

CHAPTER V
NON-TAX RECEIPTS

5.1 Results of audit

Test check of the records of the departmental offices during the period from April 2008 to March 2009 indicated non-levy, short levy of royalty, seigniorage fee³⁸, dead rent and other observations amounting to Rs. 111.13 crore in 48 cases as mentioned below.

(Rupees in crore)			
Sl. no.	Category	No. of cases	Amount
A. Geology and Mining Department			
1.	Receipts from mines and minerals (A review)	1	109.85
2.	Non/short levy of royalty, dead rent and seigniorage fee	12	0.05
3.	Others	34	1.01
B. Public Works Department			
1.	Non/short recovery of licence fees	1	0.22
Total		48	111.13

During the year 2008-09, the department accepted underassessments and collected Rs. 26.89 lakh in 31 cases, of which Rs. 1.13 lakh pertaining to four cases were pointed out during 2008-09 and the rest in earlier years.

A review on **“Receipts from mines and minerals”** involving Rs. 109.85 crore and an illustrative audit observation involving Rs. 0.22 crore is discussed in the succeeding paragraphs:

³⁸ Seigniorage fee represents the payments made for material or the mineral won from the land in respect of minor mineral.

A – MINES AND MINERALS

5.2 Receipts from Mines and Minerals

Highlights

- Absence of a system for cross verification of Central Excise Range office records with the records of the Assistant Director Geology and Mining, Nagapattinam revealed incorrect depiction of mineral oil produced by a company resulting in less payment of royalty of Rs. 2.17 crore.

(Paragraph 5.2.8)

- No time limit has been prescribed for renewal of lease deeds. The leases of four lessees in six cases were not renewed even after a considerable time of six to 12 years. This resulted in non-realisation of stamp duty of Rs. 1.20 crore.

(Paragraph 5.2.9)

- Absence of a proper system in place to take up the revision of seigniorage rates at the interval of every three years resulted in foregoing of revenue of Rs. 42.43 crore for the period from April 2006 to March 2008.

(Paragraph 5.2.10)

- Inaction in obtaining vacation of interim stay resulted in non-realisation of revenue of Rs. 10.76 crore.

(Paragraph 5.2.13)

- Incorrect fixation of rate of royalty of a mineral viz. “Marl” resulted in loss of revenue of Rs. 6.85 crore.

(Paragraph 5.2.14)

- Absence of a proper system in place to take up the revision of royalty rates at the interval of every three years resulted in foregoing of revenue of Rs. 105.29 crore in respect of lignite.

(Paragraph 5.2.16)

5.2.1 Introduction

The principal major minerals found in Tamil Nadu are lignite, limestone, magnesite, quartz, feldspar and bauxite. Minor minerals like black and grey granite, river sand and rough stones are available in the state. Oil and natural gas is also being extracted in the coastal belt of the State.

Extraction of the major minerals is governed by the Mines and Minerals (Development and Regulation) Act, 1957 (Act) and the Mineral Concession Rules, 1960 (MC Rules) made thereunder. Under the Act, the Government is empowered to make rules to regulate the grant of mining lease in respect of minor minerals. Accordingly, the Tamil Nadu Minor Mineral Concession

Rules, 1959 (TNMMC Rules) were framed. Prospecting or mining operations can be undertaken only with a licence or mining lease granted under the TNMMC Rules. The holder of the mining lease shall pay royalty/seigniorage fee at the rates prescribed as the case may be, in respect of minerals removed by him from the leased area. Wherever royalty/seigniorage fee in a year is less than dead rent, the dead rent is payable in lieu of royalty/seigniorage fee.

Receipts from the mines and minerals consist of the application fee, licence fee, royalty and dead rent, etc. The stamp duty and registration fees are also leviable on mining lease deeds under the Indian Stamp Act, 1899, and the Indian Registration Act, 1908.

A review on Receipts under Mines and Minerals was conducted by audit. It indicated a number of system and compliance deficiencies which have been discussed in the succeeding paragraphs.

5.2.2 Organisational set up

The overall control of the department vests with the Principal Secretary to the Government, Industries Department. The Commissioner of Geology and Mining (CGM) is the head of the Department. He is assisted by the district collectors (DCs) who are assisted by Deputy Directors (DD) and Assistant Directors (AD) in performing their duties. There are 27 DCs, a gem collection centre at Karur and a geo-technical cell at Coonoor. Each office is headed by a DD/AD. They are assisted by the Tahsildars/Deputy Tahsildars in performance of their statutory functions.

The Commissioner of Geology and Mining has been vested with the powers for the grant of mineral concessions in respect of major minerals occurring in *ryotwari* (patta) lands. In respect of Government lands, the State Government is vested with the powers for the grant of quarry lease of minerals. The District Collectors are empowered to grant leases for minor minerals other than granite irrespective of the classification of lands.

5.2.3 Scope and methodology of audit

Test check of the records was conducted for the period 2004-05 to 2007-08 in the office of the Secretary to the Government (Industries), Commissioner of Geology and Mining and 12³⁹ out of 27 District Offices between August 2008 and March 2009. The selection of the districts was made on the basis of the maximum revenue earned by each district and its geographical location in the state. The findings of audit are discussed in the succeeding paragraphs.

5.2.4 Acknowledgment

The Indian Audit and Accounts Department acknowledges the co-operation rendered by the Geology and Mining Department in providing the necessary information and records for audit. An entry conference was held in August 2008 with the Commissioner of Geology and Mining in which the audit objectives, scope and methodology were explained. The draft review was forwarded to the Government in September 2009. An exit conference was held

³⁹ Coimbatore, Cuddalore, Krishnagiri, Madurai, Nagapattinam, Nagercoil, Perambalur, Ramanathapuram, Salem, Thanjavur, Vellore and Villupuram.

in October 2009 in which audit findings and recommendations were discussed with the representatives of the department and the Government. The department was headed by the Commissioner of Geology and Mining while the Government side was headed by the Principal Secretary, Industries. The replies of the department/Government given during the exit conference and at other times have been appropriately reflected in the respective paragraphs.

5.2.5 Audit objectives

The audit objectives were to ascertain:

- the efficiency and efficacy of the system and procedures for awarding leases of the major and minor minerals;
- the adequacy and effectiveness of the internal controls to monitor renewal of leases to stop illicit mining from the quarries; and
- whether the royalty of the major minerals and seigniorage fee of the minor minerals were periodically revised.

5.2.6 Trend of revenue

A comparative position of the budget estimates and the actual revenue for the period from 2004-05 to 2007-08 is mentioned below:

(Rupees in crore)			
Year	Budget estimates	Actuals	Percentage of variations
2004-05	525.39	409.58	(-) 22
2005-06	427.49	465.68	(+) 9
2006-07	527.91	566.64	(+) 7
2007-08	667.30	581.76	(-) 13

The foregoing table indicated variations ranging from (-) 22 *per cent* to (-) 13 *per cent* between the budget estimates and actual revenue during 2004-05 and 2007-08 respectively.

After this was pointed out, the department intimated (October 2009) that it was preparing the budget estimates only in respect of the minerals directly under their control and the budget estimates in respect of the minerals extracted from “forest areas” and sand quarries controlled by the forest and the public works departments respectively were not being included in it.

Since all the minerals are administered under the Act and credited to the head “0853–Mines”, the department should prepare the budget estimates of the minerals for the entire state in a scientific manner and after obtaining the essential details from the forest and public works departments so that the actual receipts are very close to the budget estimates.

5.2.7 Position of arrears

As per the information furnished by the department, arrears amounting to Rs. 1,623.36 crore were pending collection as on 31 March 2008. The year-wise position, arrears pending under RR Act and in courts are mentioned in the following table:

(Rupees in crore)

Year	Arrears of revenue	Arrears covered under RR Act	Arrears covered in court cases	Arrears pending under various stages of recovery
2004-05	254.93	13.14	91.84	149.75
2005-06	261.63	39.51	92.26	129.86
2006-07	1,651.06	55.06	1,199.59	396.41
2007-08	1,623.36	38.05	1,229.69	354.62

It can be seen that there was a sharp increase in arrears in the year 2006-07. The increase was mainly in the category of court cases. Audit scrutiny of the departmental records indicated that the increase was due to inclusion of arrears pertaining to local cess and local cess surcharge which were pending finalisation in the courts.

Audit findings

System deficiencies

5.2.8 Short payment of royalty due to absence of cross verification

According to Rule 14 of the Petroleum and Natural Gas (P & NG) Rules 1959, a lessee shall pay royalty in respect of any mineral oil mined, quarried, excavated or collected by him from the leased area at the rate specified in the schedule of the Act from time to time. Similarly, in accordance with the Government of India, Ministry of Finance, Central Board of Excise and Customs Circular No.769/02/2004-CX dated 09 January 2004, National Calamity Contingent Duty (NCCD) was payable on the production of crude petroleum oil and supplied from oil field to the refineries.

A cross verification of Central Excise Range Office records with the records of the Assistant Director, Geology and Mining, Nagapattinam, indicated less payment of royalty of Rs. 2.17 crore by a company due to incorrect depiction of production of mineral oil as mentioned in the following table:

Year	Production as per Central Excise Department records	Production as per Geology and Mining Department records	Difference in quantity	Minimum rate of royalty per MT paid during the year	Amount of royalty involved (Rupees in crore)
	(in metric tonnes)				
2005-06	3,84,745.000	3,78,790.538	5,954.462	2,553.938	1.52
2006-07	3,52,603.860	3,50,454.817	2,149.043	3,038.815	0.65
Total	7,37,348.860	7,29,245.355	8,103.505		2.17

Thus, production of 8,103.505 MT was shown less in the records of mining department. **There was no mechanism for cross checking of the data with other departments to prevent any loss on account of royalty.**

After this was pointed out the department raised a demand of Rs. 2.17 crore against the company. However, a report on recovery has not been received (January 2010).

The Government may consider putting in place a system of cross verification of the data available in the mining department with that available with the other state or central Government departments/public sector companies in the interest of revenue.

5.2.9 Absence of time limit for renewal of lease deed

As per Rule 24A of Mineral Concession Rules 1960, application for renewal of mining lease should be made at least twelve months before the expiry of the current lease. If the lease is not renewed, the current lease is deemed to have been extended till the Government renews the lease. Once the lease is renewed, the assessee is bound to register the lease and pay stamp duty on the value of anticipated royalty worked out on the basis of quantity of minerals expected to be quarried over the lease period. **The Act/Rule does not provide for any time limit for finalisation of cases relating to renewal of lease.**

Test check of the records in three districts offices⁴⁰ indicated that lease (major minerals) in six cases pertaining to four lessees expired between the period August 1996 and June 2002. Though applications for renewal of lease in all the six cases were received in time and the proposals for renewal were sent to the Department/Government, the same were not approved even after a considerable period of time ranging from 6 to 12 years. All the lessees were allowed to continue their operations under the deemed extension provision. Thus, no lease deed was registered resulting in non-realisation of stamp duty amounting to Rs. 1.20 crore.

The Government may consider taking up the issue with the Central Government for including a provision in the Act/Rules fixing a time limit within which lease deed should be renewed.

5.2.10 Non-revision of seigniorage fee for minor minerals

As per proviso to Section 15(3) of the Mines and Minerals (Development and Regulation) Act 1957, the Government shall not enhance the rate of royalty or dead rent in respect of any minor mineral for more than once during any period of three years. The rates of seigniorage fee for all minor minerals were last revised in October 2002 and for granite, in April 2003. Thereafter, the rates have not been revised till date though a proposal for increasing the seigniorage fee of all minor minerals by 30 *per cent* of the existing rates was forwarded by the department to the Government in March 2006. The proposal was returned by the Government three times i.e., in June 2006, September 2006 and December 2007 asking for a few earlier Government orders issued by them. The proposals were forwarded again in January 2008 in which the department sought to increase the seigniorage fee by 50 *per cent* of the existing rates. However, the Government has not revised the rates till date. The revised rates would have fetched revenue of Rs. 42.43 crore for the period from April 2006 to March 2008 in respect of rough stone and granite excavated.

⁴⁰ Coimbatore, Perambalur and Salem.

The Government may consider putting in place a system for periodical revision of rates of royalty/seigniorage fee so that the revision of rates is made well in time before the completion of the three year period.

5.2.11 Absence of monitoring of exploitation of mineral

Test check of the records indicated that 7,177 leases were granted by the department during the period 2004-05 to 2008-09. The break up of the leases as monitored by the department is mentioned below:

Sl. no	Name of the Mineral	No. of leases in patta land	No. of leases in Government land	Total no. of leases
1.	Oil and natural gas	14	1	15
2.	Limestone	349	151	500
3.	Lignite	1	nil	1
4.	Other major minerals	389	149	538
5.	Minor minerals	4,220	1,903	6,123
Total		4,973	2,204	7,177

The total number of minor mineral lease holders was 6,123. The minerals were being removed on transport permit issued by the deputy/assistant directors. These were noted in a register called 'Permit Register' in which each lessee was awarded a separate folio. However, no periodical report or return was prescribed at higher level for identification of the mines that had remained idle due to non-extraction of mineral or were not in operation for any other reasons. In the absence of this, audit could not ascertain the number of actual leases that had remained idle or were not in operation.

There were no systematic and planned visits to the quarries by the department to ensure proper exploitation of the mineral by the lessees. A sample of 444 leases awarded during 2006-07 and 2007-08 in eight districts⁴¹ were taken up for detailed audit scrutiny which indicated the following:

- Out of 444 leases, in respect of 142 cases, lessees did not pay any seigniorage fee. There was nothing on record to indicate that any mineral was extracted during the above period.
- In 217 cases, seigniorage fee at the rate of one *per cent* to 50 *per cent* of anticipated seigniorage fee was paid as mineral to that extent was alone extracted.
- In 85 cases, seigniorage fee at the rate of 51 *per cent* to 100 *per cent* of anticipated seigniorage fee was paid.

The above analysis indicated that the mineral was either not exploited at all or exploited partially. There was no mechanism to monitor the progress of extraction of the mineral either by way of returns or by way of supervisory checks and to bring the leases that did not bring any revenue to the state to the notice of the higher authorities.

⁴¹ Coimbatore, Krishnagiri, Madurai, Nagercoil, Perambalur, Salem, Vellore and Villupuram.

The Government may take appropriate measure for preparation and submission of periodical reports/returns by the field offices and for monitoring at higher levels.

5.2.12 Internal Audit

5.2.12.1 Internal audit is a vital component of internal controls and is generally defined as the control of all controls to enable an organisation to assure itself that the prescribed systems are functioning reasonably well.

Audit noticed that there was no separate internal audit wing in the department. The internal audit was conducted by the department of Internal Audit and Statutory Board under the control of Finance Department. The extent of internal audit coverage as furnished by the department is mentioned in the following table:

Year	No. of offices due for audit	No. of offices where audit completed	Arrears of audit	Arrears in percentage
Upto 1998-99	26	19	8	31
1999-00	28	16	12	43
2000-01	29	4	25	86
2001-02	29	1	28	97
2002-03	27	5	22	81
2003-04	27	1	26	96
2004-05	29	4	25	86
2005-06	29	9	20	69
2006-07	29	10	19	66
2007-08	29	2	27	93

Thus, internal audit of very few of the offices due for such audit is actually being conducted.

5.2.12.2 The yearwise breakup of outstanding inspection reports, audit objections and the money value involved in respect of internal audit as on 31 March 2008 are mentioned in the following table:

Year	No. of inspection reports	No. of audit objections	Amount involved (Rupees in crore)
Upto 1998-99	38	614	70.75
1999-00	50	776	83.75
2000-01	54	809	91.93
2001-02	55	838	94.98
2002-03	60	929	254.57
2003-04	61	952	258.02
2004-05	61	952	258.02
2005-06	62	976	258.44
2006-07	63	983	263.08
2007-08	64	991	263.25

The above table indicates that the number of inspection reports, outstanding objections and money value of objections were on the increase.

The above facts indicate laxity in conducting internal audit and in the cases where such audit was conducted, its observations not being taken seriously by the management leading to mounting of the number of observations pending settlement.

After this was pointed out, the Commissioner stated (October 2009) that the department had already taken up the matter with the Government for establishment of a separate internal audit wing.

The Government may take appropriate measures to ensure effective conducting of internal audit and taking timely action on its observations.

Compliance deficiencies

5.2.13 Inaction in obtaining vacation of stay

As per Rule 8A (a) (c) of Tamil Nadu Minor Mineral Rules, 1959, all the lessees, besides onetime payment of the lease amount, shall also pay the seigniorage fee or dead rent, whichever is more. The department granted quarrying leases in 1998 to M/s. Gem Granite Ltd. in five districts⁴² to quarry black granite for a period of 20 years under Rule 8A of the Tamil Nadu Minor Mineral Concession Rules, 1959.

Two lessees filed two separate writ appeals before the High Court of Chennai. The first lessee filed the appeal in July 2000 and obtained stay order on payment of seigniorage fee. The second lessee filed the appeal in August 2000 which was decided in December 2006 in favour of revenue. Based on this decision, the lessee paid the seigniorage fee for the stay period as well as for the subsequent periods. The first lessee started paying the seigniorage fee for the subsequent period (i.e., from April 2007) but did not pay the fee for the period between September 1998 and March 2007. Even though the matter had been decided in its favour in the case of the second lessee, the department had not initiated any action citing this judgment to get the interim stay vacated in the case of the first lessee. This resulted in non-realisation of revenue of Rs. 10.76 crore.

After this was pointed out, the department stated (October 2009) that the Government pleader had requested (April 2009) the deputy registrar of the High Court, Chennai to bring the appeal for early hearing and disposal.

5.2.14 Fixation of royalty in respect of ‘Marl’

Three mining lessees of limestone in Perambalur district found a new mineral ‘Marl’⁴³ during extraction of limestone and were granted permission by the department for its extraction and utilisation. The department fixed the rate of royalty at ten *per cent* of the value, classifying it as an unspecified item in the Second Schedule of the Act. Test check of the records indicated that

⁴² Krishnagiri, Madurai, Salem Vellore and Villupuram.

⁴³ As per the glossary of Geology, ‘Marl’ is a grey earthy substance containing 35-65 *per cent* clay and 65-35 *per cent* carbonate.

permission for inclusion of marl in the mining lease was granted on account of the following reasons:

- The mineral “marl” is said to be used upto 25 per cent in the cement manufacture.
- The production cost of marl is very low.
- The chemical composition is more or less equal to limestone.

The above facts indicated that the utility of ‘Marl’ was to some extent the same as that of limestone, in production of cement and, thus, should have been charged at the same rate of royalty as that of limestone. Thus, fixation of royalty at ten per cent by the Government has caused a loss to the tune of Rs. 6.85⁴⁴ crore during the period from 2005-06 to 2007-08 in which 17.24 lakh MT of ‘Marl’ were utilised in the production of cement.

After this was brought to the notice of the department, it was stated (November 2009) that action to fix the correct rate of royalty would be taken in accordance with the provisions of the Act and the difference in royalty, if any, would be recovered from the lessees concerned as arrears of land revenue.

5.2.15 Short levy of licence fee for mining petroleum

Rule 10 of Petroleum Exploration Licence (PEL) Rules, provides that a licence can be granted initially for four years which may be extended for a further period of one year each till the expiry of exploration period provided under agreement. In April 2003, the Central Government relaxed this limit extending it till the expiry of the exploration period. The rate of the licence fee ranged from Rs. 50 per square kilometer for the first year to Rs. 700 per square kilometer for the fourth year. Thereafter, it is Rs. 1,000 per square kilometer for each subsequent year of renewal.

Test check of the records in six District Offices⁴⁵ indicated that a company renewed twelve petroleum exploration licences beyond the fifth year on 48 occasions. However, renewal fees from 2004-05 to 2007-08 were levied at lesser rates instead of at Rs. 1,000 per square kilometer per annum. This resulted in short levy of annual licence fee of Rs. 1.19 crore.

After this was pointed, the department accepted (June 2009) the audit observation. A report on recovery has not been received (January 2010).

5.2.16 Non-revision of rate of royalty of major mineral

As per provisio to Section 9(3) of the Mines and Minerals (Development and Regulation) Act 1957, the Central Government shall not enhance the rate of royalty in respect of any mineral more than once during any period of three years. The Eleventh Finance Commission (2000) recommended that the rates of royalty on minerals be revised and the decision about the revision of the rates of royalty be taken well before the date on which the revision falls due so that it can be notified immediately after the completion of every three year period as provided under the law. The Commission further opined that in case

⁴⁴ 17,23,766.250 MT X Rs. 39.72 (Rs. 45 – Rs. 5.28) = Rs. 6,84,67,995.

⁴⁵ Nagapattinam, Tiruvarur, Perambalur, Cuddalore, Ramanathapuram and Thanjavur.

the process of revision was not completed by the date the new revision is due, the states should be entitled to compensation.

Lignite is one of the main revenue earning major minerals of the state. The royalty rate was fixed by Government of India in 2001. Thereafter, it was revised in the year 2007 after a gap of six years. The State Government did not take action to get the rate of royalty revised immediately after three years, i.e., from April 2004 to July 2007 and also no proposal was sent by the State Government to the Central Government for claiming compensation for the delayed revision of royalty on lignite which worked out to Rs. 105.29 crore.

After this was pointed out, the department stated in July 2009 that they would take up the matter with the Central Government.

5.2.17 Conclusion

Audit review revealed that no system had been prescribed for cross verification of data available with the mining department with other State/Central Government department/undertakings. No revision of royalty rates at periodical intervals was proposed by the State Government. This resulted in foregoing considerable amount of revenue. The department remained unaware of the areas of malfunctioning of the systems as internal audit remained largely non-functional.

There were no system prescriptions for the inspection of quarries, either in the matter of course or as special/surprise checks where low/no seigniorage fee collections were made. There were also inordinate delays in renewal of leases which resulted in non realisation of stamp duty.

5.2.18 Summary of recommendations

The Government may consider:

- putting in place a system of cross verification of the data available in the mining department with other State or Central Government departments/public sector companies in the interest of revenue;
- taking up the issue with the Central Government for including a provision in the Act/Rules, fixing a time limit within which lease deed should be renewed;
- putting in place a system for revision of rates of royalty/seigniorage fee so that the revision of rates is made well in time before the completion of the three year period;
- taking appropriate measures for preparation and submission of periodical reports/returns by the field offices and for monitoring at higher levels; and
- taking appropriate measures to ensure effective conducting of internal audit and taking timely action on its observations.

B – PUBLIC WORKS DEPARTMENT

5.3 Non/short recovery of licence fees

The Tamil Nadu Public Buildings (Licensing) Act, 1965 provides for the inspection and licensing of the public buildings. Public building means any building used as school, college, university, hostel, library, hospital, club, lodging/boarding house, marriage hall, community hall, etc. According to the Section 3 of the Act, all public buildings shall be used only under a valid licence obtained from the competent authority on payment of the prescribed fees. The Tahsildar is the competent authority to issue licences based on application by the owners of the buildings. The licence granted is valid for a period of three years. The rate of fee varies from Rs. 10 to Rs. 5,000 depending on the nature and value of the buildings.

Test check of the records in 14 taluk offices⁴⁶ during the period between December 2006 and March 2009 indicated that the owners of 477 public buildings did not apply for the licences and hence these were not granted. Further, in Thirukovilur taluk in respect of 46 private and aided schools, a licence fee of Rs. 44,000 was recoverable against which Rs. 4,600 was recovered. These deficiencies resulted in non/short recovery of licence fees of Rs. 21.62 lakh.

After this was pointed out between January 2007 and March 2009, the District Collector, Kancheepuram replied (December 2008) that Rs. 1.85 lakh had been collected between July 2007 and June 2008. A report on recovery from the remaining taluks has not been received (January 2010).

⁴⁶ Ambattur, Andipatti, Chenalpattu, Cheyyur, Denkanikottai, Maduranthagam, Hosur, Srirangam, Thirukazhikundram, Thirukovilur, Thiruvallur, Thiruvavur, Thiruvaiyaru and Tirunelveli.

The matter was reported to the Government between November 2008 and March 2009; their reply has not been received (January 2010).

**Chennai,
The**

**(S. RAJANI)
Accountant General
(Commercial and Receipt Audit)
Tamil Nadu**

Countersigned

**New Delhi,
The**

**(VINOD RAI)
Comptroller and Auditor General
of India**