

CHAPTER VII NON-TAX RECEIPTS

7.1 Results of audit

Test check of the records relating to mines and minerals under different district land and land reforms (DL and LR) offices, offices of the cess deputy collectors, Chief Mining Officer as well as other mining offices and other non-tax receipts conducted during the year revealed underassessment and non-realisation of revenue amounting to Rs. 191.78 crore in 73 cases, which fall under the following categories:

(Rupees in crore)

Sl. No.	Categories	No. of cases	Amount
A. MINES AND MINERALS			
1.	'Assessment and collection of revenue from minor minerals' (A review)	1	183.37
2.	Non/short assessment/levy/realisation of royalty and cess	18	1.05
3.	Non/short assessment/realisation of price of minor/major minerals extracted unauthorisedly	5	0.48
4.	Non/short assessment/realisation of surface/dead rent	2	0.22
5.	Other irregularities	21	1.17
Total		47	186.29
B. FOREST RECEIPTS			
1.	Non-realisation of revenue	23	2.86
C. DEPARTMENTAL RECEIPTS			
1.	Short realisation of revenue	3	2.63
Grand total		73	191.78

During the course of the year, the department accepted observations involving Rs. 183.67 crore in 54 cases of which 51 cases involving Rs. 181.96 crore were pointed out in audit during the year 2007-08 and the rest in earlier years. An amount of Rs. 10.61 lakh was realised in eight cases during the year 2007-08.

After issue of the draft paragraph, the Forest Department recovered Rs. 24.15 lakh in full in one case during the year 2007-08.

A few illustrative cases involving Rs. 1.24 crore highlighting important observations and a review of 'Assessment and collection of revenue from minor minerals' with a financial impact of Rs. 183.37 crore are mentioned in the following paragraphs.

A. MINES AND MINERALS

7.2 Assessment and collection of revenue from minor minerals

Highlights

Issue of operational modalities for extraction of earth by the brick kilns in contravention of the provisions of the Rules *inter alia* led to non/short realisation of royalty of Rs. 77.79 lakh.

(Paragraph 7.2.7)

Failure to prescribe a system of inter-departmental cross verification of data resulted in non-detection of excess extraction of minerals and consequently there was non-realisation of revenue of Rs. 164.62 crore.

(Paragraph 7.2.8)

Non-conducting of periodic inspection led to illegal extraction of minerals without valid permits remaining undetected and consequently there was non/short realisation of revenue of Rs. 13.29 crore.

(Paragraph 7.2.9)

There was non/short realisation of revenue of Rs. 2.02 crore on unauthorised extraction of earth by the brick kiln owners.

(Paragraph 7.2.14)

For short extraction of minerals against the permitted quota, penalty of Rs. 1.44 crore though leviable was not levied.

(Paragraph 7.2.15)

7.2.1 Introduction

Minor minerals comprise earth, sand, stone, boulder, gravel etc. and any other mineral which the Central Government may by notification declare to be a minor mineral. Prospecting and mining of minor minerals, assessment, levy and collection of royalty and other mining dues are governed by the Mines and Minerals Development and Regulations (MMDR) Act, 1957, the West Bengal Minor Minerals (WBMM) Rules, 2002 framed thereunder and instructions issued by the Government from time to time. The recovery of outstanding mining dues is governed by the Bengal Public Demands Recovery (BPDR) Act, 1913.

The mining receipts comprise mainly the application fees for lease/permit and prospecting licence, royalty for extraction of minor mineral, fines and penalties for offences and interest for delayed payment of dues etc.

In addition, cess for the extraction and despatch of minerals is realised from the holders of quarry permits and mining leases under the provision of Cess Act, 1880 as amended in 1984 read with the West Bengal Primary Education Act, 1973 and Rural Employment Cess under the West Bengal Rural Employment and Production Act, 1976.

A review of the assessment and collection of receipts from minor minerals conducted in audit revealed a number of system and compliance deficiencies which are mentioned in the succeeding paragraphs.

7.2.2 Organisational set up

The assessment and collection of revenue from minor minerals is administered by the Land and Land Reforms (L and LR) Department headed by the Principal Secretary who is assisted by the Director of Land Records and Survey (DLRS), 18 district land and land reforms officers (DL and LRO), 59 sub-divisional land and land reforms officers (SDL and LRO) and 698 block land and land reforms officers (BL and LRO)/special revenue officer (SRO)-II.

7.2.3 Audit objectives

The review was conducted with a view to examine whether

- the provisions of the Acts/rules and departmental instructions issued thereunder were adequate and enforced accurately; and
- the internal control mechanism in the department was effective and working efficiently to check non/short levy of revenue.

7.2.4 Scope of audit and methodology

The records pertaining to the years 2002-03 to 2006-07 in seven¹ out of 18 DL and LR offices in addition to the office of the DLRS were reviewed between October 2007 and April 2008. The DL and LR offices were selected from three strata based on the average revenue collection during 2002-03 to 2006-07. During the course of audit, the information/records obtained from district offices were cross verified with those of the National Highway Authority of India (NHAI). The information contained in the audit observations raised during the normal audit has also been included in this review.

7.2.5 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the L and LR Department in providing necessary information and records for audit. The findings of this review were reported to the Government in May 2008 and discussed in the audit review committee meeting held in September 2008. The replies of the Government have been appropriately incorporated in the relevant paragraphs.

Audit findings

7.2.6 Deficiencies in the budgetary process

Paragraph 16 of the West Bengal Budget Manual read with the Rules 338, 339 and 343 of the West Bengal Financial Rules states that in framing the budget estimate (BE) of the ensuing year, the actual of the previous years and revised

¹ Burdwan, Darjeeling, Hooghly, Murshidabad, North 24 Parganas, Paschim Medinipur and Purba Medinipur.

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estimate (RE) of the current year should be the best guide. Paragraphs 10 and 11 say that the 'RE' are forecasts, as accurate as possible, of the actual receipts of the current year and for preparation of 'RE', the actual receipts of those months of the current year which have already elapsed are the most important guide.

The table below indicates BE, RE and actual figure of the revenue under the head "royalty from mines and minerals" and their inter se variations.

(Rupees in crore)

Year	BE	RE	Actual	Percentage of variation between BE and RE	Percentage of variation between BE and actual	Percentage of variation between RE and actual
2002-03	13.00	15.16	11.24	(+)16.61	(-) 13.53	(-) 25.85
2003-04	17.43	12.93	31.30	(-) 25.82	(+) 79.58	(+) 142.07
2004-05	70.00	35.06	21.88	(-) 49.91	(-) 68.74	(-) 37.59
2005-06	39.27	24.61	30.03	(-) 37.33	(-) 23.53	(+)22.02
2006-07	27.69	33.03	29.35	(+)19.28	(+) 5.99	(-) 11.41

The variations between BE and RE ranged from (-) 49.91 to 19.28 *per cent*, between BE and actual from (-) 68.74 to 79.58 *per cent* and between RE and actual from (-) 37.59 to 142.07 *per cent*. The wide variations indicated that the budget estimation was not realistic.

The existing procedure requires preparation of budget based on estimates from the field offices. However, an evaluation of how and whether this was being done could not be made as the documents relating to preparation of budget were not produced by the Finance Department (Budget) or by the LR Department. However, during the audit review committee meeting, the LR department agreed to ensure better co-ordination with the field offices and the Finance department while preparing the BEs in future.

System deficiencies

7.2.7 Grant of quarry permits for extraction of earth

The WBMM Rules regulate the grant of quarry permits for extraction and removal of minerals. Quarry permits for minor minerals are to be issued by the DL and LROs on receipt of application and prepayment of royalty. The Rules prescribe that quarry permits shall not be granted unless the mining dues, if any, are cleared beforehand. A register with the specified columns is required to be maintained by the SDL and LROs/DL and LROs to monitor the realisation of royalty and cess against the permits issued.

In order to augment the revenue from minor minerals, the DLRS issued (August 2000) a memorandum to the DL and LROs containing the modalities for extraction of earth for manufacturing of bricks by the brick field owners. Audit scrutiny revealed that though the memorandum was issued with the basic objective of augmenting revenue from brick earth, yet no report/return was prescribed to be furnished by the DL and LROs to the directorate intimating the revenue realised during the returned period. In absence of this, the directorate was unable to analyse the revenue before and after introduction of the modalities. Further, the operational modalities contradicted the corresponding provisions in the WBMM Rules and there was no evidence that

these instructions were issued with the approval of the Government. The WBMM Rules were revised in 2002 but these instructions were not incorporated in the revised Rules. Point wise anomalies between the Rules and the operational modalities and cases of deviation from the provisions of the Rules and also the executive instruction are mentioned below:

7.2.7.1 The Rules require that a permit will be issued for a specified area, period and quantity. However, according to the instruction, a discussion with the brick field owners would be held to fix in advance the quantum of earth to be extracted depending on the capacity and types of chimneys, which is not as per the Rules.

7.2.7.2 While the Rules require extraction only after a permit is granted on payment of advance royalty, the instruction permitted the brick field owners to extract and remove earth and to pay royalty before 31 January every year. This was in violation of the twin conditions viz., prior permit and prepayment of royalty required for extraction. In fact, the instruction allowed for issue of permit by 31 March of the year i.e. towards the end of the brick season. There were instances of individual agreements with brick field owners permitting payment even after 31 January. Besides, there were also cases in which payment was allowed to be made in installments though part payment of royalty was not permissible under the DLRS's instruction.

7.2.7.3 The Rules require that the issuing authority of the permit shall arrange for occasional inspection and checking of the quantity of the mineral removed. However, the instruction stated that frequent measurements of any form are not necessary and a final measurement shall have to be taken to complete the formality. Audit scrutiny revealed that no measurement was being taken of the earth actually extracted by the brick field owners to determine the royalty payable for the earth extracted.

Thus, the instructions of the DLRS have resulted in dilution of the controls provided in the Rules, which have resulted in non/short realisation of revenue as mentioned below:

- In case of 64 brick fields, although the owners extracted 2.14 crore cft. of brick earth between 2002-03 and 2006-07 on which royalty of Rs. 53.97 lakh was due, yet neither did the brick field owners pay the royalty nor was any action taken by the DL and LROs to realise the unpaid royalty.
- In 46 brick fields, the owners extracted 1.63 crore cft. brick earth and paid royalty of Rs. 18.67 lakh against the payable amount of Rs. 42.49 lakh. The DL and LROs did not take any action to realise the unpaid royalty, resulting in short realisation of Rs. 23.82 lakh.

After the cases were pointed out, the Government stated (September 2008) that the concerned district authorities had been asked to send the latest position of realisation of revenue in these cases.

The Government may immediately order for reconciliation of the operational modalities with the provisions of the Rules to ensure that the modalities prescribed by the department do not contradict any of the provisions of the Rules. Besides, it may also be investigated how the operational modalities which contradicted the provisions of the WBMM Rules were circulated without the approval of the Government.

7.2.8 System of inter-departmental cross verification of data

As per clause (5) of schedule V (conditions of quarry permit) of WBMM Rules, the quarry permit holders are required to submit a weekly statement of the raising and despatch of minerals against the quarry permit. Audit scrutiny revealed that neither the Rules prescribe for cross verification of the statements submitted by the permit holders with the information available with other organisations using the minerals nor was any executive instruction issued by the department for cross verification of the records to guard against unauthorised extraction and evasion of revenue.

Cross verification conducted by audit revealed a number of discrepancies as mentioned below:

7.2.8.1 In Medinipur, one company² entrusted with the work of widening of National Highway-6, had extracted 2,274.63 lakh cft. of minerals between February 2001 and June 2006 in excess of the permitted quantity as revealed from the materials consumption statements received through the National Highway Authority of India (NHAI). Thus, extraction of the minerals in excess of the permitted quantity was unauthorised for which price of minerals of Rs. 155.02 crore though realisable was not realised. The details are mentioned below:

Name of the minor minerals	Permitted quantity for extraction	Quantity extracted	Quantity of unauthorised extraction	Rate of price of minerals (per 100 cft.)	Price of minerals recoverable (Rupees in crore)
Earth	51.60	105.44	53.84	66	0.36
Sand	166.09	1,687.34	1,521.25	481	73.17
<i>Morrum</i>	54.60	87.25	32.65	141	0.46
Stone	96.00	762.89	666.89	1,215	81.03
Total	368.29	2,642.92	2,274.63		155.02

7.2.8.2 Scrutiny of the records of DL and LR office, Paschim Medinipur revealed that a company³ entrusted with widening of National Highway - 6, had extracted 21.10 crore cft. earth, five crore cft. *morrum* and 39.54 lakh cft. *gravel* in excess of the permitted quantity as revealed from the materials consumption statements received from the NHAI.

Minor Minerals	Quantity of unauthorised extractions (cft. in lakh)	Rate of price of minerals (Rs. per 100 cft.)	Price of minerals recoverable	Payments made by the company	Short realisation of price of minerals
Earth	2,109.62	66	13.92	13.27	9.60
<i>Morrum</i>	500.28	141	7.05		
Gravel	39.54	481	1.90		
Total			22.87		

For unauthorised extraction, Rs. 22.87 crore towards price of the minerals was recoverable, against which the company had deposited only Rs. 13.27 crore, resulting in short realisation of Rs. 9.60 crore.

² Hindusthan Construction Company (HCC).

³ B. Seenaiah and Company (Project) Ltd.

After the cases were pointed out, the Government stated in September 2008 that the district authorities had been advised to cross verify the materials consumption statements furnished to the NHAI and report back the outcome of the verification. The Government also stated that inter-departmental cross verification of data would be enforced to guard against unauthorised extraction and removal of minor minerals and evasion of revenue by the quarry permit holders.

The Government may take early action for issuing guidelines stipulating cross verification of information furnished by the permit holders with the records of other organisations to prevent evasion of revenue.

7.2.9 Non/short realisation of revenue due to non-conducting of inspections

Under sub-section 5 of section 21 of the MMDR Act and Rules made thereunder, no person is entitled to undertake mining operation without a valid permit. In the event of violation, apart from other penal action, the authority is empowered to recover either the minerals raised unlawfully or the price thereof. To prevent unauthorised mining, transportation and storage of minor minerals, the Rules empower the authority to establish check posts for checking of minerals in transit and to inspect, check and search minor minerals at the place of excavation or storage or during transit and maintain a register for the purpose.

Audit scrutiny revealed that though the Rules required inspection, checking and search of minor minerals at the place of excavation or storage or during transit and maintenance, yet the department has not prescribed the periodicity and other modalities for such inspection. In the absence of a system of regular inspection, the department was unaware of the quantity of minerals actually extracted and had to accept the figures disclosed by the companies to assess the dues payable. Besides, no register of inspection was maintained by the SDL and LROs/DL and LROs. Further scrutiny revealed that while calculating the dues, royalty and cess was demanded instead of the price of the minerals which resulted in non/short realisation of revenue as mentioned below:

7.2.9.1 Scrutiny of the records of the DL and LR office, Darjeeling revealed that one corporation⁴ extracted 88.99 lakh cft. stone/boulders, 32.19 lakh cft. sand and 10.02 lakh cft. clay between 2004-05 and 2006-07 for a project⁵ without any permit. The extraction was unauthorised for which price of minerals of Rs. 13.06 crore was recoverable against which the corporation had paid Rs. 1.03 crore as royalty and cess. This resulted in short recovery of Rs. 12.03 crore.

7.2.9.2 Scrutiny of records of 21 BL and LR offices under four⁶ DL and LR offices revealed that in 137 cases, 96 brickfield owners and two companies extracted 1.89 crore cft. of brick earth during 2000-01 to 2006-07 without any valid quarry permit. However, in 26 cases, the full price of brick earth/earth of Rs. 24.20 lakh was not realised while in the remaining 111 cases, Rs. 35.24

⁴ National Hydroelectric Power Corporation (NHPC).

⁵ Teesta Low Dam Project, Stage-III.

⁶ Burdwan (East), Murshidabad, North 24 Parganas and Uttar Dinajpur.

lakh was realised, by applying lower rates instead of Rs. 1.02 crore⁷ realisable. This resulted in non-realisation of revenue of Rs. 90.60 lakh.

7.2.9.3 Scrutiny of the records of DL and LRO, Dakshin Dinajpur revealed that Malda Construction Company entrusted with widening, strengthening and upgrading the Abidpur Gangarampur Laskarhat Road extracted 34.14 lakh cft. of earth during 2000-01 without valid quarry permit. Thus extraction of the entire quantity of earth was unauthorised for which Rs. 20.48 lakh was recoverable as the price of earth, but the DL and LRO, Dakshin Dinajpur had raised demand (in 2002-03 and 2006-07) for Rs. 11.95 lakh under the PDR Act as royalty and cess instead of Rs. 20.48 lakh as price of earth. Of the amount demanded, the company had paid Rs. 6.50 lakh only in 2002-03. This resulted in non-realisation of Rs. 13.98 lakh.

7.2.9.4 Scrutiny of the records of the DL and LR office, Burdwan revealed that two construction companies⁸ extracted 25.69 lakh cft. of earth between 2004-05 and 2006-07 for construction of railway track⁹ without any permit. Thus, the extraction was unauthorised for which price of earth of Rs. 16.78 lakh was recoverable. In case of one¹⁰ company, the district authority subsequently assessed royalty and cess of Rs. 9.04 lakh instead of the price and recovered Rs. 4 lakh. Thus there was short recovery of Rs. 12.78 lakh.

7.2.9.5 Scrutiny of the records of the DL and LRO, Paschim Medinipur revealed that Gamon India Ltd. extracted 53.72 lakh cft. earth between February 2004 and February 2006 against the permitted quantity of 87,303 cft. for construction of bridges on National Highway-60. Thus, extraction of 52.85 lakh cft. earth in excess of the permitted quantity was unauthorised for which price of minerals amounting to Rs. 34.88 lakh was recoverable. But the DL and LRO, Paschim Medinipur demanded Rs. 26.32 lakh as royalty and cess instead of price of minerals. This resulted in short demand of Rs. 8.56 lakh as price of earth.

After the cases were pointed out, the Government stated in September 2008 that the district authorities had been asked to send the latest position on the issue. It was also stated that a register for inspection is normally maintained; however, they were taking steps to operationalise better monitoring.

The Government may consider strengthening the inspection system by prescribing detailed modalities to prevent illegal extraction and removal of minor minerals. The DL and LRO / BL and LRO should be made accountable for illegal extraction of minerals and non-recovery of the price of minerals.

7.2.10 Initiation of certificate proceedings

Assessment and collection of royalty, cess, price of earth, etc. are governed under the MMDR Act and Rules made thereunder. Further, MMDR Act provides that the assessed dues remaining unpaid are recoverable as arrears of land revenue under the BPDR Act, 1913. Audit scrutiny revealed that the Government had not prescribed any time limit for initiating the certificate

⁷ The realisable amount of Rs. 101.64 lakh has been rounded off to Rs. 1.02 crore.

⁸ National Projects Construction Corporation (NPCC) Ltd. and Nirman Construction.

⁹ Bankura Damodar River (BDR).

¹⁰ NPCC.

proceedings nor had it instituted a periodic review and monitoring mechanism to ensure that the certificate proceedings are instituted in time.

Test check of the register of certificate cases of the DL and LR office, Purba Medinipur revealed that against the mining dues of Rs. 42.29 lakh as of March 2004 in respect of 22 extractors, only Rs. 2 lakh was realised between 2003-04 and 2006-07, during which period further dues of Rs. 1.23 lakh had accrued. The cases of the defaulters were not sent for certificate proceedings even after lapse of time ranging between one to five years. This resulted in non-recovery of revenue of Rs. 41.52 lakh.

After the case was pointed out, the Government stated in September 2008 that instruction had been given to the district authorities to initiate the certificate cases and to pursue the same before the certificate officer for early disposal.

The Government may consider prescribing a time frame for processing certificate cases either by issuing executive orders or by amending the Rules.

7.2.11 Absence of environmental protection measures

The WBMM Rules require that brick fields situated within a radius of 50 kms. of a thermal power plant should mix 30 *per cent* fly ash with brick earth as an environmental protection measure.

Audit scrutiny revealed that there were 746 brick kilns in 23 blocks of the five districts of the State having thermal power plants. However, no record was made available to audit to establish that the BL and LROs and DL and LROs enforced the use of fly ash in compliance of the provisions. Scrutiny also revealed that the BL and LROs and DL and LROs allowed the brick field owners to operate the brick fields without the clearance certificate from the Pollution Control Boards, on production of documents stating that the brick field owners had applied to the Pollution Control Board for consent to operate.

After the case was pointed out, the Government stated (October 2008) that instruction had already been given in this regard and steps were being taken to enforce the environment protection measures.

The Government may make it mandatory that permission for working of brick kilns is granted with the pre-condition that the kilns would use the requisite percentage of fly ash with the brick earth.

7.2.12 Internal audit

The internal audit is a vital tool available to the management to monitor the functioning of an organisation. It helps the management to take corrective measures wherever necessary to ensure that the systems are functioning reasonably well and the stated objectives are achieved.

No internal audit system existed in the department at the time of audit. The department informed that an internal audit wing had since been established from the year 2007-08. Thus, due to the absence of internal audit wing, adherence to the provisions of the statutes and instructions for reduction of the risk of committing errors and irregularities to guard against leakage of revenue was not ensured.

The Government may take immediate action to operationalise the internal audit wing and ensure compliance of the observations made by it.

7.2.13 Non/short realisation of cess

Cess is realisable under Cess Act at a consolidated rate of Rs. 15¹¹ per 100 cft. of minor minerals extracted and despatched from the quarry site. Audit scrutiny revealed that neither the WBMM Rules prescribe for any control register for watching the status of recovery of cess nor was any executive instruction issued.

Scrutiny of the records of 632 out of 746 brick fields in 23 BL and LR offices for which information was available revealed that in 144 cases (23 per cent) no cess was realised while in 37 cases (six per cent) the cess was not realised in full, as detailed below:

7.2.13.1 During 2002-07, in 226 cases the brickfield owners extracted 4.81 crore cft. of brick earth, but the BL and LROs did not raise the demand for cess of Rs. 72 lakh.

7.2.13.2 During 2002-07, in 39 cases the brickfield owners extracted 1.21 crore cft. of brick earth for which cess of Rs. 18.07 lakh was realisable against which Rs. 8.32 lakh was realised by the BL and LROs. This resulted in short realisation of cess of Rs. 9.75 lakh.

Thus, due to the absence of a provision for control register to watch the status of realisation of cess, the department remained unaware about the above cases of non/short realisation of cess.

After the cases were pointed out, the Government stated in September 2008 that the district authorities had been advised to keep a cess realisation register, if not already done. The reply, however, did not mention the action taken to realise the balance cess.

The Government may consider introducing a monitoring system to watch the realisation of cess by the DL and LROs and BL and LROs.

Compliance deficiencies

7.2.14 Non/short realisation of price of brick earth in cases of unauthorised brick fields

Under the MMDR Act and the Rules made thereunder, mining without a valid quarry permit is liable to penal action and the authority is empowered to recover the minerals raised unlawfully or the price thereof.

Scrutiny of the register of unauthorised brick fields maintained by the BL and LRO and DL and LRO revealed that 603 unauthorised brick fields in 24 BL and LR offices under six¹² DL and LR offices operated during the period 2002-03 to 2006-07. Scrutiny of the records of 527 such brick fields revealed the following:

7.2.14.1 Brick earth of 1.80 crore cft. was extracted by 59 unauthorised brick field owners for which the price of earth of Rs. 1.17 crore was realisable from the owners, but the district authorities did not realise the amount despite being aware of the unauthorised extraction.

¹¹ PW cess, Road cess, Rural employment cess, at the rate of Rs. 3 each and Primary education cess at the rate of Rs. 6.

¹² Burdwan, Hooghly, Murshidabad, North 24 Parganas, Paschim Medinipur and Purba Medinipur.

7.2.14.2 Brick earth of 2.12 crore cft. was extracted by 71 unauthorised brick field owners for which the price of earth of Rs. 1.38 crore was realisable from the owners but only Rs. 53.73 lakh was realised. This resulted in short realisation of price of brick earth of Rs. 84.59 lakh.

The Government stated in September 2008 that the concerned district authorities had been asked to send the latest report on realisation of the dues.

7.2.15 Non-imposition of penalty

Under the provisions of the WBMM Rules, the holders of mining lease shall extract and despatch the minimum quantity of minerals from the leasehold area annually as prescribed in the lease deed. In case there is any shortfall in the extraction and despatch of the said minimum quantity without any satisfactory reason, penalty to the extent of twice the amount of royalty that should have accrued on such shortfall shall have to be paid by the lessee.

Scrutiny of 60 out of 301 long term mining lease cases in four BL and LR offices under three¹³ DL and LR offices revealed that in 23 cases the lessees had extracted 51.81 lakh cft. of minerals against the minimum extractable quantity of 1.66 crore cft. as per the lease deeds. Thus, the lessees were liable to pay penalty of Rs. 1.44 crore for short extraction of 1.14 crore cft. of minerals. Although the lessees submitted monthly statements of raising and dispatch, the returns were not verified and reconciled with the lease deeds to ensure that the minimum quantity of minerals were extracted. Failure of the district authority to comply with the Rules resulted in non-imposition of penalty of Rs. 1.44 crore.

After the cases were pointed out, the DL and LRO, Burdwan admitted (November 2007) the audit observation in 17 cases involving Rs. 44.26 lakh while the DL and LRO, Darjeeling stated (March 2008) that the concerned mining authority was being informed and the realisation would be made thereafter. The DL and LRO, Paschim Medinipur did not furnish any reply.

The Government admitted the observations but did not state whether the amount had been realised.

7.2.16 Short realisation of royalty and cess due to application of pre-revised rates

The Government of West Bengal by a notification issued in November 2002 revised the rates of royalty and cess for extraction of earth, sand, stone and *morrum* etc. with effect from 8 November 2002. However, the rates of royalty had not been revised after November 2002 though there is a provision that the rate may be revised once in three years.

7.2.16.1 Scrutiny of the records of three¹⁴ BL and LR offices under the DL and LR office, North 24 Parganas revealed that the district authority granted 67 quarry permits during 2003-04 to 2006-07 for extraction of 1.01 crore cft. brick earth and realised royalty of Rs. 20.24 lakh instead of Rs. 34.41 lakh due to the application of pre-revised rate. This resulted in short realisation of royalty of Rs. 14.17 lakh.

¹³ Burdwan (East), Darjeeling and Paschim Medinipur.

¹⁴ Baduria, Habra – I and Hasnabad.

7.2.16.2 Scrutiny of the records of two¹⁵ DL and LR offices revealed that the district authorities had granted 53 quarry permits for extraction of 27.07 lakh cft. minor minerals between 8 November 2002 and 18 December 2002, but the DL and LROs had realised the royalty and cess of Rs. 13.36 lakh at the pre-revised rates instead of Rs. 20.61 lakh realisable at the revised rates. This resulted in short realisation of royalty and cess of Rs. 7.25 lakh.

After the cases were pointed out, the Government stated in September 2008 that the notification of November 2002 reached the districts late, hence, the district authority realised the royalty and cess at the old rate and that the persons who extracted the earth had no fixed address and were untraceable making it impossible to realise the difference.

7.2.17 Short imposition of penalty

Under the provisions of the WBMM Rules, if the permit issuing authority finds that the quarry permit holder has either during the validity of the quarry permit or thereafter, removed more minerals than the quantity authorised by the quarry permit, he may demand from the quarry permit holder an additional amount for the excess quantity of minerals removed as penalty at a rate not exceeding 10 times the royalty at which the quarry permit was issued.

Scrutiny of the records of SDL and LR office, Burdwan Sadar (South) revealed that the agents of a company¹⁶ entrusted with the construction work of Durgapur Expressway extracted 54.30 lakh cft. earth in excess of the permitted quantity. The DL and LRO, Burdwan (East) directed the SDL and LRO to impose penalty at the rate of 1.5 times of the royalty and cess. The SDL and LRO, Burdwan Sadar (South), however, imposed a penalty of Rs. 27.69 lakh only, resulting in short imposition of penalty of Rs. 12.22 lakh.

After the case was pointed out, the Government admitted the observation but did not state whether the amount had been recovered (October 2008).

7.2.18 Short realisation of royalty and cess

Under the provisions of the WBMM Rules, an application for mining lease shall be disposed of within one year from the date of its receipt. If any application is not disposed of within the specified period, it shall be deemed to have been refused. Further, the State Government may refuse to grant mining lease for the reasons to be recorded and communicated to the applicant in writing.

Scrutiny of the records of the BL and LR office, Burwan revealed that the mining lease applications of 42 persons, submitted between 1994 and 2000, were not disposed of within the specified period. The applicants obtained an interim order from the High Court in 2001 allowing them to extract sand on payment of royalty and directing the authorities to dispose of the applications within three months.

The department did not dispose of the application within the time directed by the Court. Seven out of 23 applicants had extracted 20.98 lakh cft. sand between March 2005 and November 2007 but paid Rs. 8.90 lakh only of royalty and cess against the payable amount of Rs. 16.36 lakh. This resulted

¹⁵ Burdwan and Paschim Medinipur.

¹⁶ Gamuda WCT (I) Pvt. Ltd.

in short realisation of Rs. 7.46 lakh. The BL and LRO, Burdwan did not take any action to realise the balance amount.

After the case was pointed out, the Government stated in September 2008 that the concerned DL and LROs had been asked to send a report in the matter.

7.2.19 Conclusion

Audit review revealed a number of deficiencies in the system of levy and collection of revenue from minor minerals leading to revenue leakages. Operational modalities for extraction of brick earth were issued which contravened the corresponding provisions of the WBMM Rules and without the approval of the Government leading to non/short realisation of revenue. No system of cross verification of departmental records with other organisations was put in place. Non-conducting of periodic inspection resulted in non-detection of unauthorised extraction of minerals without valid permits. The internal control mechanism in the department was weak as is evidenced by the absence of an internal audit wing and non-maintenance of vital registers by the BL and LROs / DL and LROs.

7.2.20 Summary of recommendations

The Government may consider implementation of the following recommendations for improving the revenue administration and prevent leakage of revenue:

- reconciling the operational modalities prescribed for extraction of brick earth with the provisions of the Rules to ensure that the modalities prescribed by the department do not contradict any of the provisions of the Rules. Besides, it may also be investigated how the operational modalities which contradicted the provisions of the WBMM Rules were circulated without the approval of the Government;
- taking early action for issuing guidelines stipulating cross verification of information furnished by the permit holders with the records of other organisations to prevent evasion of revenue;
- strengthening the inspection system to prevent illegal extraction and removal of minor minerals. The DL and LRO/BL and LRO should be made accountable for illegal extraction of minerals and non-recovery of the price of minerals;
- prescribing a time frame for processing certificate cases either by issuing executive orders or amending the Rules;
- introducing a monitoring system to watch the realisation of cess by the DL and LRO and BL and LROs; and
- taking immediate steps to make the internal audit wing operational and issuing compliance of the observations made by it to guard against leakage of revenue.

7.3 Non-realisation of water rate due to non-completion of assessment

Under the provisions of the Mineral Concession Rules, 1960 and terms and conditions of the mining lease, the lessee shall pay water rate at the prescribed

rate in respect of all parts of surface of land occupied or used by him. Water rate is realisable at the rate of Rs. 54 per acre per annum under the West Bengal Irrigation (Imposition of Water Rate) Act, 1974.

Scrutiny of the records of the Cess Deputy Collector (CDC), Asansol in January 2007 revealed that water rate on 25,362.16 acres of land occupied/used by four¹⁷ lessees for extraction of coal during the year 2005-06 was not assessed and realised. This resulted in non-realisation of revenue of Rs. 13.70 lakh.

After the cases were pointed out, the CDC, Asansol stated in January 2007 that clarification from the Government had been sought regarding the authority which was responsible for assessment and collection of water rate. Further development has not been reported (September 2008).

The cases were reported to the Government in February 2007, followed by reminders issued upto June 2008; their reply has not been received (September 2008).

B. RECEIPTS FROM IRRIGATION AND WATERWAYS

7.4 Non/short assessment of water rate

Under the provisions of the West Bengal Irrigation (Imposition of Water Rate) Act, 1974, occupiers of land receiving irrigation from the canals are required to pay water rates as prescribed by the Government from time to time. Assessment of water rates is made by the respective revenue division on receipt of test notes from the engineering divisions of the Irrigation and Waterways (I and W) Department. According to the instruction issued by the department in June 1977, any difference between the areas irrigated as shown by the engineering division and the assessment figure as shown by the revenue division should be reconciled by both the offices within one month.

Scrutiny of the records of four¹⁸ revenue offices (ROs) between September 2006 and March 2007 revealed that test notes from the concerned engineering divisions indicating the area irrigated as 17.90 lakh acres, during the assessment periods between 2002-03 and 2005-06 were received in these revenue divisions. It was, however, noticed that the RO, Kangsabati Revenue Division – I did not make any assessment of water rate on test notes of 1.21 lakh acres during the period between 2002-03 and 2003-04 while the RO, Kangsabati Division – II, RO, Mayurakshi Revenue Division – I and II made assessments on 13.37 lakh acres only during the assessments period between 2002-03 and 2005-06. Thus, erroneous assessment of water rate by the revenue divisions without reconciling the information/data furnished by the engineering divisions led to non/short assessment of water rate on 4.53 lakh acres¹⁹ and consequential non/short realisation of revenue of Rs. 1.10 crore.

¹⁷ M/s Bengal EMTA Coal Mines Ltd., M/s Bharat Coking Coal Ltd., M/s Eastern Coal Fields Ltd. and M/s Integrated Coal Mines (P) Ltd.

¹⁸ Kangsabati Revenue Division - I; Kangsabati Revenue Division - II; Mayurakshi Revenue Division - I and II.

¹⁹ RO, Kangsabati – I: 1.21 lakh acres, RO, Kangsabati – II: 1.10 lakh acres, RO, Mayurakshi – I: 1.95 lakh acres and RO, Mayurakshi – II: 0.27 lakh acres.;

The cases were reported to the department and Government between November 2006 and May 2007, followed by reminders issued upto June 2008; their reply has not been received (September 2008).

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