

## CHAPTER VII - MINERAL CONCESSION, FEES AND ROYALTIES

### 7.1 Results of audit

Test check of the records of Mining Department during 2008-09 indicated loss of rent, royalty, fee etc. amounting to Rs. 210.51 crore in 3,043 cases, which could be classified under the following categories:

(Rupees in crore)

Sl. no.	Category	No. of cases	Amount
1.	Non-initiation of certificate proceedings	1,879	70.80
2.	Non levy of penalty/fees	486	8.55
3.	Non/short levy of dead rent/ surface rent	26	3.72
4.	Short levy of royalty due to downgrading of coal	3	3.51
5.	Non/short levy of royalties	42	2.32
6.	Non levy of interest	18	0.51
7.	Other cases	589	121.10
<b>Total</b>		<b>3,043</b>	<b>210.51</b>

The department accepted loss of rent, royalty, fee etc. of Rs. 51.29 crore in 2,507 cases pointed out in audit, during the year 2008-09.

A few illustrative audit observations involving Rs. 22.75 crore are mentioned in the succeeding paragraphs:

## **7.2 Audit observations**

*Scrutiny of records in the offices of the Mines and Geology department relating to revenue received from royalty indicated several cases of non-observation of the provisions of the Acts/Rules resulting in non/short levy of royalty/penalty and other cases as mentioned in the succeeding paragraphs in the chapter. These cases are illustrative and are based on the test check carried out in audit. Such omissions are pointed out in audit in each year, but not only do the irregularities persist; these remain undetected till an audit is conducted. There is need for the Government to consider directing the department to improve the internal control system indicating strengthening internal audit so that such omission can be avoided, detected and corrected.*

## **7.3 Non-observance of provisions of Acts/Rules**

*The Mines and Mineral (Development and Regulation) Act, 1957, the Mineral Concession Rules, 1960 and the Jharkhand Minor Mineral Concession Rules, 2004 provide for:*

- (i) payment of royalty on the minerals removed and consumed from the lease area at the rates prescribed,*
- (ii) submission of monthly returns pertaining to production and despatch of minerals within the period specified; and*
- (iii) payment of price of minerals in addition to royalty for the minerals extracted without valid lease/permit treating the mineral as illegal.*

*The Mines and Geology department did not observe some of the provisions of the Acts/Rules in cases as mentioned in the paragraphs 7.3.1 to 7.4 for levy and collection of royalty.*

### **7.3.1 Illegal extraction**

The Mineral Concession Rules and Jharkhand Minor Mineral Concession Rules, provide that no person shall undertake any mining operation in any area unless he possesses a valid mining lease or permit. In case of illegal mining, the miner is liable to pay price of the mineral as penalty.

Audit noticed that in 215 cases of illegal mining, the district mining officers had not taken appropriate action on illegal miners. This resulted in non/short levy of penalty of Rs. 17.13 crore as mentioned below:

#### **7.3.1.1 Non-levy of penalty**

Under the provisions of Mineral Concession Rules, the lessee shall not, without the previous consent in writing of the State Government, enter into or make any arrangement, contract or understanding under which the lessee's operations or undertaking will be substantially controlled by any person or body of persons other than the lessee. Further, under the provisions of the Mines and Minerals (Development and Regulation) Act, whenever any person raises, without any lawful authority, any mineral from any land, the State Government may recover from such person the mineral so raised, or, where

such mineral has already been disposed of, the price thereof, and may also recover from such person, rent, royalty or tax, as the case may be, for the period of occupation of land.

Test check of records of District Mining Office, Jamshedpur in March 2009 indicated that M/s Hindustan Copper Ltd. holding 388.68 hectare mining lease had entered into a contract for extraction of copper ore with M/s Monarch Gold Mining Company Limited, Australia in March 2007 on the basis of global tender without the consent of State Government. The same was later found to have been sublet to M/s India Resources Limited which started production from November 2007. In absence of any consent from the state Government all the production/despatch of copper mineral weighing 402.151 metric tonne made during 2007-08 was illegal and price of the mineral amounting to Rs. 12.61 crore was not levied.

After the case was pointed out in March 2009, the department stated that a demand of Rs. 12.61 crore was raised in April 2009 at the instance of audit. The matter has been referred to the Government for taking legal action against the defaulter and to recover the cost of mineral illegally extracted. Further reply has not been received (January 2010).

#### **7.3.1.2 Non-levy of penalty on illegal mining**

As per the provisions of Jharkhand Minor Mineral Concession Rules, civil works contractors are required to purchase minor minerals only from the lessees/permit holders and authorised dealers. It further provides for submission of affidavits in form 'O' and particulars in form 'P' by the works contractors to the Works department indicating therein details of sources of purchase of minerals, price paid and quantity procured along with the bills. The Works department, in turn, is required to forward the photocopies of form 'O' and 'P' to the Mining department for verification of the details of minerals procured and consumed. In case of non-compliance, the District Collector may impose penalty equivalent to the amount of royalty.

Test check of records of six district mining offices<sup>1</sup> indicated that the Works departments had submitted bank drafts/cheques for Rs. 2.70 crore as amount of royalty realised from the contractors in 156 cases for the minerals used by them during 2005-06 to 2007-08. But the Works department did not submit affidavits in form 'O' and particulars in form 'P' to the Mines and Geology department for verification of minerals. Non-submission of form 'O' and 'P' attracted penalty on the works department equivalent to amount of royalty/price of minerals. This resulted in loss of revenue of Rs. 2.70 crore.

After the cases were pointed out between June 2008 and March 2009, the District Mining Officers, Giridih and Latehar have raised the demand at instance of audit to concerned department between February and June 2009. Further reply has not been received (January 2010).

#### **7.3.1.3 Non/short levy of penalty on illegal mining**

Under the provisions of Jharkhand Minor Mineral Concession Rules, the price of the mineral, is to be recovered in case of illegal mining. The determination

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<sup>1</sup> Deoghar, Dhanbad, Giridih, Godda, Latehar and Ranchi.

of price of the mineral may be fixed by the collector of the district in accordance with Jharkhand Minor Mineral Concession Rules.

Test check of illegal mining register as well as inspection reports of mining inspectors of eight district mining offices<sup>2</sup> between May 2008 and March 2009 indicated that the department had detected illegal mining of 92,391.90 cum of stone and 12,000 MT of fireclay in 58 cases. Out of these, in four cases of illegal mining of stone and in one case of fireclay, demand notices for recovery of royalty and price of minerals amounting to Rs. 44.04 lakh was not issued, while in the remaining 53 cases of illegal mining of stone the demand notices were issued at lesser rates than the rates prescribed by Public Works department. In these cases, the demand notices for Rs. 40.88 lakh was issued instead of Rs. 1.79 crore. This resulted in non/short levy of royalty amounting to Rs. 1.82 crore.

After the matter was reported between May 2008 and March 2009, the district mining officers stated that the matter would be examined and action would be taken accordingly. Further reply has not been received. (January 2010).

The matter was reported to the department and Government May 2009; their replies have not been received (January 2010).

### **7.3.2 Non-scrutiny of monthly returns**

*Under the provisions of Mineral Concession Rules and Jharkhand Minor Mineral Concession Rules, the lessee is required to submit monthly returns to the State Government within a specified period.*

*Audit noticed that district mining officers had not scrutinised the returns furnished by the lessees. This resulted in loss of royalty of Rs. 4.92 crore in 91 cases as mentioned in the succeeding paragraphs:*

#### **7.3.2.1 Short levy of royalty due to downgrading of coal**

The Mines and Mineral (Development and Regulation) Act, provides for payment of royalty by lessee on the quantity of mineral removed and consumed from leased area at the rate prescribed according to grade of coal. In accordance with sub clause 2 of clause 4 of Colliery Control Order, 2004, the owner of a colliery shall declare its grade and it shall pay royalty at the rate specified. The district mining officers are required to scrutinise the returns furnished by the lessees to ensure correct payment of royalty.

Test check of returns submitted by the lessee in District Mining Office, Dhanbad in December 2008 indicated that 4.30 lakh metric tonne coal was removed and despatched by a colliery during 2007-08 (upto December 2007). Though the Coal was notified as of grade 'WII' but it was wrongly graded as 'C' and 'D' categories in the return submitted to the district mining office and royalty of Rs. 4.93 crore was paid instead of Rs. 7.10 crore. The monthly returns of lessee was required to be scrutinised and verified by the Mining Officer with annual grade notification of coal approved by the Coal Controller but the same was not done. This resulted in short levy of royalty of Rs. 2.17 crore.

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<sup>2</sup> Chaibasa, Deoghar, Dhanbad, Godda, Hazaribag, Koderma, Ranchi and Sahebganj.

In another case of District Mining Office, Hazaribag, a lessee despatched 53,175 metric tonne of grade 'B' coal during 2006-08. But paid royalty of Rs. 72.05 lakh was paid at lower rate treating the despatched coal as 'C' grade instead of Rs. 96.99 lakh. Mistake escaped the notice of the district mining officer resulting in short levy of Rs. 24.94 lakh.

After the cases were pointed out between August and December 2008, the district mining officers stated that matter would be examined and necessary action would be taken. Further reply has not been received (January 2010).

#### **7.3.2.2 Application of incorrect rate**

Test check of returns submitted by the lessee in District Mining Office, Dhanbad in December 2008 indicated that in a case of a lessee holding a lease of two collieries, royalty was paid at the rate of Rs. 115 per MT for 1.71 lakh MT in one colliery while in other the royalty was paid at the rate of Rs. 165 per MT for 0.32 lakh MT. Whereas royalty was leviable at the rate of Rs. 216 per MT of coal as per price notification issued in December 2007. Mistake escaped the notice of the district mining officer resulting in short levy of Rs. 1.89 crore.

After the cases were pointed out in December 2008, the district mining officers stated that the matter would be examined and action would be taken. Further reply has not been received (January 2010).

#### **7.3.2.3 Short levy of royalty due to suppression of stock**

Under the provisions of Mines and Minerals (Development and Regulation) Act, every owner/lessee/manager of a mine shall submit monthly and annual returns to the department in respect of minerals raised and dispatched. Lessees are also required to submit such annual returns to the Indian Bureau of Mines. The rule further provides that holder of a mining lease shall pay royalty in respect of the minerals removed or consumed from the leased area at the prescribed rates.

- Test check of records of District Mining Office, Dhanbad in December 2008 indicated that opening balance of December 2007 of coal was shown as 6,868.17 metric tonne against the closing balance of November 2007 of 13,366.31 metric tonne in the monthly returns filed by the lessee. Thus, the lessee suppressed 6,498.14 metric tonne of coal. This resulted in loss of royalty of Rs. 13.52 lakh at the rate of Rs. 208 per MT graded as W-II.
- Cross verification of the details of raising and despatch of iron ore submitted to Indian Bureau of Mines, Nagpur with the monthly returns submitted to the District Mining Office, Chaibasa indicated that for May 2007 a lessee had shown production of 94,643.66 MT in his monthly return but the same was shown as 1,56,130.78 MT in the return submitted to Indian Bureau of Mines. Thus, production of 61,487.12 MT of iron ore was suppressed resulting in evasion of royalty of Rs. 9.84 lakh. The department did not cross verify the return filed by the lessee with those submitted to the Indian Bureau of Mines.

After the cases were pointed out between February and March 2009, the District Mining Officer, Dhanbad stated that the matter would be examined

and action would be taken, while District Mining Officer, Chaibasa stated that show cause notice would be issued to the lessee and necessary action would be taken, accordingly. Further reply has not been received (January 2010).

#### **7.3.2.4 Non-levy of penalty for non-submission of monthly returns**

Under the provisions of Jharkhand Minor Mineral Concession Rules, every lessee/permit holder is required to submit a return in the prescribed form for extraction and removal of minor minerals, by fifteenth day of the following month to which it relates. In case a lessee or a permit holder fails to furnish the required return within the prescribed period, he shall be liable to pay as penalty a sum of Rs. 20 for every day after the expiry of the prescribed date subject to a maximum of Rs. 2,500.

Test check of records of six district mining offices<sup>3</sup> between May 2008 and February 2009 indicated that 81 lessees in 1,277 cases did not submit monthly returns for various months between April 2006 and March 2008. However, no penalty was imposed by the department in any of the cases even after lapse of two to 36 months. This resulted in non-levy of penalty of Rs. 31.93 lakh.

After the cases were pointed out between May 2008 and February 2009, the district mining officers stated that matter would be examined and necessary action would be taken. Further reply has not been received (January 2010).

The matter was reported to the department and Government in May 2009; their replies have not been received (January 2010).

#### **7.3.2.5 Short levy of royalty**

The provisions of the Mineral Concession Rules and guidelines laid down therein, provide for computation of royalty on minerals on ad-valorem basis by adding 20 *per cent* to the benchmark value<sup>4</sup>. It further stipulated that the value shall be reckoned to be the sale price for the purpose of computation of royalty of the mineral dispatched.

Test check of records of District Mining Office, Jamshedpur in March 2009 indicated that four lessess were required to pay the royalty after adding 20 *per cent* to the benchmark value. However, one of the four lessees had worked out the benchmark value but paid royalty on the sale value declared by themselves which was less than the value to be determined on the benchmark value. Royalty amounting to Rs. 13.81 lakh was levied instead of Rs. 19.52 lakh. This resulted in short levy of royalty of Rs. 5.71 lakh.

After the case was pointed out in March 2009, the district mining officers stated that the demand had been raised in April 2009 at the instance of audit. Further reply has not been received (January 2010).

The matter was reported to the department and Government in May 2009; their replies have not been received (January 2010).

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<sup>3</sup> Chaibasa, Giridih, Godda, Koderma, Pakur and Sahebganj.

<sup>4</sup> Benchmark value is the average of the mineral determined by the Indian Bureau of Mines and published in the 'Monthly Statistics of Mineral Production'. This is required to be fixed in respect of the amount where royalty is to be payable on ad valorem basis.

**7.4 Non-settlement due to non/delayed publication of gazette notification**

The Mineral Concession Rules stipulates that available area for grant of mining lease should be notified in the official gazette specifying a date from which such area shall be available for grant of lease.

**7.4.1** Test check of records of District Mining Office, Koderma in November 2008 indicated that Bihar State Mineral Development Corporation was entrusted as caretaker agency to extract minerals from 2,047.96 hectares available area for the period from March 1986 to November 2003. Thereafter, no efforts were made by the department to notify the area available for grant of lease. Thus, due to non-publication of gazette notification and grant of lease for the area resulted in loss of revenue of Rs. 67.45 lakh in shape of dead rent calculated for 14 October 2004 to March 2008.

**7.4.2** Test check of records of District Mining Office, Giridih in July 2008 indicated that 191.50 hectares of land leased out to a lessee expired in March 2003. Thereafter, no efforts were made by the department to identify the area that could have been leased out again. The gazette notification for granting of fresh lease was issued in January 2008. Delay in issuing gazette notification resulted in loss of revenue of Rs. 2.21 lakh in shape of dead rent calculated for 14 October 2004 to 8 January 2008.

After the cases were pointed out between July and November 2008, the District Mining Officer, Giridih stated in August 2008 that due to shortage of staff, gazette notification could not be published while no reply was received from District Mining Officer, Koderma. Further reply has not been received (January 2010).

The matter was reported to the department and Government in May 2009; their replies have not been received (January 2010).