

CHAPTER-VII: NON-TAX RECEIPTS

7.1 Results of audit

Test check of the records of the Departments of General Administration, Mines and Geology, Petroleum, Public Works, and Water Resources conducted during the year 2007-08, revealed non/short recovery of revenue amounting to Rs. 372.95 crore in 2,626 cases, which fall under the following categories:

| (Rupees in crore) | | | |
|------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------|-----------------|---------------|
| Sl. No. | Category | Number of cases | Amount |
| A. General Administration Department | | | |
| 1. | Management and Disposal of <i>Nazul</i> properties received from ex-rulers of Rajasthan (A review) | 1 | 246.45 |
| B. Mines and Geology, and Petroleum Departments | | | |
| 1. | Non/short recovery of dead rent and royalty | 477 | 40.30 |
| 2. | Unauthorised excavation | 287 | 21.20 |
| 3. | Non-levy of penalty/interest | 425 | 3.93 |
| 4. | Non-forfeiture of security | 72 | 0.16 |
| 5. | Other irregularities | 1,332 | 54.89 |
| C. Public Works Department and Water Resources Department | | | |
| 1. | Non-crediting of revenue in Government account | 12 | 4.46 |
| 2. | Unclaimed deposits over three years not credited to Government revenue | 20 | 1.56 |
| Total | | 2,626 | 372.95 |

During the year 2007-08, the Departments of Mines and Geology, and Petroleum accepted short realisation and other deficiencies of Rs. 73.32 crore in 1,445 cases, of which 814 cases involving Rs. 8.45 crore were pointed out in audit during the year 2007-08 and the rest in the earlier years. The departments recovered Rs. 6.79 crore in 722 cases, of which 126 cases involving Rs. 1.06 crore were pointed out during the year 2007-08 and the rest in the earlier years.

A few illustrative cases including one review of **Management and Disposal of *Nazul* Properties received from ex-rulers of Rajasthan** involving revenue of Rs. 275.30 crore, highlighting important audit findings, are mentioned in the succeeding paragraphs.

A. GENERAL ADMINISTRATION DEPARTMENT

7.2 Management and disposal of *nazul* properties received from ex-rulers of Rajasthan

Highlights

No system/procedure was prescribed for conducting survey to ascertain status and exact number of *nazul* properties. Rent of Rs. 33.28 crore in respect of 1,263 *nazul* properties situated out of the State valued at Rs. 66.57 crore was not recovered.

(Paragraph 7.2.6)

No returns had been prescribed by the Director of Estate to monitor management and disposal of properties maintained by District Collectors.

(Paragraph 7.2.7)

The existence and whereabouts of 172 properties was not found in the records of Director of Estate and District Collectors, of which 53 properties were valued at Rs. 21.25 crore.

(Paragraph 7.2.7.1)

The department did not raise demands of rent and interest amounting to Rs. 37.72 crore due against 1,109 tenants in absence of demand and collection register.

(Paragraph 7.2.8.1)

No efforts were made to dispose of 253 vacant *nazul* properties, of which 218 properties were valued at Rs. 14.84 crore.

(Paragraph 7.2.9)

No action was initiated to get the possession of 41 properties despite eviction orders passed by courts, including 32 properties valuing Rs. 24.29 crore.

(Paragraph 7.2.11)

Neither rent and interest of Rs. 9.41 crore from 99 properties valued at Rs. 14.84 crore under possession of Central Government offices/autonomous bodies was recovered nor these properties were disposed of.

(Paragraph 7.2.12)

7.2.1 Introduction

As per the Rajasthan Land Revenue Act, *nazul* land means abadi land within the limits of a municipality or panchayat or village or city, vesting in the Government. The properties received from ex-rulers of the princely States are termed as *nazul* properties. The management and disposal of *nazul* property is governed by the Rajasthan *Nazul* Buildings (Disposal by Public Auction) Rules, 1971 (Rules) and policy framed thereunder. The receipts from these properties comprise of rent from tenants, surcharge/fines from unauthorised

occupants and interest, if any thereon, sale proceeds and forfeiture of security deposits made by defaulting bidders of the *nazul* properties.

The properties which were received from the ex-rulers of the princely States (other than those owned by these rulers in their private capacity) were declared as State properties. These were taken over by the Public Works Department (PWD) in the year 1949. The Government decided to transfer these properties from PWD to the Director of Estate (DoE/Department) in the year 1991 for better management as well as smooth disposal of these properties. The work relating to valuation of properties and removal of encroachment, however, remained with the PWD.

A review of the system of assessment, levy and collection of nazul receipts including disposal of the *nazul* properties was conducted by audit. It revealed system and compliance deficiencies, as mentioned in the succeeding paragraphs.

7.2.2 Organisational set up

The determination of policy, monitoring and control of *nazul* properties at the Government level is done by the Principal Secretary, General Administration Department (GAD). The DoE is the head of the department. He is assisted by an Assistant Director at headquarters. At the district level, Assistant Collector cum Executive Magistrate, who has been declared as ex-officio Assistant Director, *Nazul* properties, also assists him. The *nazul* properties are located in 32 districts of State and six other places¹ out of the State.

The decision for disposal or retention of property is to be taken by a committee out of the existing three types of committees, on the basis of value of property.

- For properties having market value upto Rs. 10 lakh, a district level committee (DLC), consisting of District Collector as Chairman, Executive Engineer (XEN), PWD as member Secretary, Superintendent of Police and Treasury Officer as members, is empowered to take decision.
- The disposal of properties having market value of more than Rs. 10 lakh is decided by an Apex Committee headed by the Principal Secretary, Finance. The Principal Secretary, GAD, the DoE and Additional Chief Engineer, PWD are members of the committee.

In addition to the above, the Government formed (May 2002) a Cabinet Committee for speedy disposal of *nazul* properties, which comprises of Cabinet Ministers, numbers of which have not been specified. Besides taking various decisions for disposal of properties, the committee is also empowered to dispose of the properties at a price below the market rate.

7.2.3 Scope and methodology of audit

A review on efficacy of the system of management and disposal of *nazul* properties was conducted between August 2007 to April 2008 covering the

¹ Allahabad, Varanasi, Agra, New Delhi, Achalpur City and Mathura.

period from 2002-03 to 2006-07. The records of 11² units located in 10 districts out of total 32 districts of the State besides office of DoE were test checked. The records of District Collectors, Tehsildars, XENs and sub divisional offices of PWD were test checked. The selection of the districts was done on the basis of PPSWR (Probability Proportional to Size with Replacement) method of sampling.

7.2.4 Audit objectives

The review was conducted to assess the efficiency and effectiveness of the department in management and disposal of the *nazul* properties with a view to ascertain whether:

- a proper system existed for conducting surveys, raising demand of rent and its realisation;
- effective and timely action was initiated against unauthorised occupants of *nazul* properties ; and
- an internal control system existed in the department to ensure prompt disposal of *nazul* properties and realization of the Government dues.

7.2.5 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of the General Administration Department, Director of Estate, Rajasthan, Jaipur and other offices responsible for maintaining the records of *nazul* properties, in providing necessary information and records for audit. An entry conference was held on 15 October 2007 in the office of the Principal Secretary, GAD, where objectives of the review were explained. The draft review report was forwarded to the department and the Government in May 2008. Audit Review Committee meeting was held on 3 July 2008. The Government was represented by the Deputy Secretary cum Director of Estate. The view points of the Government/department have been incorporated in the relevant paragraphs.

Audit findings

System deficiencies

7.2.6 Absence of procedure and system of surveys

As per the order of 1991 issued by the GAD, a survey of *nazul* properties belonging to the State was required to be conducted by the DoE. Audit noticed that no system or procedure for conducting survey was prescribed by the department so as to ascertain the status and exact number of the *nazul* properties.

As per the information supplied by the DoE, the number and occupancy

² Ajmer, Alwar, Bharatpur, Bundi, Chittorgarh, Dausa, Dholpur, Jaipur City, Jaipur Rural, Jaisalmer and Kota.

position of the *nazul* properties within the State was as under:

| (In numbers) | | | |
|--------------|-------------------------------------------------------------------------------------|--------------|---------------------------|
| Sl. No. | Occupants of properties | Total | In test checked districts |
| 1. | State/Central Government offices/Municipalities/UIT's/Panchayat samities/Panchayats | 1,821 | 942 |
| 2. | Tenants/trespassers | 1,669 | 1,505 |
| 3. | Vacant (disposable) | 503 | 205 |
| 4. | Miscellaneous | 463 | 306 |
| Total | | 4,456 | 2,958 |

No survey of *nazul* properties was ever conducted within the State by DoE or any other authority. In the absence of a survey, the correctness of the number and existence of the properties, could not be examined by audit.

A survey of *nazul* properties located outside the State was, conducted once in January 2007 since the formation of the DoE in 1991. As per the survey report there were 1,346 properties situated at six places³. The survey was, however, incomplete as the report did not indicate details like area, location, period since occupied, the current market value and the rent realisable.

After this was pointed out in audit, the department stated in July 2008 that due to shortage of technical staff, surveys could not be conducted.

Scrutiny of survey report of *nazul* properties outside the State revealed that in Allahabad, 1,263 *nazul* properties were situated on land admeasuring 1,03,195 square metres valued at Rs. 66.57 crore, as worked out by audit. These properties were under possession of various tenants. The rent of Rs. 33.28 crore from these properties for the period 2002-07 as worked out by audit remained unrealised, as the occupants/tenants were not paying rent. The DoE did not make any effort for disposal of properties or for recovery of the rent.

After this was pointed out, the DoE stated in July 2008 that due to shortage of staff, recovery of dues could not be effected.

Since survey is an essential step in determination of the status and number of properties, the Government may evolve a system/procedure for conducting the proper surveys to cover all the *nazul* properties.

7.2.7 Lack of control over *nazul* properties

DoE is responsible for the monitoring, management and disposal of *nazul* properties. Valuation of *nazul* properties and determination of rent were, however, required to be done by the XEN, PWD. Audit observed that no return had been prescribed by the DoE to control and supervise the management and disposal of *nazul* properties maintained by the District Collectors who were the ex officio chairmen of the DLCs.

³ Allahabad (1263), Varanasi (77), Agra (2), New Delhi (2), Achalpur City (1) and Mathura (1).

7.2.7.1 Cross verification of the information collected from tehsils and PWD divisions of six districts with the records of the District Collectors and DoE revealed that 172 properties were not listed in the records of District Collectors and DoE. Of these, value of 53 properties was Rs. 21.25 crore. In the remaining cases, full details such as area, location *etc.* were not available with the department, and as such, the total value of all the properties could not be ascertained in audit.

7.2.7.2 Scrutiny of the records of PWD divisions revealed that 574 *nazul* properties were untraceable as on 31 March 2007. However, there were only 269 untraceable *nazul* properties in the records of the DoE.

7.2.7.3 Scrutiny of the records of test checked districts revealed that 396 *nazul* properties were occupied by tenants. In absence of valuation of these properties, the amount of rent and interest recoverable from the tenants could not be ascertained in audit.

Further, in absence of a return showing the location, area *etc.* and rent recoverable from *nazul* properties, the DoE was not in a position to monitor the management of the properties.

This indicated a lack of overall control in management/disposal of *nazul* properties at the Government level.

The Government may prescribe suitable returns for proper management and disposal of *nazul* properties.

7.2.8 Non-maintenance of the demand and collection register

The XEN, PWD who works as member Secretary and District Collector who acts as ex-officio Chairman of DLC for management and disposal of *nazul* properties are responsible for the collection of receipts from the *nazul* properties situated in the district. The DoE is responsible for monitoring the overall collection of receipts from the *nazul* properties. However, rules do not prescribe maintenance of a demand and collection register (DCR) by the authorities. Audit noticed that DoE was unaware of the amount outstanding in respect of *nazul* properties either disposed of or on account of rent and interest.

7.2.8.1 Scrutiny of the records of selected districts revealed that dues on account of rent and interest in respect of 1,505 *nazul* properties were neither assessed and demanded by the department nor paid by the tenants. In the absence of the DCR, the department could not watch raising of demands and timely collection of the receipts. Audit worked out the recoverable amount on account of the rent, interest and surcharge from 1,109 tenants as Rs. 37.72 crore upto 31 March 2007. Thus, absence of DCR resulted in non-realisation of revenue from these tenants. Details of the remaining properties were not made available to audit.

7.2.8.2 Scrutiny of the records of the DoE revealed that a piece of land occupied by the Government motor garage in Jaipur city admeasuring 6,987 square metres was transferred to Jaipur Development Authority (JDA) in lieu of alternative land. The JDA was also required to pay Rs. 1.50 crore in addition to that land. The JDA, however, paid only Rs. 1 crore. The

remaining amount of Rs. 50 lakh was neither demanded nor paid by the JDA. The JDA auctioned 9,335 square metres of *nazul* land instead of 6,987 square metres transferred to it. There was nothing on record to indicate that the department had taken any action for recovery of Rs. 3.38 crore for the extra land auctioned by the JDA. This resulted in non-realisation of Rs. 3.88 crore.

The department could not watch the recovery of the outstanding amount, due to non-maintenance of the DCR. The Government may ensure maintenance of a DCR and develop a system for raising demand.

7.2.9 Non-disposal of vacant properties

The Government issued instructions on 31 August 1991 to all the district collectors and the DoE for prompt disposal of the *nazul* properties which were lying vacant. Neither any time limit was fixed nor any returns prescribed to watch the disposal of the properties.

Scrutiny of the records in selected districts revealed that as on 31 March 2007, 253 *nazul* properties were lying vacant and free from encumbrances. These properties were to be disposed of after valuation in compliance of instructions of the Government, but none of the properties were disposed of. Audit worked out the value of 218 properties at Rs. 14.84 crore on the basis of prevailing PWD rates. Valuation of the remaining 35 properties could not be done in the absence of measurements. No return for watching the progress in disposal of the properties was prescribed by DoE nor was any time limit fixed for their disposal. This indicated that the monitoring system for disposal of vacant properties was deficient.

The Government may consider introducing a periodical return for watching progress made in disposal of the vacant properties and fix a time frame for their disposal so as to avoid further encroachment and deterioration.

7.2.10 Performance of committees

No time limit has been fixed for disposal of properties after the approval of the Apex Committee. The DLC was required to hold at least one meeting in a quarter. No such norms were prescribed for the meetings of the Apex Committee and the Cabinet Committee. Audit noticed that the frequency of meetings was neither watched by the DoE nor by the Government. The total number of meetings held by various DLCs and their minutes were not available with the DoE.

It was noticed that properties were not sold or put to auction even though the Apex Committee had accorded approval to dispose of the properties. This resulted in non-realisation of revenue of Rs. 19.84 crore as mentioned below:

- In Ajmer, a property (No. 129, Ramganj) was approved for sale by the Apex Committee in December 2004. The reserve price of the property was fixed at Rs. 13.08 lakh. The property has not been auctioned till March 2008. This resulted in non-disposal of property and non-realisation of Rs. 13.08 lakh.
- The Apex Committee decided in November 1991 to sell 131 shops valued at Rs. 19.35 crore situated at Bandikui (Dausa) to the occupants.

Audit observed that the shops were not sold till April 2008, even though the occupants had continuously applied for their purchase.

- At Rajgarh, (Alwar), 47 shops were approved for sale by the Apex Committee in April 2003. The committee also directed to recover rent alongwith interest from the Municipal Board, Rajgarh, as the same was deposited with the board by the occupants of the properties. Audit observed that the property was, however, neither disposed of nor was the amount recovered from the Municipal Board (April 2008). This resulted in non-realisation of at least Rs. 36.25 lakh being the cost of land only.

After this was pointed out, the department accepted the facts. Further progress on action taken to dispose of the properties was not intimated to audit.

The Government may consider fixing norms for conduct of meetings by the committees and prescribe a return to monitor the implementation of the decisions taken by the committees.

Compliance deficiencies

7.2.11 Non-monitoring of cases pending in estate/other courts

The DoE was to monitor the cases pending in various courts and also take follow up action on decided cases relating to *nazul* properties effectively.

The details of total number of cases pending in various courts relating to *nazul* properties were not available with the DoE. No register in this regard was maintained by the DoE. However, in Jaipur, it was noticed that 168 cases were pending as on 31 March 2007 as mentioned below:

| Sl. No. | Name of the court | No. of cases |
|--------------|------------------------------------|--------------|
| 1. | High Court, Jaipur Bench | 44 |
| 2. | District and Session Court, Jaipur | 59 |
| 3. | Estate Court, Jaipur | 65 |
| Total | | 168 |

Further in 41 cases, various courts had ordered between August 1960 and February 2004 for eviction of trespassers from the properties and recovery of dues, but no follow up action was taken. The value of 32 properties worked out to Rs. 24.29 crore and in nine cases details were not furnished by the department. As such, the total value of all the 41 properties could not be ascertained in audit.

7.2.12 Non-regularisation of the properties occupied by the Government departments

Rule 19 (1) of the Rules envisages that *nazul* properties under the occupation of the State Government departments were to be transferred free of cost or auctioned by providing alternative accommodation to them. Properties occupied by the autonomous bodies/Central Government departments were to be transferred to them at current market value to be worked out at PWD rates. Fair rent in respect of *nazul* properties was required to be fixed by PWD. In

case of non-payment of rent, interest at the rate of 12 *per cent per annum* was also required to be charged.

Scrutiny of records in the selected districts revealed that 824 *nazul* properties in possession of the State Government departments were neither transferred in their favour nor were disposed of, leaving the fate of these properties in uncertainty. Further, in respect of 117 *nazul* properties in possession of the Central Government offices/autonomous bodies *etc.*, neither any rent was recovered from these properties nor were they disposed of in accordance with the provisions. This resulted in non-realisation of rent and interest of Rs. 9.41 crore (2002-03 to 2006-07) from 99 properties valued at Rs. 14.84 crore, besides their non-disposal.

After this was pointed out, the DoE stated in July 2008 that all district collectors had been instructed to take action in this regard.

7.2.13 Non-disposal of properties by Director of Estate

The DoE was responsible for disposal of the *nazul* properties situated in Jaipur district. Rule 19 of the Rules, envisaged that properties occupied by tenants, who were not paying rent, should be disposed of through negotiations at the current market value. In case of failure of negotiation, properties were to be got vacated and disposed of through public auction.

Scrutiny of the records of the DoE revealed, that in Jaipur, there were 299 *nazul* properties under the occupation of tenants as on 31 March 2007. A few instances, indicating lack of action on the part of the department in their disposal, are mentioned below:

7.2.13.1 Property (P-48, Chokri Hawali Shahar, Jaipur) valued at Rs. 22.22 lakh was under the possession of a defaulter tenant, who sub let it to another party in 1998. The trespasser requested to purchase the property in August 2005, but the DoE did not initiate any action either to dispose of the property or to recover the rent from the trespasser for use and occupation of property. This resulted in non-recovery of rent, interest and surcharge amounting to Rs. 18.80 lakh in addition to failure in its disposal.

7.2.13.2 The Government decided to sell a piece of land measuring 22,788.58 square metre (P-32, Phoos ka bungla, station road, Jaipur) through JDA. The JDA, while removing encroachments from 3,282.64 square metres of land, was required to develop the land, fix reserve price and dispose it of promptly. It was noticed that the JDA had not got the land evacuated from encroachments even after a lapse of nine years. There was nothing on record in the DoE to indicate that the JDA had initiated any action regarding sale/auction of this property. This resulted in non-realisation of revenue of Rs. 115.30 crore, being value of the property.

After this was pointed out in August 2007, the DoE stated in July 2008 that a meeting would be held on 7 July 2008 with JDA authorities, outcome of which was, however, not intimated.

7.2.13.3 Residential property (P-5, Park House, Jaipur) measuring 3,370.51 square metres was handed over to JDA in March 2001 for development and disposal of the land through public auction. JDA, however, after converting

use of land as commercial put up only 2,328.7 square metres area for auction leaving 353.76 square metres for an existing temple and 688.05 square metres for widening of the road. JDA auctioned only two plots of land measuring 696 and 735 square metres in March 2005 i.e. after a delay of three years from the date of development. The remaining 897.70 square metres land had not been auctioned till date (April 2008). This resulted in non-realisation of Rs. 8.89 crore.

It was further noticed that while handing over the land to JDA, 73.50 square metres land was under the encroachment of a temple. During development, JDA had left 353.76 square metres of land for the temple without any consent or approval of the DoE. Thus, Government was deprived of Rs. 2.77 crore being the cost of extra land measuring 280.26 square metres.

After this was pointed out, the DoE while accepting the facts in July 2008 stated that the reasons for leaving extra land for temple had been called for from the JDA.

7.2.13.4 Two shops (P-23 and 24, Chokri Hawali Shahar, Station Road, Jaipur) were let on rent since 1955. The occupant requested in 1997 for purchasing the property. The DoE issued notices for disposal of properties in 1998 and 1999 after a lapse of one and half year but these were returned undelivered as the shops were stated to have been closed. The department, thereafter, repeatedly requested between 1998 and 2000 to the PWD division for taking over the possession of the shops. But possession of the property was not taken by the PWD, even though the rules stipulated that PWD would be responsible for evacuation of the properties. The DoE again approached the trespasser in June 2005 to purchase these shops. The trespasser in turn applied for purchase but the DoE did not intimate valuation of the property and it remained undisposed till March 2008. Thus, properties valued at Rs. 76.38 lakh had neither been disposed of nor outstanding dues amounting to Rs. 33.83 lakh of rent and interest upto March 2007, been recovered.

7.2.13.5 A property (P-41, Chokri Hawali Shahar, Jaipur) measuring 836 square meters was allotted in February 1967 to a private institute (lessee) at a nominal rent of Re. 1 per month, for imparting training in the field of tailoring, knitting, embroidery *etc.*, to poor and middle class women, charging fee at concessional rates. The lease deed, executed on 14 April 1977, stipulated that the lessee would pay the rent in advance, maintain the garden attached to the property, would not erect/build or add on leased property without prior approval of the DoE and would not use the property for any other purposes. The DoE, however, noticed in June 2004 that the lessee was functioning on a commercial basis by running various certificate and diploma courses and had also unauthorisedly erected a building without approval of the department. The department issued a show cause notice for cancellation of the lease in June 2004. Thereafter, neither the property was got vacated nor revised rent was fixed. This resulted in non-realisation of Rs. 9.20 crore (value of the property) and loss of rent and interest of Rs. 2.65 crore for the period from April 2002 to March 2007.

After this was pointed out, the DoE stated in July 2008 that notice for eviction had been served upon the lessee.

7.2.13.6 A portion of property (P-43, station road, Jaipur) measuring 2,869.19 square metres was given to the erstwhile Rajasthan State Electricity Board (RSEB) on rent during 1966-67. Audit observed that the RSEB did not pay the enhanced rent and the interest thereon after 1972. This resulted in accumulation of dues of Rs. 12.28 crore against the Rajasthan Rajya Vidyut Prasaran Nigam Limited (RRVPNL), the successor company of RSEB. The DoE, however, failed to evict RRVPNL from the property, valued at Rs. 23.51 crore, and recover rent and interest dues amounting to Rs. 12.28 crore.

After this was pointed out, the DoE stated in July 2008 that sanction had been accorded in June 2008 for sale of the property.

7.2.14 Non-disposal of properties by district collectors

Rule 19 of the Rules envisages that vacant *nazul* properties are to be disposed of promptly. Audit noticed that:

7.2.14.1 Property (New Tej Talkies, Alwar) valued at Rs. 14.77 crore was transferred in May 2006 by District Collector to Urban Improvement Trust (UIT), Alwar for disposal through public auction.

It was noticed that no action was initiated by the UIT, Alwar for disposal (April 2008).

After this was pointed out, the DoE stated that matter had been referred to District Collector, Alwar for his comments.

7.2.14.2 Two plots of nazul land admeasuring 10,284.36 square metres were situated near Nizamuddin Railway Station, New Delhi. The site was inspected in March 2000 by the DoE and it was found that the Municipal Corporation of Delhi had occupied 1,521.16 square metres of land valued at Rs. 7.28 crore. No action had, however, been taken either for getting the land vacated or for recovery of the cost of the land.

After this was pointed out, the DoE accepted in January 2008 that no decision had been taken in this regard as yet.

7.2.15 Undervaluation of property

Rule 12 (1) of Rules stipulates that if any purchaser of the *nazul* property did not pay the amount within 15 days, the property should be disposed of through public auction.

The Apex Committee decided on 30 January 2004 to sell a portion of the property (P-1, Coffee House, Jaipur) to a limited company (tenant) at a price of Rs. 47.70 lakh payable in 10 equal quarterly instalments. The tenant paid the first instalment after a delay of 2 year and 3 months. Meanwhile, rates for valuation of property were enhanced by the Government with effect from 24 April 2006. As per the revised rates, the valuation of the property worked out to Rs. 1.06 crore. The department, however, did not revise the valuation of the property. The laxity of the DoE, thus, resulted in a loss of Rs. 58.81 lakh to Government. Further, the tenant had paid the first instalment in May 2006 but the DoE did not cancel the sale.

After this was pointed out, DoE stated in July 2008 that demand for differential amount had been raised.

7.2.16 Conclusion

Nazul properties are highly valuable assets of the Government, which are most vulnerable to misuse and encroachment. It was, however, seen that this work was accorded a low priority by various authorities which also lacked coordination amongst them for effective results. The database available with the DoE regarding the number and status of properties was not accurate and large inconsistencies were found with records in the districts. The DoE had no methodology for carrying out periodic surveys. Properties were transferred, sub-let and encroached upon without the knowledge of the authorities. Since no time frame was prescribed for the disposal of *nazul* properties, value of these properties remained locked. Inadequate monitoring by the authorities concerned led to a loss of control over unauthorised occupancy. In the absence of any effective procedure for regular updating of value of the *nazul* properties and timely realisation/revision of rent, there was rampant default in recovery of dues. It was seen that no accountability mechanism was in place leading to a system failure.

7.2.17 Summary of recommendations

The Government may:

- consider formulating a system/procedure for conducting surveys to cover all the *nazul* properties;
- prescribe suitable returns for proper management and disposal of *nazul* properties;
- consider maintenance of a DCR and develop a system for raising demand of outstanding amounts;
- fix a time frame to dispose of *nazul* properties so as to save these from further encroachment and deterioration; and
- prescribe norms for conduct of meetings by the committees and a return to monitor the implementation of the decisions taken by them.

B. MINES AND GEOLOGY DEPARTMENT

7.3 Non-realisation of cost of mineral despatched without *rawanna*⁴

As per rule 18(9)(c) of the Rajasthan Minor Mineral Concession (RMMC) Rules, 1986, the lessee or any other person shall not remove or utilise the mineral from the mines and quarry without a *rawanna* which is duly sealed by the Mining Department. According to the agreement of excess royalty collection contract (ERCC)⁵ executed under rule 37 (2) of RMMC Rules, the contractor shall collect the amount only from such vehicles having valid *rawannas* issued by the lessee. In cases of vehicles carrying mineral without *rawanna*, the contractor shall hand over these vehicles to the Mining Engineer

⁴ Delivery challan for removal or despatch of mineral from mines.

⁵ A contract for specified mineral (s) and area given to collect royalty in excess of annual dead rent.

(ME)/Assistant Mining Engineer (AME), who has the right to recover 10 times the royalty payable at the prevalent rates, treating it as unauthorised removal.

Scrutiny of the records of ME Bhilwara in February 2007 revealed that an ERCC of mineral masonry stone for mining leases of Tehsil Bhilwara was awarded in March 2004 to a contractor for the period from April 2004 to March 2006 at an annual contract amount of Rs. 64.78 lakh. The contract amount was revised to Rs. 1.04 crore with effect from 25 May 2004. The contract was terminated on 23 September 2005 as the contractor had violated the terms and conditions of the agreement. During the contract period, the contractor collected excess royalty from 2,85,601 vehicles carrying mineral without *rawannas*. Instead of handing over these vehicles to the department, the contractor collected Rs. 50 from each vehicle. This resulted in loss of revenue amounting to Rs. 13.71⁶ crore.

After the cases were pointed out in March 2007, the department accepted the audit observation and raised a demand of Rs. 13.71 crore. A report on recovery has not been received (October 2008).

The matter was reported to the Government (May 2008); their reply has not been received (October 2008).

7.4 Non-raising of demand of royalty

As per the Government's instructions issued in April 2000, competent authorities were required to calculate royalty in respect of despatched mineral on monthly basis, raise demand and initiate action for its recovery.

Scrutiny of the records in Ajmer in May 2007 revealed that a mining lease for mineral lime stone (cement grade) was effective in favour of a company (lessee) for the period from August 1998 to August 2018 over an area of 10 square kilometers. Assessment of royalty from 28 August 2002 onwards was not made even though the lessee had despatched 69,07,122.98 MT of lime stone during the period from 28 August 2002 to 31 March 2007 on which royalty of Rs. 29.30 crore was payable. As per the demand and collection register, the lessee deposited Rs. 21.53 crore upto 31 March 2007 but demand for remaining royalty of Rs. 7.77 crore was neither raised nor recovered.

After the case was pointed out, the Government stated (September 2008) that demands of about Rs. 8 crore adjusted earlier were not recoverable due to stays etc., and further stated that if the amount may be considered, no demand remained to be recovered. The reply was not tenable as the stays on earlier demands were granted after adjustment of demands in DCR. Further, assessment of royalty for the period covered under objection was not made by the department.

⁶ Ten times of the royalty at the rate of Rs. 8 per MT for 2,85,601 vehicles containing 6 MT masonry stone.

7.5 Unauthorised excavation by contractors

Rule 63 of the RMMC Rules, provides that work contractors shall have to obtain short term permit (STP) in advance from the concerned ME/AME in support of minerals to be used in their works. If a permit holder has excavated and carried a quantity more than 25 per cent of the quantity sanctioned in the STP, the entire quantity excavated and removed over and above the quantity sanctioned in the permit shall be treated as unauthorised excavation and the permit holder shall be liable to pay the cost of such excess mineral excavated and removed, which will be 10 times of the royalty at the prevalent rates prescribed under Rule 48 of the RMMC Rules.

Scrutiny of the records of AME Jhalawar, Dungarpur, ME Rajsamand-I and Bhilwara between June 2007 and February 2008 revealed that the contractors excavated/consumed mineral either without STP or in excess of the quantity permitted in the STPs. The cost of mineral amounting to Rs. 3.42 crore though recoverable was not recovered as mentioned below:

| Sl. No. | Name of the office (No. of works) | Mineral | Quantity used (MT) permitted (MT) | Quantity used in excess (MT) | Cost of mineral (Rs. per MT) | Amount recovered on excess quantity @ Rs. 1.50 per MT | Net cost recoverable (Rs. in lakh) |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|----------------|-----------------------------------|------------------------------|------------------------------|-------------------------------------------------------|------------------------------------|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| 1. | AME Jhalawar (3) | Sand/earth | <u>7,82,720.56</u> Nil | 7,82,720.56 | 15 | - | 117.41 |
| | | Sand/earth | <u>6,28,874.89</u> Nil | 6,28,874.89 | 15 | - | 94.33 |
| | | Sand/earth | <u>5,28,392.20</u> 42,000 | 4,86,392.20 | 15 | - | 72.96 |
| | | | | | | | 284.70 |
| Remark: The minerals were unauthorisedly removed either without obtaining STP or in excess of the permitted quantity. After the case was pointed out, the Government stated in August 2008 that efforts were being made to recover the cost. | | | | | | | |
| 2. | AME Dungarpur (1) | Sand | <u>5,16,177</u> 3,00,000 | 2,16,177 | 15 | 3.24 | 29.18 |
| Remark: After the case was pointed out, the Government stated in September 2008 that the recovery of Rs. 29.18 lakh would be intimated to audit. | | | | | | | |
| 3. | ME Rajsamand-I (1) | Ordinary earth | <u>1,15,730</u> 18,620 | 97,110 | 15 | 1.46 | 13.11 |
| | | Sand/Bajari | <u>3,882</u> 3,765 | 117 | 80 | 0.01 | 0.08 |
| | | | | | | 1.47 | 13.19 |
| Remark: After the case was pointed out, Government accepted the facts and stated (September 2008) that notice had been issued to concerned contractor. | | | | | | | |

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|------------------|-------------------------|-----------|----|---|---------------|
| 4. | ME Bhilwara (2) | Ordinary soil | <u>49,386.70</u> Nil | 49,386.70 | 15 | - | 7.41 |
| | | Ordinary soil | <u>49,758.49</u> Nil | 49,758.49 | 15 | - | 7.46 |
| | | | | | | | 14.87 |
| Remarks: After the case was pointed out, the department accepted the audit observation and raised a demand of Rs. 14.87 lakh. A report on recovery has not been received (October 2008). The matter was reported to the Government in April 2008; their reply has not been received (October 2008). | | | | | | | |
| Total | | | | | | | 341.94 |

7.6 Non-recovery of premium charges

The Government in April 2005 appointed Rajasthan State Mines and Mineral Limited (RSMML) as an agent for excavation/ despatch of gypsum for 13 areas in Sriganganagar district. The agent was required to produce and despatch a minimum quantity of 2,000 tonne gypsum per month from each area, failing which minimum premium charges of Rs. 40,000 per month for each area were payable by the agent to the concerned ME/AME.

Scrutiny of the records of the AME Sriganganagar in August 2007 revealed that the agent company failed to produce and despatch the required minimum quantity of 2,000 tonne of gypsum per month in the allotted areas for different periods between May 2005 and March 2007. Thus, a demand of Rs. 80.80 lakh being minimum premium charges became due but was neither raised nor recovered by the department.

After the case was pointed out, the department stated (July 2008) that recovery of Rs. 2.38 lakh had been made and further progress of recovery would be intimated to audit.

The matter was reported to the Government in March 2008; their reply has not been received (October 2008).

7.7 Irregular refund

As per provisions of para No. XV of Chapter XI of the Manual of Department of Mines and Geology, Government of Rajasthan, the ME concerned shall, after necessary scrutiny of his records, forward cases of refunds of revenue to the Director Mines and Geology, clearly bringing out the amount due from the applicant.

Scrutiny of the records of ME Bikaner for the year 2006-07 revealed that Rs. 11.05 crore were refunded to RSMML on 30 March 2007 in pursuance of a Government order dated 30 March 2007, on account of development charges. However, an amount of Rs. 80.10 lakh and interest thereon, outstanding in the books of the ME Bikaner against RSMML in respect of six leases, pertaining to the previous years, was not recovered from it. This resulted in non-realisation of Rs. 80.10 lakh.

After the case was pointed out, the department while accepting the audit contention stated in July 2008, that demand of Rs. 80.10 lakh had been raised

and RSMML had been directed to deposit the dues. A report on recovery has not been received (October 2008).

The matter was reported to the Government (March 2008); their reply has not been received (October 2008).

7.8 Non-raising of demand of development charges

The Manual of Mines and Geology Department prescribes that all demands relating to royalty, dead rent, penalty etc. should be posted in a demand and collection register (DCR) for pursuance and keeping a watch on recovery.

Scrutiny of the records of AME Barmer in February 2008 revealed that the assessments of a lessee for the years 2003-04 and 2004-05 were made on 3 March 2005 and 26 February 2007. The demand of Rs. 95.64 lakh on account of development charges against the lessee was not raised. The lessee had paid an amount Rs. 28.76 lakh of development charges in advance. Due to non-raising of demand, an amount of Rs. 66.88 lakh remained unrecovered and unaccounted for.

After the case was pointed out, the department stated in August 2008 that demand of Rs. 66.88 lakh had been raised in February 2008. A report on recovery has not been received (October 2008).

The matter was reported to the Government in April 2008; their reply has not been received (October 2008).

7.9 Loss of revenue due to lacunae in rules

Rule 63 of the RMMC Rules read with the Government order dated 3 October 2001, provides that work contractors shall have to obtain STP in advance from the concerned ME/AME in support of minerals to be used in their works. If a permit holder has excavated and carried mineral to the extent of 10 *per cent* over and above the quantity specified in the permit within the stipulated time of the permit, only a single charge of royalty will be made from the permit holder for the excess excavated mineral. In case, a permit holder has excavated and carried a quantity more than 25 *per cent* of the quantity sanctioned in the STP, the entire quantity excavated and removed over and above the quantity sanctioned in the permit shall be treated as unauthorised excavation and the permit holder shall be liable to pay the cost of such excess mineral excavated and removed, which will be 10 times of the royalty at the prevalent rates prescribed by Rule 48 of the RMMC Rules. However, the rule is silent about the recovery of cost of mineral excavated and removed to the extent between 10 to 25 *per cent*, over and above the quantity sanctioned in the permit.

Scrutiny of the records of ME Chittorgarh in December 2007, it was noticed that STPs of ordinary soil for total quantity of 14,17,559 MT were granted to a contractor (4,97,363 MT by ME Chittorgarh and 9,20,196 MT by AME Nimbahera). Scrutiny of the royalty assessment finalised in August 2006 by ME Chittorgarh revealed that the contractor excavated and used ordinary soil 3,33,317 MT in excess of the permitted quantity by 23.51 *per cent*. The assessing officer assessed royalty at ordinary rates even on the unauthorised quantity in excess of 10 *per cent* permissible. Thus, due to the lacunae in the

rules, the Government was deprived of the revenue of Rs. 25.86 lakh as mentioned below:

| Total quantity used (MT) | Permitted quantity (MT) | Quantity used in excess (MT) per cent over permitted quantity | Quantity in excess of 10 per cent (MT) | Cost of mineral at Rs. 15 per MT (1.5X10) (Rs. in lakh) |
|--------------------------|-------------------------|---------------------------------------------------------------|----------------------------------------|---------------------------------------------------------|
| 17,50,876 | 14,17,559 | $\frac{3,33,317}{23.51}$ | 1,91,561 | 28.73 |

As against the recoverable cost of mineral of Rs. 28.73 lakh, the assessing officer levied Rs. 2.87 lakh, which resulted in loss of revenue of Rs. 25.86 lakh.

The case was pointed to the department in January 2008 and reported to the Government in April 2008; their replies have not been received (October 2008).

7.10 Loss of revenue due to irregular termination of contract

As per condition 9 of the contract agreement for excess royalty collection executed under Rule 37 (2) of the RMMC Rules, the contract may be terminated by the competent authority by giving 15 days notice in case of default in due observance of the terms and conditions of the contract.

Scrutiny of the records of ME Kota in August 2007 revealed that an ERCC for the mineral masonry/sand stone was awarded to a contractor for a period of two years with effect from April 2006 to March 2008 with yearly contract amount of Rs. 65 lakh. The contract was terminated by the ME on 14 December 2006 due to non-compliance of deficiencies pointed out in a notice issued by him on 9 September 2006. However, the order of termination of contract was set aside by the court of Additional Director (Mines) on 19 February 2007 on the ground of non-service of the notice to the contractor and the contract was revived on 23 February 2007. The department, however, could collect excess royalty amounting to Rs. 6.87 lakh only during the intervening period as against Rs. 12.47 lakh worked out on the basis of contract amount. Thus termination of contract without observing the prescribed procedure resulted in a loss of revenue of Rs. 5.60 lakh.

After the case was pointed out, the Government stated (September 2008) that responsibility for the negligence would be fixed after inquiry.

7.11 Short recovery of permit fee

Rule 63 (1) of the RMMC Rules, provides that the ME/AME may grant STP to a person on payment of the fee as prescribed in sub rule (4) of Rule 63. The State Government, by issue of a notification on 18 December 2004 prescribed that a permit fee for STP exceeding 500 tonnes of mineral would be levied at the rate of Rs. 200 plus Rs. 50 for every additional 100 tonnes or part thereof.

Scrutiny of the records of AME Barmer in February 2008 revealed that 10 STPs were issued between May and August 2005 for different quantities ranging between 17,220 MT and 2,51,200 MT after levying permit fee of

Rs. 24,000 instead of leviable fee of Rs. 5.35 lakh. This resulted in short levy of permit fee of Rs. 5.11 lakh.

After the case was pointed out in March 2008, the department stated (August 2008) that after raising demand of Rs. 5.11 lakh, recovery of Rs. 2.16 lakh in four cases had been made. A report on recovery for the remaining amount has not been received (October 2008).

The matter was reported to the Government in April 2008; their reply has not been received (October 2008).

C. PUBLIC WORKS DEPARTMENT AND WATER RESOURCES DEPARTMENT

7.12 Non-crediting of revenue in Government account

According to rule 40 of Public Works Financial and Accounts (PWF&A) Rules, revenue is realised and credited to the consolidated fund of the State as it falls due under the statutory or other rules governing it, but expenditure can be incurred only against a grant voted by the Legislative Assembly or the sum provided in the budget estimates of the State to meet the expenditure charged on the consolidated fund of the State under the provisions of article 202 of the Constitution of India.

Scrutiny of the records of 12 divisions of Public Works Department (PWD) for the period from 2002-03 to 2006-07 revealed that Rs. 4.46 crore received on account of road cutting charges were irregularly kept out of the consolidated fund of the State by crediting to "8443-Civil Deposits-III" under suspense head-"Roads and Bridges" instead of depositing into the Government account under the relevant head of account. It was further noticed that an expenditure of Rs. 2.34 crore was unauthorisedly incurred from such receipts on account of repairs of road cuts, without it being covered under any grant voted by legislature or any budget provision.

After the case was pointed out, the Government stated (August 2008) that in absence of provision of funds for repairing of roads, damaged due to road cuts, the roads were repaired from the amount received on account of road cut charges. As such road cut charges were not credited to revenue head of account. The reply is not tenable, as it is contrary to the provisions of rule 40 of the PWF&A Rules and basic constitutional principles relating to expenditure by the State.

7.13 Deposits unclaimed for over three years not credited to Government revenue

Rule 601 of the PWF&A Rules provides that all balances under the head 'deposits' which remain unclaimed for more than three years are to be credited to the revenue head of account as lapsed deposits. Note 2 below Rule 601 prohibits only such deposits/balances to be deemed as unclaimed deposits for the purpose of crediting to Government account which are under litigation or arbitration.

Scrutiny of the records of Public Works Department and Water Resources Department revealed that security deposits of Rs. 1.56 crore received from contractors/suppliers during the period from March 1979 to March 2004 remained unclaimed for more than three years and were not credited to revenue as mentioned below:

| Sl. No. | Name of the department | No. of divisions | Amount of deposit (Rs. in crore) |
|--------------|----------------------------|------------------|----------------------------------|
| 1. | Public Works Department | 16 | 0.97 |
| 2. | Water Resources Department | 4 | 0.59 |
| Total | | 20 | 1.56 |

After this was pointed out, the Government stated (August 2008) that Rs. 23.60 lakh and Rs. 40 lakh pertaining to Public Works Department and Water Resources Department respectively had been transferred to revenue (October 2008).

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