

EXECUTIVE SUMMARY	
Increase in tax collection	This chapter contains cases on 'minor minerals' viz. brick earth, sand, stone, etc. under the tax head 'Mines and Minerals'. Revenue receipts from Mines and Minerals are collected by three Departments i.e. Commerce and Industries, Land and Land Reforms and Finance Department and credited to 0029- "Land Revenue" and 0853- "Non-ferrous Mining and Metallurgical Industries" heads of accounts. Due to such complication in accounting the actual receipt of the Government from Mines and Minerals during last five years could not be ascertained.
Audit coverage by internal audit	Cases relating to minor minerals come under the purview of the Land and Land Reforms Department. The Internal Audit Wing (IAW) of the Land and Land Reforms Department is liable to conduct audit of minor minerals. Internal Audit Wing of the Land and Land Reforms Department planned to audit 18 DL and LROs, 10 LA Collectors, one Rent Controller and one Controller of Thika Tenancy out of 18 DL and LROs, 19 LA Collectors, two Rent Controllers and two Controller of Thika Tenancy during the year. Audit was conducted in respect of 17 DL and LROs, seven LA Collectors, one Rent Controller and one Controller of Thika Tenancy during the period which is 63 <i>per cent</i> of the units auditable and 87 <i>per cent</i> of the units planned for audit.
Very low recovery by the Department against observations pointed out by us	During 2006-07 to 2010-11, we had pointed out non/short levy, non/short realisation, underassessment /loss of revenue, etc. with revenue implication of ₹194.02 crore in 16 paragraphs. Of these, the Department accepted audit observations in 14 cases involving ₹ 10.91 crore of which only an amount of ₹ 0.53 crore was recovered by the Department.
Results of audit conducted by us in 2010-11	In 2010-11, we test checked the records of seven units relating to mining receipts and found underassessment of tax and other irregularities involving ₹14.43 crore in 35 cases. The Department accepted underassessment and other deficiencies of ₹14.33 crore in 30 cases which were pointed out in audit during the year 2010-11. An amount of ₹16.35 lakh was realised in 16 cases during the year.

<p>What we have highlighted in this Chapter</p>	<p>In this Chapter we presented illustrative cases of ₹ 2.98 crore selected from observations noticed during our test check of records relating to non/short realisation of royalty, cess on minor minerals, non/short realisation of revenue from minerals extracted unauthorisedly, non-realisation of dead rent etc. in the offices of the District Land and Land Reforms Offices, Block Land and Land Reforms Offices, Cess Deputy Collector and Chief Mining Officer, Asansol.</p> <p>Similar omissions on the part of the Assessing Authorities (AAs) were pointed out by us each year, but not only do the irregularities persist, these remained undetected by them till these were once again detected by us. These irregularities/omissions were apparent from the records made available to us by the AAs but they were unable to detect these mistakes.</p>
<p>Our conclusion</p>	<p>The Government may revamp the recovery mechanism to ensure that the amount involved in accepted cases is promptly recovered.</p>

CHAPTER VIII : MINES AND MINERALS

8.1 Tax administration

The mining receipts comprise mainly the application fees for lease/permits for reconnaissance, prospecting and reserve licences, royalty for extraction of major and minor minerals, dead rent, surface rent, fines and penalties for offences and interest for delayed payment of dues etc. Primary education cess and rural employment cess is also realised for the extraction and dispatch of minerals from the holders of quarry permits and mining leases.

The assessment and collection of mining receipts is governed by the Mines and Minerals (Development and Regulation) (MMDR) Act, 1957, the West Bengal Minor Minerals (WBMM) Rules, 2002, Public Demands Recovery (PDR), Act, 1913, Cess Act, 1880 as amended in 1984 read with the West Bengal Primary Education Act, 1973 and West Bengal Rural Employment and Production Act, 1976.

The assessment and collection of most¹ of the revenue receipts from Mines and Minerals is administered by the Land and Land Reforms (L&LR) Department headed by the Principal Secretary who is assisted by the Director of Land Records and Survey (DLRs), District Land and Land Reforms Officers (DL and LROs), Sub Divisional Land and Land Reforms Officers, Block Land and Land Reforms Officers/Special Revenue Officers.

8.2 Revenue impact of audit reports

During the last five years (including the current year's report), we pointed out through our audit reports non/short levy, non/short realisation, underassessment/loss of revenue etc. with revenue implication of ₹ 194.02 crore in 16 paragraphs (including one review). Of these, the Department/Government had accepted audit observations in 14 paragraphs involving ₹ 10.91 crore and had since recovered ₹ 0.53 crore. The details are shown in the following table:

(₹ in crore)

Year of Audit Report	Paragraphs included		Paragraphs accepted by the department		Amount recovered	
	Number	Amount	Number	Amount	Number	Amount
2006-07	03	1.64	03*	1.62	01*	0.04
2007-08	02	183.51	01*	0.66	Nil	Nil
2008-09	05	1.59	04*	1.43	02*	0.10
2009-10	03	4.30	02*	4.22	02*	0.17
2010-11	04	2.98	04	2.98	03*	0.22
Total	16	194.02	14	10.91	08	0.53

*partly recovered/accepted.

¹ Royalty on coal is assessed by the Chief Mining Officer/Mining Officers of Commerce and Industries Department. Primary Education cess and Rural Employment cess is assessed and collected by the Directorate of Commercial Taxes under the Finance (Revenue) Department.

Thus the amount recovered was only 4.86 per cent of the accepted paragraphs which was very low.

We recommend that the Government may revamp the recovery mechanism to ensure that the amount involved in accepted cases is promptly recovered.

8.3 Working of internal audit wing

The internal audit wing of an organisation is a vital component of its internal control mechanism and is generally defined as the control of all controls to enable the organisation to assure itself that the prescribed system is functioning reasonably well.

The internal audit wing of the Land and Land Reforms Department was re-introduced in the year 2007-08 with the objective of fulfilling accountability obligations, complying with applicable rules and regulations, executing orderly, ethical, economic, efficient and effective operations and safeguarding resources against loss. The wing is headed by the Audit Officer cum Ex-officio Deputy Secretary who is assisted by Internal Audit Officers and Assistant Auditors. No Internal Audit Officer was posted in the IAW against the sanctioned strength of 16 whereas the existing strength of Assistant Auditors was 11 against the sanctioned strength of 14. Though the manual of the wing has been drafted, it has not yet been published. The wing planned to audit 18 DL and LROs, 10 LA Collectors, one Rent Controller and one Controller of Thika Tenancy out of 18 DL and LROs, 19 LA Collectors, two Rent Controllers and two Controller of Thika Tenancy during the year 2010-11. Audit was conducted in respect of 17 DL and LROs, seven LA Collectors, one Rent Controller and one Controller of Thika Tenancy during the period which is 63 per cent of the units auditable and 87 per cent of the units planned for audit.

8.4 Results of audit

In 2010-11, we test checked the records of seven units relating to mining receipts and found underassessment of tax and other irregularities involving ₹ 14.43 crore in 35 cases which fall under the following categories:

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1	Non/short realisation of price of minerals	11	0.53
2	Non/short realisation of royalty and cess	11	0.51
3	Non-realisation of price of earth extracted in excess by West Bengal Infrastructure Development Corporation (WBIDC)	01	0.06
4	Other irregularities	12	13.33
Total		35	14.43

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 14.33 crore in 30 cases, which were pointed out in audit

during the year 2010-11. An amount of ₹ 16.35 lakh was realised in 16 cases at the instance of audit during the year.

A few illustrative cases involving ₹ 2.98 crore are mentioned in the following paragraphs.

8.5 Audit observations

Scrutiny of the records in the offices of the District Land and Land Reforms Offices, Block Land and Land Reforms Offices, Cess Deputy Collector and Chief Mining Officer, Asansol indicated non/short realisation of royalty, cess on minor minerals, non/short realisation of revenue from minerals extracted unauthorisedly, non-realisation of dead rent and non-realisation of water rates 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 by us repeatedly but not only do they persist, they also remain undetected till an audit is conducted. There is need for the Government to improve the internal control system so that recurrence of such cases can be avoided.

8.6 Non-assessment and non-levy of water rate

Under Rule 27 (i)(d) of the Mineral Concession Rules, 1960 and 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. Water rate has been fixed at ₹ 54 per acre per annum under the West Bengal Irrigation (Imposition of Water Rate) Act, 1974.

We mentioned in paragraph 6.2.6 of the Report of the Comptroller and Auditor General of India for the year 2005-06 (Revenue Receipt) regarding non-assessment of water rates in respect of land occupied or used by lessees for extraction of coal for various periods between May 1999 and September 2004. While responding to the audit

observation, the Cess Deputy Collector (CDC), Asansol stated in February 2006 that a clarification had been sought from the Government as to which authority was responsible for assessment and collection of water rates. The Government stated in June 2006 that the Finance Department would take up the matter with the Irrigation and Waterways Department and would decide the authority for assessment.

We checked the records which indicated that neither had the Finance Department taken up the matter nor has any direction prescribing the authority for assessment and collection of water rate been issued. As a result water rates continued to remain unassessed and unrealised.

We found in the office of the CDC and Chief Mining Officer (CMO), Asansol in March 2010 that water rate on 1,64,475.46 acres of land used or occupied by 11 lessees for mining operations between 2007-08 and 2008-09 was not assessed. This resulted in non-assessment and consequent non-realisation of water rate of ₹ 1.78 crore.

After we reported the cases, the Government while accepting the audit observation stated in August 2011 that the Finance Department has still not prescribed the authority to assess and collect water rate. However, the Commerce and Industries Department has requested the Finance Department

to take up the matter. Report on further development has not been received (October 2011).

8.7 Non/short realisation of revenue from minerals extracted unauthorisedly

Under section 21(5) of the Mines and Minerals (Development and Regulation) 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. In the event of unauthorised extraction of minor minerals, apart from other penal action, the State Government is empowered to recover the minerals raised unlawfully or where such minerals have already been disposed of, the price thereof.

We found in one office of the Executive Engineer and 16 BL and LR offices under five² DL and LR offices between August 2008 and May 2010 that in 387 cases 367 brickfield owners and two contractors unauthorisedly extracted 1,21,41,354 cft of brick earth between 2005-06 to 2008-09 for manufacturing bricks and other purposes. Of these in 35 cases 33.41 lakh cft of brick earth was extracted in excess of permitted quantity between 2006-07 and 2008-09 and the

rest without any valid quarry permit. Though the unauthorised extraction of earth was in the knowledge of the DL and LR offices, they did not initiate any action to recover the price³ of the earth. Of these, in 141 cases price of earth of ₹ 63.93 lakh though realisable was not realised while in the remaining 246 cases ₹ 13.85 lakh was realised as royalty and cess instead of realisable price of ₹ 20.45 lakh. This resulted in non/short realisation of revenue of ₹ 70.53 lakh.

After we reported the cases, the Government stated in August 2011 that three⁴ DL and LROs had realised ₹ 7.06 lakh out of ₹ 48.50 lakh realisable. Report on realisation of the balance amount and action taken by other DL and LROs and Executive Engineer has not been received (October 2011).

² Burdwan(East), Hooghly, Malda, Purulia and Uttar Dinajpur.

³ Brick earth ₹ 30 per 100 cft for 1981 with an increase of ₹ 1.50 per 100 cft each year.

⁴ Burdwan(East), Hooghly and Malda.

8.8 Non/short realisation of royalty and cess on minor minerals

Under Rule 27(1) of the Minor Minerals Rules, 2002 extraction of minor minerals is permissible on obtaining quarry permit issued by the Collector on payment of royalty in advance at the rates prescribed by the Government. Besides, 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 West Bengal Minor Minerals Rules, 2002 are also liable to pay cess at the rate of ₹ 15 per 100 cft.

We found in five⁵ DL and LR offices between September and December 2009 that in 137 cases quarry permit holders between 2005-06 and 2008-09 extracted and dispatched 101.72 lakh cft. of minor minerals⁶, of which in four cases the DL and LRO, Jalpaiguri did not realise royalty and cess⁷ of ₹ 3.36 lakh for extraction of 3.56 lakh cft. of sand and 75000 cft. of stone while in another 133

cases the DL and LROs realised ₹ 19.53 lakh as royalty and cess against the realisable amount of ₹ 43.40 lakh for extraction of 97.40 lakh cft of minor minerals⁸. This resulted in non/short realisation of royalty and cess of ₹ 27.23 lakh.

After we reported the cases, the Government stated in August 2011 that out of ₹ 9.14 lakh realisable ₹ 7.81 lakh has been realised by DL and LROs Burdwan and Jalpaiguri. Report on realisation of the balance amount and further action taken by other DL and LROs has not been received (October 2011).

8.9 Non-assessment and non-realisation of dead rent

Under the provisions of Section 9A of the Mines and Minerals (Regulation and Development) Act, 1957 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 higher.

We found in the office of the Chief Mining Officer (CMO), Asansol in March 2010 that in 12 collieries under the Eastern Coalfields Ltd. (ECL), having leasehold area of

7,548.67 hectares, although no mining operation was carried out during the years 2007-08 and 2008-09, the CMO did not initiate any action for the assessment of dead rent. This resulted in non-assessment and non-realisation of dead rent of ₹ 22.58 lakh.

⁵ Burdwan (West), Jalpaiguri, Malda, Purulia and Uttar Dinajpur.

⁶ Brick earth-77.80 lakh cft., Sand-23.16 lakh cft and stone-75000 cft.

⁷ Public works cess : ₹ 3, Road cess : ₹ 3, Primary education cess : ₹ 6, Rural employment cess : ₹ 3.

⁸ Brick earth 77.80 lakh cft., Sand 19.60 lakh cft.

After we reported the cases, the Government stated in September 2011 that dead rent of the collieries has been assessed by the CMO, Asansol and an amount of ₹ 7.45 lakh has been realised. Report on realisation of the balance amount has not been received (October 2011).