



Chapter – V: Mines and Minerals

5.1 Tax administration

Coal, crude oil and natural gas are the major minerals and limestone, boulder, stone and sand are the minor minerals in the State of Assam. The Mines and Minerals Department of the Government of Assam realises revenue from major minerals and from limestone (minor mineral), which comprises application fees for mining lease/prospecting licence, royalty, dead rent, surface rent, fines/penalties and interest on belated payment of dues. Levy and collection of royalty from other minor minerals are entrusted to the Environment and Forest Department.

For conservation, systemic development and regulation of mining activities in India, the Government of India enacted the Mines and Minerals (Development and Regulation) Act (MMDR Act), 1957; the Mineral Concession Rules, 1960; the Mineral Conservation and Development Rules, 1988; the Granite Conservation and Development Rules, 1999 and the Colliery Control Rules, 2004. The mining activities in Assam are governed under the above Acts and the Assam Minor Mineral Rules, 1994 framed by the Government of Assam in exercise of the powers conferred under the MMDR Act. The levy and collection of royalty, dead rent and surface rent on minerals are regulated under the above cited Acts/Rules. The conservation, development and extraction of oil and natural gas are regulated under the Oilfield (Regulation and Development) Act, 1948 and the Petroleum and Natural Gas (PNG) Rules, 1959.

The Commissioner & Secretary, Mines and Minerals Department, is the head at the Government level and the Director of Geology and Mining, Assam is the head of the Department, who is assisted by one Joint Director, four Chief Geologists/Jt. Directors, one Chief Drilling Engineer, one Deputy Chief Chemist, five Deputy Directors/Sr. Geologists, one Mining Engineer, one Sr. Drilling Engineer, two Sr. Chemists, five Chemists, one Assistant Mining Engineer, one Assistant Mechanical Engineer, three Drilling Engineers, 16 Geologists, 27 Assistant Geologists and other ministerial staff.

The Directorate does not have any unit in the field unlike other States where there are formations under the Department/Directorate in the field/district also.

5.2 Trend of receipts

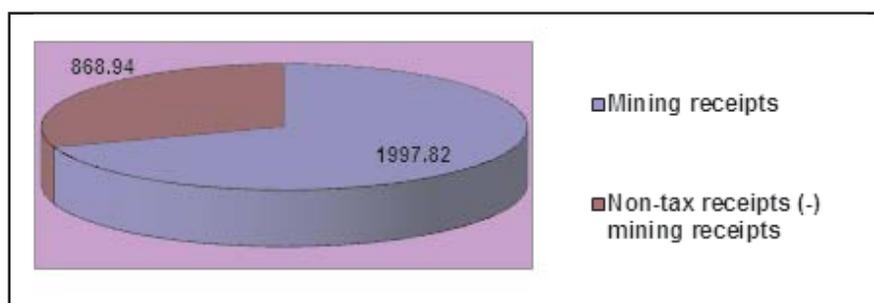
The position of budget estimates, actual receipts under ‘mines and minerals’ alongwith the total non-tax receipts of the State during 2007-08 to 2011-12 are exhibited in Table 1 and graph/pie chart below.

Table 1
Analysis of mines and minerals

(₹ in crore)

Year	Budget estimates	Actual Mining receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total non-tax receipts of the State	Percentage of actual receipts <i>vis-à-vis</i> total non-tax receipts {(3) to (6)}
(1)	(2)	(3)	(4)	(5)	(6)	(7)
2007-08	1,406.87	1,566.42	159.55	11	2,134.59	73
2008-09	1,755.09	1,449.86	(-) 305.23	(-) 17	2,271.90	64
2009-10	1,718.01	1,612.96	(-) 105.05	(-) 6	2,752.95	59
2010-11	1,656.61	1,656.11	(-) 0.50	(-) 0.03	2,373.33	70
2011-12	1,919.12	1,997.82	78.70	4	2,866.76	70

Source: Finance Accounts and Departmental figures.



Position of mining receipts *vis-a-vis* total non-tax receipts during 2011-12

It is noticed from the table above that the percentage of mines and minerals receipts when compared to the total non-tax receipts of the State ranged between 59 and 73 *per cent* during the last five years.

Though the Department has put in place a mechanism for estimating the revenues, there were variations between budget estimates and actual receipts ranging between (-) 17 and 11 *per cent* during 2007-08 to 2011-12 which the Department needs to look into.

5.3 Working of internal audit wing

Internal audit, a vital component of the internal control mechanism, functions as eyes and ears of the Department and is a vital tool which enables the management to assure itself that prescribed systems are functioning reasonably well.

It was noticed that the Government has not put in place any separate internal audit wing in the Directorate of Geology and Mining nor arranged for any internal audit by the Director of Local Audit or otherwise. Had there been an effective internal audit system in the Department, deficiencies detected during local audit could possibly have been detected, rectified and prevented.

The Department may, in coordination with Finance Department, arrange to set up an internal audit wing in the Directorate or conduct internal audit of its records/accounts through the Director of Local Audit.

5.4 Results of audit

Test check of records of one unit relating to the Mines and Minerals Department during 2011-12 revealed cases of short payment/realisation of royalty, loss due to absence of standard norms for deduction etc. involving ₹ 274.35 crore in eight cases as mentioned in Table 4.

Table 4
Results of audit

(₹ in crore)			
Sl. No.	Categories	No. of cases	Amount
1.	Loss due to absence of standard norms for deduction	01	146.20
2.	Short payment/realisation of royalty	04	124.87
3.	Other irregularities	03	3.28
Total		08	274.35

The Department accepted five cases with revenue implication of ₹ 10.80 crore and recovered ₹ 5.86 crore during 2011-12.

A few illustrative audit observations with financial implication of ₹ 173.44 crore are mentioned in the succeeding paragraphs.

Audit observations

5.5 Non-insertion of standard norms for deduction on account of operational utilisation in the Petroleum and Natural Gas Rules, 1959 deprived the Government of additional revenue of ₹ 136.31 crore.

[Director of Geology and Mining, July – August 2011]

Section 6A (3) of the Oil field (Regulation and Development) Act, 1948 and provisions of PNG Rules, 1959 stipulate that no royalty shall be payable in respect of any crude oil, casing head condensate or natural gas used for drilling or under operation, relating to production of petroleum or natural gas. The Rules as well as the petroleum mining lease agreement do not, however, specify any standard norms for such utilisation.

In view of Oil India Limited (OIL) and Oil & Natural Gas Corporation Limited (ONGCL) claiming substantial percentage of their production as “operational utilisation” (*a percentage of gas used in exploration*) thereby not paying royalty on the same, the Principal Secretary, Mines and Minerals Department, Government of Assam had in May 2002, followed up in November 2008, taken up the issue with the Secretary, Ministry of Petroleum and Natural Gas, Government of India and conveyed Government of Assam’s request to restrict the elements of unavoidable loss in case of natural gas to a maximum of five *per cent*. It was also requested that necessary amendment be made in the PNG Rules incorporating the above clause.

Mention was made in paragraph 6.2.10.1 of the Report of the Comptroller and Auditor General of India for the year ended 31 March 2010 (Revenue Receipts), Government of Assam, regarding loss of revenue due to absence of standard norms for deduction on account of operational utilisation. Periods between 2004-05 and 2008-09 was covered in the above paragraph.

During scrutiny of records of the Director of Geology and Mining, Assam, it was observed that the Government of India is yet to incorporate the aforesaid provision restricting unavoidable loss at five *per cent* in the PNG Rules as per the request of Government of Assam.

It was also noticed that M/s ONGCL produced 92.94 crore¹ SCUM² natural gas during 2009-

¹ 2009-10 = 46.72 crore SCUM and 2010-11 = 46.22 crore SCUM

² Standard cubic meter - unit in which gas is measured.

10 and 2010-11 of which 41.24 crore³ SCUM natural gas *i.e.* 44.38 *per cent* was claimed as operational utilisation and thus, no royalty was paid on the same. In the absence of any standard norms in the PNG Rules and non-inclusion of the same in the PNG Rules by the Government of India as per the request of Government of Assam, the Mines and Minerals Department had no other option, but to accept the returns submitted by M/s ONGCL. Consequently, the State was deprived of revenue of ₹ 136.31 crore⁴ calculated on the volume of natural gas claimed as unavoidable loss over and above the ceiling of five *per cent* proposed by the Government of Assam.

While pointing out the matter in the Audit Report for the year ended 31 March 2010 it was recommended that the State Government may take up the matter with Government of India for amendment of PNG Rules. However, while conducting the present audit, it was found that no tangible progress was made in this regard. It is recommended that the matter may be vigorously pursued by Government of Assam at appropriate level of Government of India for fixing a ceiling for claiming operational utilisation by amending relevant clause of PNG Rules instead of leaving it open ended.

After this was pointed out, the Department stated (August-September 2012) that the proposal for restricting the quantity of unavoidable loss of crude oil and natural gas were made on the basis of production performance of M/s OIL and M/s ONGCL as well as the market value of the hydrocarbons. They also stated that the quantity of unavoidable loss is to be minimised by adopting improved techniques and adequate measures as well as through enforcement of amendment of the relevant regulations so that the producing companies are compelled to pay royalty on quantity beyond the permissible limit fixed by law. It was further stated that as recommended by Audit, the matter would be again pursued with the Government of India for necessary amendment in the PNG Rules.

The case was reported to the Government in September 2011 and followed up in January 2012; their replies have not been received (November 2012).

³ 2009-10 = 21.21 crore SCUM and 2010-11 = 20.03 crore SCUM

⁴ Calculated considering average rates of royalty : 2009-10 = ₹ 1,918.86/thousand SCUM and 2010-11 = ₹ 5,649.13/thousand SCUM on the following:

Total production = 92.94 crore SCUM;

Five per cent of total production = 4.65 crore SCUM (a);

Deduction allowed = 41.24 crore SCUM (b);

(a) - (b) = 36.59 crore SCUM (2009-10 = 18.87 crore SCUM; 2010-11 = 17.72 crore SCUM).

5.6 Absence of a system of cross verification of the monthly returns with the annual accounts of the lessee led to non-detection of short payment of royalty of ₹ 26.33 crore including interest

[Director of Geology and Mining; July – August 2011]

The Oilfield (Regulation and Development) Act, 1948 and Rules made thereunder (PNG Rules, 1959) provide for levy of royalty in respect of oil and natural gas extracted from the leased area at the prescribed rates. The Rules also provide that a lease holder of oil, condensate and natural gas shall furnish full and proper return showing the quantity of crude oil, condensate extracted by him during the preceding month from the mining operation undertaken under the provision of the lease.

During scrutiny of the monthly returns of M/s OIL on extraction of crude oil and natural gas, it was observed that the lessee had disclosed production of 79.70 lakh kilolitres (KL) crude oil/condensate during the years 2009-11 and 17,381.06 lakh SCUM natural gas during 2009-10 on which royalty was paid by the lessee.

To ascertain the correctness of the figures disclosed in the monthly returns by the lessee, a cross verification of these

figures with those reflected in the annual accounts of the lessee for the relevant years and information available in the website of Ministry of Petroleum and Natural Gas (MoPNG) was carried out. It was observed that during the same periods, the annual accounts/information of MoPNG reflected net production of crude/condensate as 80.43 lakh KL and natural gas as 20,260 lakh SCUM. This reveals that the net production of 0.73 lakh KL crude oil/condensate and 2,878.94 lakh SCUM natural gas was suppressed by the lessee and resultantly there was short payment of royalty of ₹ 26.33 crore including interest. Due to the absence of a system of carrying out cross verification of the net production disclosed by the lessee in their monthly returns with those declared in their annual accounts/available in the website of the MoPNG, the Directorate of Geology and Mining, Assam remained unaware of such suppression and therefore did not raise demand for recovery of the royalty and interest short paid by the lessee.

It is recommended that a system needs to be instituted in the Directorate of Geology and Mining, Assam for carrying out cross verification of the figures of net production disclosed by the lessees in their monthly returns with those depicted in their annual accounts/information available in the website of the MoPNG so as to detect suppression of production figures, if any, leading to short realisation of royalty.

After this was pointed out, the Department stated (July 2012) that royalty on crude oil was paid by M/s OIL on the production quantity after adjusting quantity for permissible purposes like unavoidable loss and quantity used for production of petroleum and natural gas. As regards the variation in respect of natural gas the Department stated no royalty shall be payable on natural gas used for petroleum mining operation as per provision of PNG Rules.

The reply is not tenable as Audit has considered the volume of crude oil and natural gas on which royalty was actually paid by M/s OIL and compared the same with the 'net production' as available in the annual accounts/website of MoPNG and clearly, net production is arrived at after allowing all permissible deductions from gross production.

The case was reported to the Government in September 2011 and followed up in January 2012; their replies have not been received (November 2012).

5.7 Short realisation of royalty due to payment of royalty at varied rates

[Director of Geology and Mining; July – August 2011]

According to the PNG Rules, 1959, a lessee shall pay to the State Government a royalty at 10 per cent of the value of natural gas at well head as obtained by the lessee from the leased area.

During scrutiny of the monthly returns submitted by the lessees of natural gas namely M/s OIL and M/s ONGCL during the period from April 2009 to March 2011, it was observed that M/s OIL had paid royalty on

34.66 lakh SCUM natural gas at rates ranging between ₹ 179.53 and ₹ 525.21 per thousand SCUM. However, during the same period, the other lessee M/s ONGCL had paid royalty on natural gas at rates varying between ₹ 185.88 and ₹ 565.45 per thousand SCUM. The payment of royalty at lower rates by M/s OIL compared to rate of royalty paid by M/s ONGCL resulted in short realisation of royalty of ₹ 8.05 crore.

After this was pointed out, the Department stated (September 2012) that ₹ 5.72 crore has been recovered from M/s OIL and a demand notice for interest of ₹ 99.40 lakh has been issued for delayed payment of royalty on natural gas. Report on realisation of the balance amount as well as the interest has not been received (November 2012).

The case was reported to the Government in September 2011 and followed up in January 2012; their replies have not been received (November 2012).

5.8 Non-submission of claim by Government of Assam for payment of additional royalty on crude oil – non-realisation of revenue of ₹ 2.51 crore

[Director of Geology and Mining; July – August 2011]

The Government of Assam granted a Petroleum Mining Lease (PML) on 27 August 2004 for an area of 52.75 sq. km to M/s Canaro Resources Limited (CRL) for Amguri Block under Production Sharing Contract (PSC) to extract crude oil. For this, the State Government agreed to realise royalty on crude oil at fixed rate of ₹ 528 per MT while the balance royalty (in excess of ₹ 528/MT) was to be realised from the Oil Industry Development Board (OIDB) fund as decided by the Government of India. As per the system put in place, the claims for balance royalty by the State Government would be examined by the Director General of Hydrocarbons and submitted to the OIDB for payment to the concerned State Governments.

Mention was made in paragraph 6.2.8.3 of Report of the Comptroller and Auditor General of India for the year ended 31 March 2010 (Revenue Receipts), Government of Assam regarding non-submission of claim for additional royalty of ₹ 10.48 crore on crude oil extracted during April 2006 to March 2009 by M/s CRL.

During scrutiny of the records of the Director of Geology and Mining, Assam, it was observed that the OIDB had made payments of ₹ 17.30 crore being the balance royalty on crude oil extracted by CRL during April 2006 to March 2010. It was further observed from the monthly returns submitted by CRL that during

the months April 2010 to November 2010, CRL extracted 9,723.52 MT crude oil on which royalty of ₹ 3.02 crore was due, of which, royalty of ₹ 51.34 lakh (at ₹ 528 per MT) was paid by CRL. Though the balance amount of ₹ 2.51 crore was to be claimed from OIDB, it was noticed that no claim was raised by the Director of Geology and Mining which resulted in non-realisation of revenue of ₹ 2.51 crore. Besides, despite failure of the CRL to submit monthly returns for December 2010 to March 2011, Director of Geology and Mining, Assam did not take any action to approach the lessee and obtain the returns for those months. Consequently, the Directorate remained unaware of the crude oil extracted by CRL during those months alongwith royalty payable by CRL and the amount of balance royalty that is to be claimed from the OIDB.

After this was pointed out, the Department stated (September 2012) that a demand for ₹ 3.29 crore being the differential royalty for April 2010 to March 2011 has been raised (October 2011) by the Department which was transmitted to the Government of India by the Government of Assam in November 2011. It was further stated that payment is yet to be received. Further development has not been reported (November 2012). As regards non-submission of returns by CRL as pointed out in Audit, the Department did not furnish any reply.

The case was reported to the Government in September 2011 and followed up in January 2012; their replies have not been received (November 2012).

5.9 Non-levy of interest of ₹ 10.27 lakh on delayed payment of royalty

[Director of Geology and Mining; July – August 2011]

The Oilfield (Regulation and Development) Act, 1948 and Rules made thereunder provide that the lessee shall pay royalty in respect of any mineral oil mined, quarried, excavated or collected by him from the leased area at the rates specified in the schedule of the Act. The royalty is to be paid on monthly basis on the last day of the month succeeding the period in respect of which it is payable. The PNG Rules further provide that licence fees, royalties and other payments shall, if not paid within the time specified for such payment, be increased by 200 basis points over the prime lending rate of State Bank of India for the delayed period.

It was observed that there is no system in the Directorate of Geology and Mining, Assam for conducting assessment of royalty independently on the basis of information submitted in the returns of the lessees. It is, therefore, necessary that the returns of the lessees are scrutinised by the Directorate of Geology and Mining, Assam atleast to ensure that there is no delay in payment of Government dues and in case(s) of delay, interest is levied as per the provisions of the PNG Rules.

During scrutiny of the monthly returns of M/s OIL on extraction of natural gas and crude oil respectively for 2009-10, it was

observed that there was delay in depositing royalty amounting to ₹ 2.52 crore for periods ranging between 1-9 months by OIL. Due to delayed payment of royalty, interest at 14.25 per cent (calculated at prime lending rate of SBI plus 200 basis points) was to be levied on the lessee. Due to the failure of the Directorate of Geology and Mining, Assam to properly scrutinise the returns of the lessee, delayed payment of royalty by the lessee remained undetected till this was pointed out by Audit. Consequently, interest for delayed payment of royalty amounting to ₹ 10.27 lakh was not levied.

After this was pointed out, the Department stated (September 2012) that demand notice for ₹ 10.27 lakh being interest for delayed payment of royalty had been issued to M/s OIL in July 2012. Report on realisation has not been received (November 2012).

The case was reported to the Government in September 2011 and followed up in January 2012; their replies have not been received (November 2012).

5.10 Due to inaction of the Directorate of Geology and Mining, Assam, royalty from cement manufacturing industries remained unrealised

[Director of Geology and Mining; July – August 2011]

According to the instruction (January 1983) of Government of Assam, Hill Areas Department, all licensees/lease holders engaged in the mining operation in the area under the jurisdiction of any district council area should deposit 60 per cent of the due royalty to the concerned district council while the remaining 40 per cent to be remitted to the State Government.

The Government also ordered through the same instruction as referred above that it would be the responsibility of the Director of Geology and Mining to ensure that the licensees/lessees pay the royalty due to the district council as well as the State Government.

Further, Section 25 of the Mines and Minerals (Regulation and Development) Act, 1957 empowers the State Governments to recover any sum due under mining leases as arrears of land revenue.

During scrutiny of the monthly returns of the lessees of limestone quarries maintained in the office of the Director of Geology and Mining, Assam, it was observed that two licensees M/s Vinay Cements Limited and M/s North East Cement Limited extracted 42,262 MT and 12,748 MT limestone respectively from areas falling under district councils during the period between April 2010 and March 2011 on which royalty of ₹ 13.86 lakh⁵ was payable to the State Government. Though the lessees submitted returns showing extraction of limestone, they did not pay the requisite royalty on the same. It was noticed that though the responsibility of ensuring realisation of

due revenue accrued to the State Government as well as the district councils rested with the office of Director of Geology and Mining, it did not take recourse to provision to effect recovery of dues as arrears of land revenue

⁵ Rate of royalty /MT of limestone = ₹ 63. Hence, royalty for 55,010 MT of limestone = ₹ 34.65 lakh. Thus, 40 per cent of ₹ 34.65 lakh = ₹ 13.86 lakh.

after its effort (reminder to the lessees issued in June 2011) to recover arrear dues failed. Thus, due to inaction of the Directorate of Geology and Mining to recover the dues by invoking the provisions of the Act resulted in revenue of ₹ 13.86 lakh remaining unrealised.

After this was pointed out, the Department while admitting the audit observation stated (September 2012) that M/s Vinay Cements has paid the dues in February 2012 and for delayed payment of royalty, interest of ₹ 3.47 lakh was levied on the lessee which had been paid by them. As regards M/s Necem Cements Ltd., the Department stated that it is a fact that the lessee had not paid royalty for the period April 2010 to March 2011 despite the matter being taken up by the Department with the lessee. It was further stated that the lessee is being notified shortly to clear the dues failing which appropriate action would be taken against the lessee. Further development has not been reported (November 2012).

The case was reported to the Government in September 2011 and followed up in January 2012; their replies have not been received (November 2012).