



**CHAPTER – V
OTHER POINTS OF
INTEREST**



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5.1 Control mechanism on extraction of forest produce

As per the system in place, no forest produce can be extracted without prior payment of royalty. However, in cases of contractors engaged by Government Departments in various construction works, permits are issued on receipt of indent from the concerned Government Departments and payment of 25 per cent of the royalty. The balance 75 per cent is deducted by the concerned Government Department at the time of settlement of bills and remitted to proper head of accounts of E&F Department.

Audit scrutiny revealed that this system has not proved to be a foolproof mechanism to safeguard against illegal extraction by contractors appointed by various Government Departments. Audit scrutiny further revealed that the E&F Department has not installed a mechanism for cross verification of information from other agencies/ organisations. These are evident from the following.

5.1.1 In three Divisions³⁵ it was noticed that three Government Departments³⁶ have reported extraction of 58.45 lakh cum of minor forest produce like sand, stone, boulders, earth etc. by

the contractors engaged by them against which prior permission of E&F Department was not obtained. Royalty of ₹ 21.20 crore, penalty of ₹ 84.81 crore (at four times the royalty as per Rule 46 of AMMCR) and interest of ₹ 4.47 crore (at 10 per cent); totalling ₹ 110.48 crore are leviable in these cases.

As may be seen from above, the concerned forest Divisions as well as the higher authorities of the E&F Department remained unaware of the extraction of forest produce till the same was brought to their notice by the concerned Government Departments.

5.1.2 It was also noticed that forest revenue of ₹ 7.50 crore is lying outstanding against 127 units of various Government Departments since 2006.

³⁵ Cachar, Dhemaji and Nagaon.

³⁶ Northeast Frontier Railway, NHAI and Public Works Department.

Evidently, in the cases of 127 units as stated above, the concerned drawing and disbursing officers (DDO) have not remitted the forest royalty under proper head of accounts for such a long period. Despite best efforts the E&F Department could not collect the revenue for over six years. It was further noticed that there is no penal measure in the AFR or any subsequent orders making the DDOs responsible for non-deduction of forest royalty at the time of releasing the final payments to the contractors. This arrangement is available in Central legislation like the Income Tax Act or State legislation like the Assam Value Added Tax Act which makes the DDO personally responsible for non-deduction of statutory taxes at source and failure to do so attract penalty on them.

Thus, had there been a system of cross verification of facts/figures of other agencies/organisations, the excess extraction without prior permission could have been detected by the E&F Department. Further, such a regular mechanism would have served as a deterrent to illegal extraction. An attempt to cross verify the information available in the E&F Department about supply of bamboo to HPC during 2006-07 to 2010-11 was made in Audit. However, the effort failed as the HPC authorities did not respond to requests from Audit regarding quantity of bamboo procured during the aforesaid period. Consequently, the veracity of the figures of supply of bamboo as available in the E&F Department could not be verified by Audit.

Recommendation 14:

GOA may institute a provision making the DDOs of the Government Departments personally responsible for non-deduction of forest royalty while releasing payments to contractors. Also, they may take suitable steps for recovery of outstanding dues of the E&F Department, without further delay.

E&F Department may install a system of regular cross verification of the departmental figures with those of the concerned Government Departments, especially supply of bamboo with those of the HPC authorities, so as to ensure that there is no illegal extraction of forest produce and consequent loss of revenue.

5.2 Penal provisions for illegal extraction of minor forest produce

As per the extant orders of the E&F Department issued in June 1992, in cases of illegal extraction of forest produce, monopoly fee upto 200 *per cent* was leviable in addition to forest royalty payable on the quantity of forest produce extracted.

Again, Rule 46 of the AMMCR, 1994 provides for penalty upto four times in such cases.

Audit scrutiny revealed that though management of sand, stone and boulders etc. are regulated under the AMMCR which came into force from 1994 *i.e.* after the orders of the E&F Department issued

in 1992, the forest Divisions while dealing with cases of extraction of forest produce without prior permission were still imposing 200 *per cent* monopoly fee instead of four times of the royalty as laid down by the AMMCR. One such major case is mentioned below:

For extraction of forest produce without permission by the contractors of Brahmaputra Board, the DFO, Karimganj has worked out the royalty payable as ₹ 94.63 lakh. However, monopoly fee of ₹ 1.89 crore (@ 200 *per cent* of royalty) was levied instead of ₹ 3.78 crore *i.e.* four times the royalty as prescribed in the AMMCR. This resulted in short levy of penalty of ₹ 1.89 crore only in one case. It also highlighted the need for issuing suitable clarification by the E&F Department regarding imposing penalty as per the AMMCR in case of minor forest produce like sand, stone and boulders etc.

The Department stated (November 2012) that the imposition of monopoly fees is a quasi judicial function of the authorised officer (DFO) and general instruction cannot be issued in the matter. The reply was not relevant to the observation as Audit did not question the percentage of monopoly fee levied as penal measures, instead the existence of two sets of penal measures *i.e.* 200 *per cent* monopoly fees levied under the orders of June 1992 and four times penalty leviable through AMMCR in 1994 alongwith their resultant impact was only pointed out.

Recommendation 15:

E&F Department may issue suitable instruction to the forest Divisions regarding leviability of penalty as per AMMCR in cases of extraction of minor forest produce without permission while the monopoly fee at 200 per cent or as revised by E&F Department from time to time may continue for other forest produce like timber, bamboo etc.

5.3 Provision for levy of interest for delayed payments

As per clause 3 of Part VI of the AMMCR, 1994, in case of non-payment rent, royalty or other sums due to the State Government the same be recovered together with simple interest due at 10 *per cent* per annum.

Audit scrutiny revealed that despite availability of provisions for levy of interest on delayed/non-payments of forest royalty, the concerned Divisions while raising demands for recovery of the same did not levy interest at prescribed rates.

In 128 cases, it was noticed that interest at 10 *per cent* amounting to ₹ 4.21 crore was not levied on delayed/non-payment of royalty of ₹ 8.43 crore.

The Department stated (November 2012) that the rule is clear on the advance payment of value of the minor minerals before issuing permit and action is initiated as per the rules whenever violations take place. The reply is not

appropriate as Audit has pointed out a number of cases where forest produce has been extracted without advance payment of royalty.

Recommendation 16:

E&F Department may issue suitable instruction to the forest Divisions regarding leviability of interest as per AMMCR in cases of delayed payment of forest royalty and other dues on extraction of minor forest produce.

5.4 Functioning of Internal Audit Wing

Internal audit – a vital component of internal control mechanism functions as ‘eyes and ears’ of an organisation and helps in assuring that the prescribed systems are functioning reasonably well.

Audit scrutiny revealed that an internal audit wing was in existence in the E&F Department with one AAO and auditor. However, it was noticed that no audit plan was prepared stating the number of Divisions to be audited in each year. Further, none of the seven Divisions covered in this performance audit was

taken up by the internal audit wing of the E&F Department during 2006-07 to 2010-11. Resultantly, the E&F Department could not detect deficiencies noticed by Audit during this performance audit and consequently could not identify the same and put in place preventive/remedial measures.

Recommendation 17:

E&F Department may utilise the services of the personnel of internal audit wing to audit the functioning of the forest Divisions regularly.

The Department stated (November 2012) that audit recommendation would be taken into consideration and services of the internal auditors would be utilised for internal audit of the Divisions.

5.5 Revenue optimisation measures

The NWPC issued by the MoEF, GOI envisaged that ‘in a developing country like ours, economic growth and ecological stability depends, to a great extent, on judicious use of its natural resources and urged for a need for scientific management of forests in the country’.

A number of areas have been identified in this performance audit, which if examined and implemented by the E&F Department can augment revenues from forest resources to large extent without compromising the ecological balance which is the primary mission of the E&F Department. However, it

was noticed in audit that the GOA or the E&F Department is yet to initiate measures for revenue optimisation.

It was further observed in Audit³⁷ that other States having considerable forest cover like Odisha, Madhya Pradesh etc. have set up expert committees. Of these, the term of reference of the Committee set up by Government of Odisha was to:

- examine revenue accrual from the existing tax and non-tax sources in relation to the potential available and suggest appropriate measures for higher revenue realisation from these sources;
- identify new avenues for mobilisation of additional resources; and
- suggest other measures, as deemed necessary, for augmenting State's own revenue.

Recommendation 18:

GOA/E&F Department may initiate measures for revenue optimisation for maximising revenue from available forest resources and identifying new avenues for mobilisation of additional resources in the interest of State revenues.

The Department stated (November 2012) that as suggested by Audit expert committees may be constituted for augmenting the revenues and optimising the revenue collection and tap the revenue potential of available resources without affecting the ecological security and environmental sustainability of the State.

5.6 Levy fees

Levy fee is a fee charged at the inter-state border on forest produce imported from other States.

Levy fee is levied to set equilibrium between the rates of royalty in Assam in comparison to those of neighbouring States.

Audit scrutiny revealed that the GOA had fixed levy fee long back in 1990 at ₹ 10 per truck carrying forest produce. Though rates of royalty has increased manifold in the meantime, the GOA has not revised the rates of levy fee.

It was further noticed from an analysis carried out by E&F Department in February 2007 that while the rates of royalty on sand and stone in Assam were ₹ 70 and ₹ 100 per cum respectively, the same were ₹ 30 and ₹ 80 per cum in Meghalaya. Consequently, the purchasers in Assam are procuring these materials from Meghalaya hampering the *mahals* in Assam with lesser prospect and reduced sale value. On the basis of the analysis, the E&F Department has in March 2007 proposed to increase levy fee from ₹ 10 per truck to ₹ 100 per truck. However, GOA has not notified the revised rates yet. Consequently, purchasers in Assam still tend to import forest produce from other neighbouring States wherein rates of royalty are lesser than Assam.

³⁷ Through google search

This resulted in loss of revenue of ₹ 32.50 lakh³⁸ (at ₹ 100 minus ₹ 10 per truck) on account of non-revision of levy fee calculated on 37,242 trucks. Of this 15,066 trucks contained 75,330 cum stone which were imported from other States due to the difference in rates of royalty and resultantly led to loss of ₹ 77.28 lakh³⁹ to the State exchequer. The impact on revenues of Assam due to non-revision as stated above is only a pointer and based on information relating to **only one Division**.

Recommendation 19:

GOA may expedite notifying the revised rates of levy fee to ensure equilibrium in the rates of royalty on forest produce in Assam and those in neighbouring States which would in turn discourage influx of forest produce from other States and consequent increase in sale of forest produce belonging to Assam and revenue generated therefrom.

The Department stated (November 2012) that GOA may examine the legal issue on imposition of levy fees to maintain equilibrium of the royalty rates with the neighbouring states for various minor minerals.

³⁸ Based on information on entry of trucks carrying forest produce from other States as furnished by Cachar and Karimganj Divisions. The other Divisions did not respond with the information despite being requested.

³⁹ Calculated taking into account the rates of royalty on Stone in Assam during the relevant period.