

CHAPTER VIII MINES AND MINERALS

8.1 Results of audit

Test check of the records of different District Land and Land Reforms (DL and LR) offices as well as the office of the Cess Deputy Collector (CDC), Chief Mining Officer (CMO) and other mining officers conducted during the year 2008-09, indicated underassessment and non/short realisation of revenue amounting to Rs. 9.49 crore in 44 cases, which could be classified under the following categories:

(Rupees in crore)			
Sl. no.	Categories	No. of cases	Amount
1.	Non/short realisation of price of minerals extracted unauthorisedly	24	2.71
2.	Short recovery of penalty for unauthorised extraction of minerals	1	5.75
3.	Non/short realisation of royalty and cess	7	0.38
4.	Other irregularities	12	0.65
Total		44	9.49

During the course of the year 2008-09, the department accepted underassessment and other deficiencies of Rs. 7.72 crore involved in 32 cases which were pointed out in audit during the instant year. An amount of Rs. 6.98 lakh was realised in four cases at the instance of audit during the year.

A few illustrative audit observations involving Rs. 1.59 crore are mentioned in the succeeding paragraphs.

8.2 Audit observations

Scrutiny of the records maintained in the offices of District Land and Land Reforms Officers, Cess Deputy Collector (CDC) and Chief Mining Officer indicated non/short realisation of price of minerals, dead rent, water rate, cess on brick earth and interest as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on test check carried out in audit. Such omissions are pointed out repeatedly in audit, but not only do the irregularities persist; these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system so that recurrence of such lapses in future can be avoided.

8.3 Non/short realisation of revenue from minor minerals extracted unauthorisedly

Under the provisions of the Mines and Minerals (Development and Regulation) Act (MMDR Act), 1957 as amended from time to time and Rules made thereunder, no person is entitled to undertake mining operation except under the authority of a valid quarry permit/mining lease. In the event of unauthorised extraction of minerals, apart from other penal action, the department is empowered to recover the minerals raised unlawfully or the price¹ thereof.

Scrutiny of the records of 20 BL and LR offices under five DL and LR offices² between June 2007 and September 2008 indicated that in 180 cases, illegal extraction of 1.45 crore cubic feet (cft) of minor minerals³ by 118 brickfield owners, three individuals and one company between 2004-05 and 2007-08 was detected by the department. Though price of such minerals extracted was recoverable under the MMDR Act, the DL and LR offices did not initiate any action to recover the price of minerals. In 132 cases, the price of minerals of Rs. 80.03 lakh had not been realised. In the remaining 48 cases Rs. 12.59 lakh was paid as royalty and cess instead of Rs. 26.60 lakh realisable as price of minerals. This resulted in non/short realisation of revenue of Rs. 94.04 lakh.

After the cases were pointed out, the district authorities admitted the audit observation and stated between June 2007 and September 2008 that action would be taken to realise the dues. A report on realisation has not been received (October 2009).

The cases were forwarded to the Government between August 2007 and October 2008 followed by reminders issued up to June 2009; their reply has not been received (October 2009).

¹ Brick earth - Rs. 30 per 100 cft for 1981 with an increase of Rs. 1.50 per 100 cft. each year. In the absence of fixation of price of sand/boulder, the procurement price of PW (Roads) Department has been taken into account.

² Burdwan (East), Burdwan (West), Darjeeling, Hooghly and South 24-Parganas.

³ Brick earth - 1.44 crore cft., sand - 96,300 cft. and boulder - 25,000 cft.

8.4 Non-realisation of dead rent

Under the provisions of MMDR Act, the holder of a mining lease is liable to pay dead rent at the prescribed rate. However, where the holder of such mining lease becomes liable to pay royalty for any mineral removed or consumed by him or by his agent or sub-lessee from the leasehold area, he is liable to pay either such royalty or the dead rent in respect of that area, whichever is greater.

Scrutiny of the records of the office of the CMO, Asansol in March 2008 indicated that though in 19 collieries under the Eastern Coalfields Ltd. (ECL) having leasehold area of 9,833.34 hectares no operation was carried out during the year 2006-07, yet no action was taken by the CMO to assess the dead rent and to raise the demand accordingly. In other five collieries having leasehold area of 13,239.79 hectares, the royalty assessed fell short of dead rent for the year 2006-07. However, while assessing the royalty, the amount payable was not taken into consideration. This resulted in non-realisation of dead rent of Rs. 34.56 lakh.

After the cases were pointed out, the CMO, Asansol, stated in August 2008 that Rs. 5.03 lakh has been realised from ECL. A report on realisation of the balance amount has not been received (October 2009).

The cases were forwarded to the Government in April 2008, followed by reminders issued upto June 2009, their reply has not been received (October 2009).

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

Under the provisions of the Mineral Concession (MC) Rules, 1960 and the 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 under the West Bengal Irrigation (Imposition of Water Rate) Act, 1974. Water rate is realisable at the rate of Rs. 54 per acre per annum.

Mention was made in paragraph 6.2.6 in the report of the Comptroller and Auditor General of India for the year 2005-06, Government of West Bengal, regarding non-assessment of water rate which resulted in non-realisation of Rs. 98.05 lakh. While responding to the audit paragraph, the Government stated in June 2006 that the Finance Department would take up the matter with Irrigation and Waterways Department and decide the authority for assessment.

Scrutiny of the records indicated that this matter has not been settled so far and no instruction has been issued by the Government regarding the authority who would assess the water rate. During test check of records of CDC, Asansol in March 2008 it was noticed that water rate on 25,820.55 acres of land occupied/used by four lessees⁴ for extraction of coal during 2006-07 was not assessed. This resulted in non-realisation of revenue of Rs. 13.85 lakh.

After the cases were pointed out, the CDC, Asansol stated (March 2008) that the office had already moved the Joint Secretary, L and LR Department and

⁴ Eastern Coal Field Ltd., M/s Bharat Coking Coal Ltd., M/s Bengal EMTA Coal Mines Pvt. Ltd. and M/s Integrated Coal Mines Ltd.

the Joint Secretary, Irrigation and Waterways Department, for seeking instructions in this regard. A report on further development has not been received (October 2009).

The cases were forwarded to the Government in April 2008, followed by reminders issued up to June 2009, their reply has not been received (October 2009).

8.6 Non/short realisation of cess on brick earth

Under the provisions of the Cess Act, 1880 as amended in 1984, read with the West Bengal Primary Education Act, 1973 and the West Bengal Rural Employment and Production Act, 1976 holders of quarry permits under the WBMM Rules, are liable to pay cess⁵ at the rate of Rs. 15 per 100 cft.

Scrutiny of the records of three DL and LR offices⁶ between June 2006 and August 2008 indicated that in 51 cases the quarry permit holders extracted and dispatched 65.11 lakh cft. of brick earth during the period from 2003-04 to 2007-08, of which in 34 cases the district authorities did not realise cess of Rs. 6.81 lakh for extraction of 45.39 lakh cft. of brick earth and in 17 cases, the amount realised was Rs. 1.91 lakh less than the realisable amount. This resulted in non/short realisation of cess of Rs. 8.72 lakh.

The Government to whom the cases were forwarded between August 2006 and September 2008 stated in July 2009 that:

- in 45 cases involving Rs. 6.74 lakhs, an amount of Rs. 4.98 lakh has been realised. Report on realisation of balance amount has not been received (October 2009);
- in one case involving Rs. 18,000, recovery proceedings under BPDR Act, 1913 have been ordered; and
- in five cases involving Rs. 1.80 lakh, the brick fields were not in operation during the period of audit. However, the fact remains that the five brickfield owners extracted 12 lakh cft. of brick earth during 2006-07 for which cess is realisable.

Report on further development has not been received (October 2009).

8.7 Non-levy of interest

Under the provisions of the MC Rules, read with the notification of Government of WB issued in January 1979 and February 1991 mining dues other than minor minerals including royalty relating to the quarters ending March, June, September and December every year are required to be paid by the first day of the succeeding month. If the quarterly dues remain unpaid on the expiry of sixtieth day from the due date, the assessing authority shall charge simple interest at 24 *per cent* per annum till the date of payment.

Scrutiny of the records of CDC, Asansol in January 2007 indicated that Bengal EMTA Coal Mine Ltd. paid royalty of Rs. 1.86 crore between January

⁵ Public works cess: Rs. 3, road cess: Rs. 3, primary education cess: Rs. 6 and rural employment cess: Rs. 3.

⁶ Darjeeling, Hooghly and Nadia.

and September 2006 for various quarters ending between September 2005 and March 2006. The delay ranged between 46 and 99 days after expiry of the grace period of 60 days. The CDC, Asansol, however, had not levied and realised interest of Rs. 7.72 lakh for the delay.

After the cases were pointed out, the assessing authority raised demand for interest against the lessee in January 2007. A report on realisation has not been received (October 2009).

The cases were forwarded to the Government in February 2007 followed by reminders issued up to June 2009; their reply has not been received (October 2009).