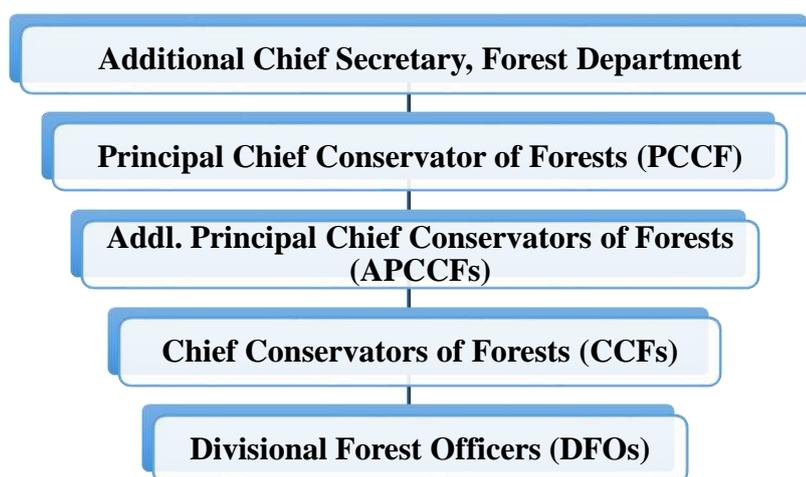


## Chapter-V: Non-Tax Receipts

### Section A: Forestry and Wild Life (Receipts)

#### 5.1 Tax administration

The Forest Department functions under the overall control of Additional Chief Secretary (ACS), who is the Chief Controlling Officer of the Department at Government level. The Principal Chief Conservator of Forest (PCCF) is the Head of the Department. The Addl. PCCFs work under the supervision of PCCF. The PCCF is assisted by Chief Conservator of Forest (CCF) at circle level who is assisted by Divisional Forest Officer (DFO) at Divisional level. The organisational setup of Forest Department is depicted in the organogram below:



#### 5.2 Internal Audit

Internal Audit wing was established (2010) in the office of Principal Chief Conservator of Forest (PCCF) which has been working under Addl. PCCF (Finance/Budget). As per orders of PCCF, employees of Finance/Budget and other wings conducted internal audit of the subordinate offices as per tour programme. The detail of internal audit planned and conducted during the period 2013-14 to 2017-18 is given in **Table 5.1**:

**Table 5.1: Details of internal audit planned and conducted**

| Year    | Audit planned | Audit conducted | Shortfall in percentage | IRs issued    | Compliance of issued IRs |
|---------|---------------|-----------------|-------------------------|---------------|--------------------------|
| 2013-14 | 09            | 09              | 0                       | 09            | 02                       |
| 2014-15 | 17            | 17              | 0                       | 17            | 08                       |
| 2015-16 | 34            | 27              | 21                      | 27            | 06                       |
| 2016-17 | 18            | 14              | 22                      | 14            | 03                       |
| 2017-18 | 12            | 10              | 17                      | Under process | --                       |

From the above table it is evident that during the year 2015-18, there was shortfall of 17 to 22 per cent in internal audit. Further, it was also noticed that, compliance of 53 to 79 per cent inspection reports were not submitted to

higher authority. Further scrutiny of Inspection Reports issued by the Internal Audit wing of the Department revealed that it has pointed out issues mainly related to establishment and irregular expenditure.

The Department replied (June 2019) that due to assembly session, important official works and election training of staff, internal audit of the Divisions could not be conducted as per plan. Correspondence for issuing of inspection reports is being done.

The fact remains that the internal audit of Divisions could not be completed as per plan and the audit remained ineffective as no action was taken on the IRs.

### **5.3 Results of audit**

Audit test checked the records of 19<sup>1</sup> out of 67 units relating to Forest and Wildlife department in 2017-18. Revenue generated by the Department during the year 2016-17 aggregated to ₹ 405.15 crore out of which, the audited units collected ₹ 256.12 crore. The transaction covered in audit during 2017-18 was 63.22 per cent. Audit noticed irregularities of ₹ 16.17 crore in 47 cases which fall under the following categories as given in the **Table 5.2:**

**Table 5.2: Results of audit**

(₹ in crore)

| Sl. No.      | Category   | No. of cases | Amount       |
|--------------|--|--------------|--------------|
| 1.           | Short realisation of revenue due to sale of forest produce below the upset price | 14           | 6.64         |
| 2.           | Revenue not realised due to deterioration/shortage of forest produce             | 15           | 2.04         |
| 3.           | Other irregularities   | 18           | 7.49         |
| <b>Total</b> |  | <b>47</b>    | <b>16.17</b> |

During the period 2017-18, the Department did not accept any cases and no recovery was made. Audit is pursuing the matter with the Department.

### **5.4 Follow up of previous Audit Reports**

In the Audit Reports for the period from 2012-13 to 2016-17, Audit had pointed out various observations involving ₹ 299.02 crore in 29 paragraphs against which Department accepted observations involving ₹ 84.62 crore. However, no recovery has been made.

The PAC had selected 26 paragraphs of Audit Reports (2002-07 and 2009-14) for discussion and gave its recommendation (2002-07 and 2010-11) on five paragraphs. However, Action Taken Notes (ATN) have been received in only three paragraphs of ARs 2004-05, 2005-06 and 2010-11.

<sup>1</sup> DFO, Marwahi, Manendragarh, Kondagaon, Baikunthpur, Raipur, Korba, Dharmjaygarh, Mahasamund, Durg, Gariyaband, Rajnandgaon, Kanker, Dantewada, Raigarh, Jagadalpur, Dhamtari, Bilaspur, Ambikapur and Balodabazar.

## 5.5 Short realisation of transit fee

**Absence of any prescribed system for reconciliation of figures of quantity of mineral extracted and transported between the Forest Department and the Mineral Resources Department, led to short realisation of transit fee of ₹ 42.88 lakh.**

The Indian Forest Act, 1927 provides that all produces from the mines, if extracted from forest land or transported through forest area shall be called forest produce. As per Chhattisgarh Transit (Forest Produce) Rules, 2001, a transit pass is mandatory for transportation of any forest produce from forest land and is issued by Forest Department after payment of prescribed transit fee<sup>2</sup>. The transit fee is levied on the quantity of forest produce being extracted and transported by the lease holder.

During scrutiny of documents related to transit pass in three divisions<sup>3</sup>, it was noticed that the forest land had been transferred to various agencies<sup>4</sup> for mining purposes. Cross verification of records maintained in these divisions regarding transportation of the quantity of forest produce from forest area with that of the Mineral Resources Department revealed that:

- In Dharamjaygarh and Manendragarh divisions during the period between 2013-14 and 2017-18, the Department levied and collected ₹ 22.53<sup>5</sup> lakh as transit fee for transportation of 3.12 lakh metric tonne of coal extracted from forest land. However, as per the information provided by Mineral Resources Department, 7.23 lakh metric tonne of coal was extracted and transported from the forest land on which transit fee of ₹ 56.99 lakh was leviable. However, the Department levied ₹ 22.53 lakh resulting in short levy of ₹ 34.46 lakh.
- Further, in Korba division, Audit noticed that the user agency (SECL) did not deposit transit fee of ₹ 8.42 lakh for transportation of 1.08 lakh metric tonne of coal for seven months from the lease area during the period 2013-14 and 2017-18.

Thus, in the absence of any prescribed system for reconciliation of figures between Forest Department and Mineral Resources Department for the quantity of mineral extracted and transported, there was short realisation of ₹ 42.88 lakh.

The Department replied that in case of Korba, letter has been issued to user agency for depositing the balance amount of transit fee and in case of Manendragarh, quantity of mineral transported through forest would be reconciled and if any, discrepancy is found, the amount would be recovered. Further, instructions have been issued to establish check posts at the exit points of the mining areas under jurisdiction of Forest Divisions.

<sup>2</sup> Rate of ₹ seven per tonne from June 2002 and revised rate of ₹ 15 per tonne from 30 June 2015

<sup>3</sup> DFO, Dharamjaygarh, Korba and Manendragarh.

<sup>4</sup> SECL, Hasdeo area, SECL Raigarh, SECL Korba.

<sup>5</sup> Transit fee at the rate of ₹ seven per ton up to June 2015 and ₹ 15 per ton thereafter.

The fact remains that in the absence of any prescribed system for reconciliation of figures between Mining and Forest Department, there was short realisation of transit fee.

**Recommendation:**

**The Forest Department in co-ordination with Mining Department should develop a system of reconciliation of quantities extracted and transported from forest land.**

**5.6 Non-recovery/levy of value of forest produce and inspection charges**

**The DFOs failed to recover the value of forest produce and also did not levy inspection charges on the forest produce supplied to other Department/Organisation which led to non-recovery/levy of ₹ 34.34 lakh.**

The Chhattisgarh Government had ordered (July 2002) that the cost of Bamboo, Poles etc. used in barricades for security purposes of Very Important Persons (VIP) in public functions in each district shall be paid by the State Public Works Department (PWD). Further, as per Forest Financial Rules, Forest Department shall recover the inspection charges at the rate of 10 per cent of the cost of supply made to the other departments or Non-Government Organisations (NGOs). Also, payments received from other Departments should be considered and accounted for as departmental revenue.

Audit noticed that in two<sup>6</sup> divisions, the DFOs supplied 66,965 bamboos, 11,019 poles, 6,523 fencing poles and 540 fuel stacks amounting to ₹ 53.42 lakh to various Department for VIP programmes/other works during 2013-18. Out of this, 31,592 bamboos, 1,102 poles, 1,029 fencing poles and 540 fuel stacks were neither returned back nor the value of ₹ 29.00 lakh of these materials was recovered from the various Departments.

Further, the inspection charges of ₹ 5.34 lakh leviable at the rate of 10 per cent of the cost of forest produce supplied to the other Departments was not levied.

This resulted in non-recovery of value of forest produces amounting to ₹ 29.00 lakh and non-levy of inspection charges of ₹ 5.34 lakh.

The reply of the Department is awaited (August 2019).

**Section B: Mining Receipts**

**5.7 Tax administration**

Management of mineral resources is the responsibility of both the Central and the State Governments in terms of entry 54 of the Union list (List I) and entry 23 of the State list (List II) of the Seventh Schedule of the Constitution of India. Government of India (GoI) enacted the Mines and Minerals (Development and Regulation) Act, 1957 (MMDR) as amended in January 2015 which lays down the legal framework for regulation of mines and minerals other than petroleum and natural gas. In exercise of the powers

<sup>6</sup> Gariyaband and Korba

conferred by the MMDR, various Rules have been framed by the GoI and the State Government from time to time. GoI framed the Mineral Concession Rules (MCR), 1960. The State Government is empowered under the MMDR to make rules to regulate and grant mining lease in respect of minor minerals. Accordingly, the Chhattisgarh Minor Mineral Rules, 2015 was framed.

Prospecting and mining operations can be undertaken only with a licence or mining lease granted under the Rules. Mining receipts comprise mainly of application fees for lease/permit/prospecting licence, royalty, cess, dead rent<sup>7</sup>, surface rent, fines and penalties, interest for belated payment of dues etc. Mining lessees are required to pay royalty before dispatch of the minerals from the leased area.

The Secretary, Mineral Resources Department is the head at the Government level and the Director, Geology and Mining (DGM) is the head of the Department at the Directorate level and is responsible for administration and implementation of the Mining Acts and Rules. Under the Directorate, there are three Regional offices one each at Bilaspur, Jagdalpur and Raipur headed by the Joint Directors (Regional Heads) which are responsible for prospecting, survey and sampling of minerals in the State.

Mining offices are located in each districts under the direct control of concerned District Collector. There are 27 Deputy Directors Mining Administration (DDMAs)/District Mining Officers (DMOs)/Assistant Mining Officers (AMOs) who assist the District Collector. 49 Mining Inspectors (MIs) posted in District Mining Offices are responsible for assessment and collection of revenue, prevention of illegal excavation and dispatch of minerals and other activities leading to leakage of revenue from the areas under their control. Besides this, there is a flying squad to prevent theft of minerals and evasion of royalty, which reports to DGM.

## 5.8 Internal Audit

The Internal Audit Wing (IAW) of Mining Department comprises of Joint Director (Finance) and two Auditors.

Details on internal audit carried out during 2013-18 are mentioned in **Table 5.3:**

**Table 5.3: Details of Internal Audit**

| Year         | Total no. of offices | Sanctioned Strength <sup>8</sup> for internal audit | Men-in-Position (No.) | No. of Offices planned for internal audit | No. of Offices audited | No. of IRs issued | Money value involved (₹) |
|--------------|----------------------|---|-----------------------|---|------------------------|-------------------|--------------------------|
| 2013-14      | 30                   | 04  | 02                    | 13  | 13                     | 13                | NIL                      |
| 2014-15      | 30                   | 04  | 02                    | 07  | 07                     | 07                | NIL                      |
| 2015-16      | 30                   | 04  | 03                    | 16  | 16                     | 16                | NIL                      |
| 2016-17      | 30                   | 04  | 03                    | 14  | 14                     | 14                | NIL                      |
| 2017-18      | 30                   | 04  | 03                    | 19  | 19                     | 19                | NIL                      |
| <b>Total</b> |                      |   |                       | <b>69</b>                                 | <b>69</b>              | <b>69</b>         | <b>NIL</b>               |

(Source: Information furnished by DGM)

<sup>7</sup> Dead rent is the minimum royalty payable per year. When royalty payable exceeds the dead rent deposited, the lessee shall pay royalty over and above the dead rent

<sup>8</sup> Including Deputy Director (Finance and Administration)

The Department stated (December 2018) that only suggestive notes have been issued. Though there was shortage of staff in IAW, the Department was able to conduct audit of all the offices planned for internal audit from 2013-18 and 69 IRs were issued during the period.

Audit is of the view that, the Department may obtain compliance report of IRs issued by IAW instead of issuing only suggestive notes.

### **5.9 Results of audit**

Audit test checked records of 11<sup>9</sup> out of 32 units of the Mineral Resources Department in 2017-18. The Department collected ₹ 4,141.47 crore revenue from mines and mineral during 2016-17. Eleven audited units collected ₹ 3,319.66 crore. The transaction covered in audit during 2017-18 was 80.15 *per cent*. Audit found irregularities amounting to ₹ 1,070.45 crore in 958 out of 1,356 cases. The Department accepted 121 cases involving ₹ 46.62 crore.

### **5.10 Follow up of previous Audit Reports**

In the Audit Reports for the period from 2012-17, Audit had pointed out various observations amounting to ₹ 278.62 crore in 15 paragraphs against which Department accepted observations involving ₹ 51.39 crore and recovered ₹ 6.97 crore.

The PAC had selected 10 paragraphs of eight Audit Reports out of which seven paragraphs of six Audit Reports for the year 2002-03, 2004-05, 2005-06, 2006-07, 2009-10 and 2015-16 were discussed and gave its recommendations on six paragraphs of Audit Reports for the year 2002-03, 2004-05, 2005-06, 2006-07 and 2009-10. However, ATN has not been received in one paragraph of Audit Report for the year 2005-06.

### **5.11 Short levy of Stamp Duty and Registration Fees due to incorrect calculation of average annual royalty**

**DDMA, Raipur considered the entire lease period instead of considering the average production for the period of production as mentioned in the Mining Plan which led to incorrect calculation of average annual royalty consequent upon which Stamp Duty and Registration Fees of ₹ 0.76 crore was short levied.**

As per Indian Stamp (IS) Act, 1899, five *per cent* Stamp Duty is payable at the market value equal to five times of the average annual rent where the lease period is between 20 and 30 years. Government of Madhya Pradesh instruction (March 1993) as adopted by Chhattisgarh stipulates that in respect of quarry leases Stamp Duty and Registration Fees are to be determined on average annual royalty calculated on estimated quantity mentioned in lessee's application form or on dead rent payable on the quarry lease area whichever is higher.

During test check of 13 quarry lease cases (February 2018) in the office of Deputy Director (Mineral Administration) (DDMA), Raipur Audit noticed that

<sup>9</sup> DMOs: Balrampur, Kanker, Dantewada, Rajnandgaon, Kabirdham & Janjgir-Champa, DDMA: Korba, Balodabazar, Raigarh, Bilaspur & Raipur

in 12 cases the methodology confirmed the rule for calculation of Average Annual Royalty (AAR) but in one case of limestone quarry lease there was deviation in calculation of AAR and no reasons were recorded.

A limestone quarry lease was executed (August 2016) for a period of 30 years in favour of M/s B.R.K. Developers & Miners Private Limited. The Average Annual Royalty (AAR) was calculated on the basis of average estimated production of 10 years as mentioned in mining plan and for the remaining 20 years Dead Rent was considered. Accordingly Stamp Duty and Registration Fees of ₹ 0.23 crore and ₹ 0.17 crore respectively were levied and collected on AAR of ₹ 0.88 crore<sup>10</sup>. Had the DDMA calculated AAR considering the mining plan submitted by the lessee, Stamp Duty and Registration Fees of ₹ 0.66 crore<sup>11</sup> and ₹ 0.50 crore<sup>12</sup> respectively on AAR of ₹ 2.64 crore<sup>13</sup> would have been levied. Thus, calculation of AAR by considering Dead Rent for remaining 20 years not only resulted in undue favour to the lessee but also led to short levy of Stamp Duty and Registration Fees of ₹ 0.43 crore and ₹ 0.33 crore respectively.

On this being pointed out by Audit (February 2018), DDMA, Raipur replied that opinion of the District Registrar has been sought.

The matter was brought to the notice (February 2019) of Government/ Department for their comments. Reply has not been received (August 2019).

### 5.12 Short levy of Stamp Duty and Registration Fees due to consideration of incorrect price of Aluminium

**DMO, Kawardha instead of considering price of aluminium at the time of execution of lease deed considered the price prevailing at the time of application resulting in incorrect calculation of average annual royalty consequently leading to short levy of Stamp Duty (SD) and Registration Fees (RF) of ₹ 0.99 crore.**

As per Indian Stamp (IS) Act, 1899 five *per cent* Stamp Duty is payable at the market value equal to five times of the average annual rent where the lease period is between 20 and 30 years. Government of Madhya Pradesh instruction (March 1993) as adopted by Chhattisgarh stipulates that Stamp Duty and Registration Fees in respect of renewal of mining leases is to be determined on average annual royalty calculated on the quantity of mineral to be extracted as shown in the application form, average production during last three years and quantity shown in the Mining Plan whichever is higher. The rate of royalty of bauxite is 0.60 *per cent* of sale price<sup>14</sup> prevailing at the time of execution of deed.

<sup>10</sup> Royalty: 33,01,426 MT x ₹ 80 per MT (Rate of royalty for limestone) = ₹ 26,41,14,080;  
Dead Rent: ₹ 7,500 per hectare per year x 7.870 hectare x 20 years = ₹ 11,80,500;  
Average: (₹ 26,41,14,080 + ₹ 11,80,500)/30 = ₹ 88,43,153

<sup>11</sup> 5 *per cent* of ₹ 13,20,57,040 (₹ 2,64,11,408 × 5)

<sup>12</sup> 75 *per cent* of ₹ 66.03 lakh

<sup>13</sup> ₹ 26,41,14,080/10

<sup>14</sup> Sale price= 0.529 (ratio of aluminium in Al<sub>2</sub>O<sub>3</sub>) x Percentage of Al<sub>2</sub>O<sub>3</sub> in the bauxite x London Metal Exchange (LME) price of aluminium(in dollar) x Exchange rate of dollar in Indian rupee

During test check of records (April 2018) in the office of District Mining Officer (DMO), Kawardha, Audit noticed that a bauxite mining lease admeasuring 626.117 hectare area was sanctioned to Bharat Aluminium Company Limited (BALCO) for 20 years for the period 27 March 1997 to 26 March 2017. The lessee applied for extension of mining lease for further 30 years as per the provisions of Section 8A (5) of Mines and Mineral (Development & Regulation) Act, 1957 mentioning the annual production of 12.50 lakh MT in its application. Scrutiny of the records revealed that the DMO had calculated average annual royalty<sup>15</sup> of ₹19.46 crore by considering the London Metal Exchange (LME) price of Aluminium of October 2016. Accordingly, lessee executed (March 2017) supplementary lease deed for 30 years by depositing Stamp Duty (SD) and Registration Fees (RF) of ₹ 5.11 crore and ₹ 3.65 crore respectively. Since the deed was executed in the month of March 2017, the DMO should have calculated the average annual royalty by considering the price of aluminium in LME as on March 2017 instead of October 2016. Hence, Stamp Duty of ₹ 5.69 crore<sup>16</sup> and Registration Fees of ₹ 4.06 crore<sup>17</sup> was leviable on average annual royalty of ₹ 21.66 crore<sup>18</sup> on sale price of ₹ 28,880.77<sup>19</sup> per MT. Thus, consideration of incorrect price of Aluminium by the DMO resulted in short levy of Stamp Duty and Registration Fees of ₹ 0.99 crore (SD- ₹ 0.58 crore and RF- ₹ 0.41 crore).

On this being pointed out in Audit (April 2018), DMO replied that action would be taken after examination of the case.

The matter was reported (February 2019) to Government/Department for their comments. Their reply has not been received (August 2019).

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<sup>15</sup> Sale Price x Average quantity of minerals to be extracted x rate of royalty

<sup>16</sup> ₹ 21.66 crore x 5 times x 5.25 per cent (including 0.25 per cent Cess)= ₹ 5.69 crore

<sup>17</sup> 75 per cent of ₹ 5.42 crore = ₹ 4.06 crore

<sup>18</sup> Average Annual Royalty = ₹ 28,880.77 x 12,50,000 x 0.60 per cent = ₹ 21,66,05,775

<sup>19</sup> Sale Price = 0.529 x 0.4417 x \$ 1901.57 x 65 per \$ = ₹ 28,880.77