2000-01 to 2003-04 but service charges of Rs.2.05 crore were not recovered from the lessee.

7.3.12 Unauthorised despatch of mineral limestone

As per provision of MMRD Act, whenever any person raises, without any lawful authority, any mineral from any land, the State Government may recover from such person the mineral so raised or where such mineral has already been disposed of, the price thereof. The Rule provides that the lessee is required to submit annual programme and plan for excavation from year to year for five years to State Government.

The records of ME Sojat City revealed that a limestone mining lease covering an area of 803 hectares was sanctioned in November 1995 in favour of a cement industry for a period of 20 years. As per mining plan¹⁵ submitted in February 2002 by lessee, quantities of depletion of reserve of limestone was shown as 49.65 lakh MT during the period from December 1999 till November 2001 as against 54.79 lakh MT limestone shown as despatched during the same period in the assessment records worked out on the basis of rawannas. The excess despatch of 5.14 lakh MT shown in the assessment records was unauthorised. The ME failed to co-relate the information available, in the mining plan regarding depletion of mineral with the quantity assessed by him, as such, the cost of material excavated and despatched unauthorisedly worked out to Rs.20.57 crore.

7.3.13 Unauthorised excavations of minerals during prospecting

As per MCR, if a licensee carries away mineral in excess of those specified in the licence, the cost of mineral so carried away is to be recovered from him. The licensee shall submit a six monthly report of the work done by him to the Department. Further the mine is also required to be inspected by an official authorised by the Department.

Records of AME, Rishabhdeo and five MEs¹⁶ revealed that holders of prospecting licences carried away 22,892 MT various minerals (as worked out in audit) during the period 2000-01 to 2003-04 in excess of the quantities

¹⁵ Mining plan is a plan of mining which shows depletion of past mineral and future reserves.

¹⁶ ,Bhilwara Rajsamand-II, Sikar, Sirohi and Sojat City.

specified in prospecting licence without payment of the cost thereto. This resulted in loss of Rs.1.76 crore being the cost of mineral. The loss occurred due to non-inspection of mines and non-obtaining of returns from the licensee despite provisions laid down in the Rules.

7.3.14 Application of incorrect rate of royalty

The GOI fixed rate of royalty on limestone (steel grade) at rate of Rs.50 per MT with effect from 1 September 2000.

Scrutiny of records of AME Jaisalmer revealed that a lessee despatched 44,561.51 MT limestone (steel grade) and paid royalty at the rate of Rs.32 per MT instead of Rs.50 per MT during January 2004 to June 2004. This resulted in short recovery of royalty Rs.8.02 lakh.

7.3.15 Non levy of interest

- Under provisions of the MCR, the State Government may charge simple interest at the rate of 24 *per cent* per annum on any rent, royalty or fee or other sum due to the Government under the Act from the sixtieth day of the expiry of the date fixed by the Government for payment of such dues till payment of such demand is made.

Test check of the records of seven MEs¹⁷ and two AMEs¹⁸ revealed that interest amounting to Rs.92.29 lakh on belated payment of demands during the years 2002-03 to 2003-04 was not raised by the Department. The delay ranged between 15 days to 458 days.

- RMMCR provides that interest at the rate of 20 *per cent* shall be charged in case the dead rent, royalty or quarry licence fee and royalty collection contract¹⁹ is not paid after 15 days from the date it becomes due.

While checking records of 11 MEs/AMEs²⁰ it was noticed that demand of interest Rs.59.54 lakh on delayed payment of demand relating to 2002-03 and 2003-04 was not raised. The delay ranged between 15 days to 586 days.

Department thus failed to raise the demand due to absence of a system to monitor demand and collection of revenue; despite provisions thereto in the Rules.

¹⁷ Amet, Bharatpur, Bhilwara, Chittorgarh, Karoli, Nagaur and Udaipur.

¹⁸ Jaisalmer and Rishabhdeo.

¹⁹ Contract given by the Department to collect the royalty from the authorised despatches of mineral.

²⁰ Bharatpur, Bundi I & II, Jaipur, Jaisalmer, Kotputli, Nagaur, Ramganjmandi, Rishabhdeo, Sikar and Sojat City.

Minor minerals

7.3.16 Non-recovery of minimum royalty and permit fee from owners of single wheel cutters

In exercise of power conferred by rule 65A of RMMCR the State Government notified in January 2000 the procedure for grant of permit to the processors of irregular lumps of marble with the help of single wheel cutters. Application for obtaining permission was to be supported with a non-refundable fee of Rs.250. The royalty payable for each MT of block cuts was Rs.70 from 1 April 2000 to 23 December 2001 and Rs.85 thereafter.

The State Government prescribed in October 2001 the minimum quantity of blocks to be cut by the owner of a wheel cutter on the basis of diameter of the wheel as under :

Diameter of wheel cutter	Minimum annual quantities in MT	
	From 1.4.2000	From 1.4.2001
Up to 60 centimeter (cm)	145	230
More than 60 but upto 90 cm	260	350
More than 90 cm	400	600

Scrutiny of records of ME Rajsamand I, II, Amet and AME Banswara in audit revealed that 697 single wheel cutters were operating in the area under the jurisdiction of these MEs/AME during the period from 2000-01 to 2003-04. None of the wheel cutter owners had applied for permit. Based on the minimum quantity of blocks to be cut (annually) by wheel cutters as fixed by Government the royalty payable worked out to Rs.6.34 crore during the year 2000-01 to 2003-04. Besides permit fee of Rs.6.97 lakh was also recoverable. Department has not taken any action to recover the same.

7.3.17 Non-recovery of royalty on brick clay

As per RMMCR, royalty on excavation of clay used by the potters for earthenware pots and for making bricks baked through the process of *Ava Kajawa* is fully exempted. The baking of bricks in open, non-continuous bhattas without any form of chimney will be considered as baked through process of *Ava Kajawa*

- As per information collected from District Collectors Bundi, Rajsamand and Udaipur it was noticed that contrary to the above provisions owners of 646 *Ava Kajawa* situated under jurisdiction of four MEs²¹ produced 247.73 crore bricks using 86.70 lakh MT brick clay continuously for commercial purposes, during 1999-2000 to 2003-04 without payment of royalty amounting to Rs.4.89 crore chargeable thereon.

²¹ Amet, Bundi II, Rajsamand-II and Udaipur.

- The Government notified in June 1994 that obtaining short term permit (STP) by brick kiln owners for use of brick earth is compulsory.

Cross examination of records of ME Jaipur with that of Tehsildar, Fagi revealed in February 2005 that four brick kilns were unauthorisedly operating during the period between April 1999 to May 2004 and used 94,516 MT brick clay for manufacturing of bricks. No action was taken by the Department to recover the royalty. This resulted in loss of revenue of Rs.5.67 lakh.

The loss of royalty as pointed out above was due to inadequate monitoring of the various brick kilns running unauthorisedly under the areas of concerned MEs.

7.3.18 Unauthorised excavation of minerals on STP

Under RMMCR, the works contractors shall have to obtain STP in advance from the concerned ME/AME in support of minerals to be used in the works. If the holder of STP excavates and carries more than 25 *per cent* of quantities in excess of the quantities sanctioned in the STP, the quantity excavated and removed over and above the quantity sanctioned in permit shall be treated as unauthorised excavation and the permit holder shall be liable to pay the cost of such excess mineral excavated.

- Records of eight MEs/AMEs²² revealed that 62 works contractors who were issued 68 STPs used various minerals viz. murrum, stone, sand, gravel etc. excavated and carried more than 25 *per cent* in excess of quantities permitted shown in the permits during the period October 2001 to March 2004. The cost of these minerals worked out to Rs.8.54 crore for which no action was taken by Department to recover the same.

- While checking the records of 13 ME/AMEs²³ it was noticed that 30 works contractors used 21.40 lakh MT ordinary sand unauthorisedly without obtaining STPs during October 2001 to March 2004. The cost of the sand worked out to Rs.3.21 crore. No action was taken by Department to recover the same.

7.3.19 Evasion of royalty

RMMCR provides that the lessee shall not remove or despatch or utilise the mineral from the mines except through rawannas bearing the departmental seal. As per Marble Policy introduced from March 2002, the existing lessee is required to submit a mining plan within one year from the date of commencement of this policy.

Scrutiny of mining plans submitted in January and February 2004 by two lessees falling under the jurisdiction of AME, Kotputli and Rishabhdeo revealed that the lessees excavated more mineral than the quantities shown

²² Bhilwara, Jaipur, Karoli, Makrana, Rajsamand-II, Rishabhdeo, Salumber and Sirohi.

²³ Alwar, Amet, Bhilwara, Bundi-II, Jaisalmer, Kota, Makrana, Nagaur, Rajsamand-II, Salumber, Sirohi, Sojat City, and Tonk.

despatched in authorised rawannas. The omission resulted in evasion of royalty amounting to Rs.2.94 crore as detailed below:

Sl. No.	Name of ME/AMEs	Name of lessee Period of mining	Quantity excavated as per mining plan in MT	Quantity despatched with rawannas MT	Excess despatch without rawannas MT	Royalty (Rs. in crore) ²⁴
1.	Kotputli	National Lime Stone Co. Pvt. Ltd. 9/1985 to 9/2003	2,14,100.64	18026.18	196074.46	2.45
2.	Rishabhdeo	Kalpataru Gramy Marmo Pvt. Ltd. 9/1994 to 9/2003	18,900.00	822.00	18078.00	0.23
3.	Kotputli	Smt. Pramila Modi 8/1984 to 6/2004	43,680.00	6,094.00	37,380.00	0.26
		Total				2.94

7.3.20 Loss of revenue due to not taking possession of Bapi patta mines

As per RMMCR, the Government shall not recognise any Bapi patta (paternal lease) or proprietary right in any mineral bearing land unless otherwise declared so by a court of competent jurisdiction.

Test check of records of ME Makrana revealed in February 2004 that 49 Bapi patta holders were excavating mineral marble from the year 1968 without payment of quarry rent. Government notified in February 1978 for regularisation of these mines on payment of royalty by concerned patta holders. Out of 49 lease holders, 15 Bapi patta holders filed (1979) writ/appeal in High Court at Jodhpur. The Hon'ble High Court, however, dismissed the appeal in March 1998 in favour of revenue.

Even after the court decision, the Department did not take possession of the mines in respect of any of Bapi patta holders who continued to derive the benefit of excavating mineral from the mines without payment of quarry rent. The Department had also not taken any steps to recover quarry rent which worked out to Rs.19.01 lakh for the period from April 1999 to March 2004.

7.3.21 Conclusion

- The Department has failed to realise royalty and other dues on despatch of excess mineral and also to prevent unauthorised excavation which is a clear indication of systems failure.

²⁴ The observation has been made consequent upon Marble policy of 2002. Segregation of period is not possible.

- Monitoring in the manner of regular inspections was also inadequate which led to loss of revenue to the State Government.

7.3.24 Recommendations

In view of the observations made in the review, Government may consider implementation of following recommendations:

- A strong mechanism be developed to ensure speedy recovery of sums due to the Government as also to prevent both unauthorised excavation as well as excess despatch of mineral.
- Effective steps are taken to ensure that the cost of mineral excavated unauthorisedly is recovered in accordance with the rules and procedure.
- Internal control mechanism by way of regular inspections of mines and speedy disposal of unauthorised cases of excavation to safeguard government revenue need be strengthened.

The matter was reported to the State Government in May 2005; their reply is awaited.

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