

CHAPTER – VI

IRREGULARITIES IN MINING

Delay in framing rules to prevent irregular mining and transportation	6.1
Irregular extraction of minerals	6.2
Transportation of minerals	6.3
Conclusion	6.4
Recommendations	6.5

CHAPTER VI – IRREGULARITIES IN MINING

In terms of National Mineral Policy, all minerals have to be extracted and transported under lawful authority. The extraction of mineral should be in accordance with approved mining plan and despatch of minerals should be on obtaining mineral despatch permits from the DMG on payment of royalty. In this chapter, we discuss the extraction and despatch of minerals in violation of prescribed norms, that is, production of minerals in the absence of mining plan, in excess over the approved mining plan, mineral extraction before entering into lease, transportation of minerals without permit/in excess over the permitted quantity, all of which resulted in illegal extraction and despatch of mineral.

6.1 Delay in framing rules to prevent irregular mining and transportation

Section 23 C of the MMDR Act, empowered the State Government to frame rules for preventing illegal mining, transportation and storage of minerals and for the purposes connected therewith.

Failure to frame Rules in pursuance of the provisions of the MMDR Act was mentioned in Paragraph No. 7.2.9 of the Audit Report of the Comptroller and Auditor

General of India (Revenue Receipts) for the year 2005-06. The Standing Committee on Coal and Steel, Ministry of Mines, Government of India in their 19th Report (August 2006) commented on the lackadaisical attitude of the State Governments in framing the Rules resulting in rampant illegal mining and asked the Ministry of Mines of Government of India to issue directions to the concerned States to immediately frame the Rules for prevention of illegal mining.

The Karnataka Mineral (Regulation of Transport) Rules, 2008 were notified in March 2008. However promulgation of the Rules was stayed by the Hon'ble High Court of Karnataka based on the writ petitions filed by the miners challenging the validity of the Rules, 2008 as discriminatory, arbitrary, etc. Subsequently, the Hon'ble High Court disposed of (September 2010) the writ petition subject to the mutual agreement on provisions relating to transportation of ore between the Department and the lessees and amendment to the Rules accordingly. Consequently, separate Rules viz., Karnataka (Prevention of Illegal Mining, Transportation and Storage of Minerals) Rules, 2011 were notified (April 2011). These Rules provide for fitting of vehicles with Global Positioning Device, validity of the permits based on the destination of the transportation, registration of stock yards/mineral based industries, establishment of check posts, barriers, weigh bridges, etc. Thus the delay in framing the Rules till April 2011 resulted in absence of controls with respect to transportation and huge revenue loss to the State exchequer. This is evidenced from the statement made by the then Chief Minister of Karnataka on the Floor of the Karnataka Assembly on 9 July 2010, wherein it was stated that as against the permitted quantity of 470.43 lakh MT of iron ore, a quantity of 775.34 lakh MT was exported. This resulted in as much as 304.91 lakh MT iron ore valued at ₹ 15,245 crore (adopted at a conservative free-on-board rate

of ₹ 5,000 per MT) exported without valid permits during 2003-04 to 2009-10.

The Director, DMG replied (January 2012) that action was initiated to draft the Rules in March 2005 but was delayed due to administrative reasons and also due to litigations pending before the Hon'ble High Court of Karnataka between the period March 2008 and September 2010. It was also stated that the issue of loss due to illegal mining was covered in the Second Report of the Hon'ble Lokayukta and also in the Report of CEC which would be placed before the Hon'ble Supreme Court and appropriate action to prevent recurrence of illegal mining and transportation of minerals would be taken up based on the directions issued by the Hon'ble Supreme Court. Further, the committee constituted to fix responsibilities on the officers/officials for illegal mining and transportation of minerals had submitted its Report to the Government and certain issues were referred to CBI for investigation.

The Director DMG during exit conference stated that the rules were notified in 2008 after allowing a period of one month for the public to file objections, if any, before publication of notification. However, during that period no objections were raised and lessees approached court only after notifying the rules.

Thus, in spite of the State Government being empowered under Sec 23C of MMDR Act to frame separate Rules in 1999 itself, administrative delay to notify initial Rules till 2008 was not justifiable especially in view of rampant illegal mining in the State.

6.2 Irregular extraction of minerals

Major minerals (Iron ore)

Rule 22 (4) of MC Rules states that on receipt of application for the grant of a mining lease, the State Government shall take a decision to grant precise area for the said purpose and communicate such decision to the applicant. On receipt of communication, the applicant shall submit a mining plan, within a period of six months or such other period as allowed by the State Government, to the Central Government, i.e. the IBM for its approval. The applicant shall submit the mining plan thus approved to the State Government to grant mining lease over that area. MCD Rules, 1988, stipulates that the lessees have to prepare and submit the mining plans every five years along with the scheme of mining. The mining plan and the scheme of mining thus becomes extremely vital documents for the scientific and systematic development of mineral deposits. Section 21(5) of MMDR Act states that 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 the mineral has already been disposed of, the price thereof, along with royalty.

We test checked 73 out of 120 mining leases in Hospet, Chitradurga and Tumkur. We noticed violations of Rules/norms in 14 cases which resulted in illegal extraction and despatch of minerals in the following paragraphs:

6.2.1 Production of minerals in the absence of approved Mining Plan/scheme

As per MCD Rules, lessee shall review the MP and submit mining scheme for the next five years 120 days before expiry of the current plan and IBM shall communicate its approval or rejection within 90 days. If no decision is communicated within 90 days, the mining plan/scheme is deemed approved provisionally subject to communication of final decision.

We noticed that the field offices did not monitor the extraction of iron ore vis-à-vis approved mining plan/scheme by IBM and issued permits for despatch of ore on collection of royalty. The Management Information System in the DMG also did not provide for monitoring

this at Directorate level. We noticed in three test-checked Divisions that four lessees had extracted 14.68 lakh MT of iron ore valued at ₹ 150.59¹ crore without approved mining scheme. The concerned Deputy Director/Senior Geologist had permitted despatch of mineral on collection of royalty without ensuring the approval of the mining scheme. Details are given below:

6.2.1.1 We noticed that in respect of mining lease No. 2436 in Chitradurga, application for mining scheme for the period 2007-08 to 2011-12 was submitted to IBM only in January 2009 and the same was approved in March 2009. However, as per the annual audit reports finalised by the DD, Chitradurga, the lessee had produced 3,73,443 MT of iron ore during 2007-08 and 2008-09 without approved mining scheme. The Department had permitted despatch of mineral on collection of royalty and not recovered the value of mineral amounting to ₹ 44.65 crore under Section 21 (5) of the MMDR Act.

After we pointed out (October 2011), the DD replied that demand notice was issued (December 2011). Further, progress made has not been received.

6.2.1.2 A Mining scheme for the period 2006-07 to 2010-11 was approved in February 2007 in respect of mining lease No. 2220 in Tumkur. In terms of the approved mining scheme, the lessee had not worked the mine from 2000-01 to 2005-06. Scrutiny of the Annual Audit Reports furnished by the DD, concerned, revealed that the lessee had produced 1,54,916 MT of iron ore between April 2005 to January 2007 (before approval of mining scheme). However, the Department did not recover the value of mineral amounting to ₹ 12.27 crore for this unauthorised extraction.

After we pointed out (September 2011) the irregularities, the DD, Tumkur stated that the mining scheme approved by IBM on 2 February 2007 was for the period from 2006-07 to 2010-11. The reply was silent about why the

¹ For the purpose of computation of value of iron ore, the details of overall quantity of iron ore produced and value realised in respect of iron ore as available in the Mineral Year Book published by IBM for the year 2006-07 to 2009-10 were considered. Accordingly, the rate of iron ore per MT have been adopted as ₹ 789, ₹ 1160, ₹ 1219 and ₹ 1116 for the years 2006-07 to 2009-10 respectively.

penalty was not levied/leviable for unauthorised extraction of 1,56,120 MT of iron ore prior to the approval of mining scheme.

Further examination of the production and despatch statement furnished by the same lessee for the period 2005-06, indicated that the closing stock of iron ore available was 5144 MT. However, 369032 MT of iron ore was declared by the lessee as opening stock (March 2007) and the same was allowed to be transported during the subsequent years. Since the lessee had shown production of 13,900 MT of iron ore from the start (April 1996-97) of the mines and only 21,267 MT of waste could be generated as per the ore-waste ratio (arrived from the mining plan approved on 2nd February 2007), accumulation of such huge quantity of iron ore as opening stock leads to the suspicions of illegal mining.

Further, on verification of the inspection records in KSPCB regarding the same lessee, we found that KSPCB had issued closure orders for the mine for the period from 2006-07 to 2009-10 and had given permission only to transport the already mined ore. The KSPCB during inspection (February/April 2009) observed production of iron ore by the lessee using vehicles and formation of 22 working benches in different directions in the mines and concluded that the lessee was working continuously without the consent of the KSPCB thus indulging in illegal, haphazard and unscientific mining. A copy of the inspection report was also forwarded (February 2009) to DMG with instructions to stop the issue of permits for transportation. Thus, 6,90,597 MT produced by the lessee between 2006-07 and 2009-10 valued at ₹ 76.28 crore made was unauthorised.

6.2.1.3 The Mining scheme for extraction of manganese ore for the period 2003-04 to 2007-08 for lease No.2600 in Tumkur was approved in December 2003. The revised mining plan approved in February 2006 was also for manganese ore. However, we noticed from the DCB statement of the Division that the lessee had extracted 3,56,466 MT of iron ore during 2004-2006 which was not authorised in the approved mining scheme. The Deputy Director, Tumkur issued MDPs for transportation of iron ore of 3,56,466 MT of iron ore though there was no mining scheme approved by IBM for extraction of iron ore which had resulted in loss of revenue of ₹ 24.47 crore.

After we pointed out (September 2011), the Deputy Director, Tumkur replied that the lessee had produced iron ore based on the consent on establishment issued by KSPCB (August 2004 to June 2006). The reply is not tenable since the consent given by KSPCB is for environment clearance and not for extraction of mineral which was to be done in terms of the mining plan approved by IBM.

6.2.1.4 The Special Task Force of IBM during inspection (April 2010) noticed that the mining operations in lease No. 2604, Hospet were carried out without having approved mining scheme and suspended mining operations in May 2010. Meanwhile, the lessee had extracted 42,000 MT of iron ore (April and May 2010) without approved mining scheme was unauthorised leading to loss of revenue of ₹ 4.69 crore.

The Department stated (October 2012) that in cases where the lessee applies for approval of mining scheme within the prescribed period of 120 days prior

to the expiry of the existing scheme of mining and IBM failed to either accept or reject the application within the stipulated period of 90 days, the lessee have the rights to continue with mining operations treating it as deemed approval as per rule 12(3) of MCD rules. The reply is not tenable since in the instant cases the lessee had not applied for approval of mining scheme within the prescribed period and hence the question of deemed approval does not arise.

6.2.2 Production of minerals in excess over the quantity approved in the Mining Plan

Rule 22-A of MC Rules and Rule 9 and 10 of MCD Rules 1988 stipulate that a lessee desirous of seeking modifications in the approved mining plan, in the interest of safe and scientific mining, conservation of minerals and protection of environment, shall obtain prior approval for such modifications after applying to the competent authority setting forth the intended modification and explaining reasons for such modifications.

We noticed that in ten cases, the Department failed to monitor the extraction of iron ore in accordance with the approved mining plan. We verified the annual audit reports of the DMG with the approved mining plans/ schemes and noticed that as against 41.24 lakh MT of

iron ore to be extracted, 51.19 lakh MT of iron ore was extracted by ten lessees resulting in unauthorised extraction of 9.95 lakh MT of iron ore valued at ₹ 107.41 crore as detailed below:

Sl. No.	Name of the lessee and ML No.	Year	Quantity of iron ore (in MT)			Value (₹ in lakh)
			Approved for extraction as per mining plan	Actually extracted	Extracted in excess	
1	ML 2557: M/s Razia Khanum: Chitradurga	2007-08	21000	42000	21000	243.6
2	ML 2566: M/s Laxminarasimha Mining Co., Chitradurga	2007-08	234450	473000	238550	2767.18
3	ML 2585: M/s Thangavelu, Chitradurga	2007-08	161322	213277	51955	602.68
4	M/s Matha Minerals: ML 2600: Tumkur	2006-09	353754	631049	277295	2865.2
5	2354: Ambica Ghorpade: Hospet	2006-07	115800	178305	62505	493.16
6	2522: Gogga Gurushanthaiah: Hospet	2006-07	302434	314401	11967	94.42
7	2584: Auro Minerals: Hospet	2009-10	420225	436951	16726	186.66
8	2525: M/s Deccan Mining Syndicate: Hospet	2006-08	2416000	2635600	219600	2376.7

Sl. No.	Name of the lessee and ML No.	Year	Quantity of iron ore (in MT)			Value (₹ in lakh)
			Approved for extraction as per mining plan	Actually extracted	Extracted in excess	
9	2545: Laxmi Minerals: Hospet	2007-08	49770	73000	23230	269.47
10	2551: Laxmi Minerals: Hospet	2007-09	49455	122000	72545	841.52
		Total	4124210	5119583	995373	10740.59

After we pointed out (September 2011 to November 2011) these deviations, the DD, Chitradurga stated that demand notices were issued (December 2011) in respect of three lessees. Reply in respect of the remaining seven leases was not received (October 2012).

The Department stated (October 2012) that Integrated Lease Management System (ILMS) has been introduced which has a fool proof mechanism which locks the system in respect of a particular mining lease where production of ore in excess of the prescribed limit is noticed.

6.2.3 Extraction of mineral before obtaining a mining lease

As per Rule 27(a) and 27(b) of MC Rules 1960, the lessee shall report the discovery of any mineral in the leased area other than specified in the lease to the State Government within sixty days of such discovery and if any mineral not specified in the lease is discovered in the leased area, the lessee shall not win and dispose of such mineral unless included in the lease or a separate lease is obtained thereof.

We noticed that the Department had permitted some lease holders to remove the mineral not specified in the lease deed prior to grant of lease for that mineral as detailed below:

> Mining Lease No 836 of Tumkur was for extraction of

manganese ore in an area of 39.66 ha. Renewal of the lease for an area of 11.33 ha was applied (March 2004) by the lessee. Working permission² was granted (September 2006) and notification for renewal of the lease for manganese ore was issued (Nov 2006). The IBM during its inspection (June 2008) found that mine pit had developed two benches below 870m where there was only iron ore without any occurrence of manganese ore and ordered for suspension of mining since iron ore was not included in the mining lease.

² As per Rule 24 (a) (6) of MC Rules, 1960, if the mining lease holder applies for renewal of mining lease one year prior to the expiry of the lease and the said renewal application is not renewed within twelve months by the Department, then the mining lease is deemed to have been renewed. In such cases, the Department will issue working permission for carrying out the mining operations till the mining leases are not renewed.

We noticed that the lessee had reported occurrence of iron ore and had applied for inclusion of the same in the mining lease and the same was under process. The lessee sought (January 2007) permission for transportation of iron ore claimed to be encountered while extracting manganese ore but the same was not granted by the Department. The lessee had extracted 1.60 lakh MT of iron ore during 2006-07 before inclusion of iron ore in the lease. However, when approval for extraction was granted, the lessee had declared opening balance of 80,000 MT during 2010-11 as against 1.60 lakh MT, which indicated that the lessee had already transported 80000 MT of iron ore before the lease was granted and also without valid permits. The value of the iron ore thus extracted and transported without valid lease worked out to ₹ 12.62 crore.

The Director stated (February 2012) that it was difficult to extract manganese ore only when iron ore was also present in the area. Reply is not tenable since IBM had observed that there was only iron ore in the mining pit without any occurrence of manganese ore. Regarding shortage of 80000 MT, the Department replied that a detailed report had been called for from the DD, Tumkur. Further compliance is awaited (October 2012).

(ii) In respect of mining lease No.2087, the lessee had applied for renewal of lease previously held for manganese ore only for a further period of twenty years in March 1998 and also applied for inclusion of iron ore in the lease. However, we noticed that before entering into lease for iron ore, the Department issued working permission for extraction of iron and manganese ore during the year 2008-09 and later restricted the working permission for manganese ore during 2009-10 in violation of the provisions of Act/Rules. The Government accorded (January 2010) sanction for renewal of mining lease for a period of twenty years with effect from April 1999 for manganese ore only. We noticed that the lessee had extracted 4000 MT of iron ore during the year 2008-09 and 51500 MT during 2009-10 out of which 16,044 MT of iron ore was also permitted to be transported. The value of the iron ore thus extracted without valid lease works out to ₹ 6.23 crore.

The Director, DMG, Bangalore replied (May 2012) that show-cause notice had been issued (February 2012) to the Deputy Director, Hospet calling for explanation for issuing permits for transportation of iron ore though extraction of the iron ore was not included in the lease deed.

(iii) In respect of mining lease No.1266/2601, we noticed that the lease was determined (February 1988) under rule 27(1) of MC Rules. The revision application against this was rejected and the lessee filed a fresh application (December 1991) for grant of mining lease in the same area and the application was under process. Meanwhile, the Director, DMG gave (August 2004) permission to lift and transport stock of manganese ore and iron ore lying in the lease area. Further, working permission was also accorded (October 2004) but was withdrawn (January 2005) subsequently. Accordingly, the application was processed and lease (ML 2601) was granted (April 2008) and the deed was executed (April 2009). Meanwhile, the applicant extracted (2004-06) 1.5 lakh MT of manganese ore and 52000 MT of iron ore without a valid lease. Out of this, entire stock of manganese ore was transported by the lessee on payment of royalty whereas the iron ore was

kept as stock. The cost of the mineral thus raised without valid lease was ₹ 21.51 crore³.

The Department accepted that if the lessee extracts any other minerals not included in the lease, he has to stock such minerals separately until lease is executed for extraction of that mineral also and market value of the mineral has to be collected from the lessee if the lessee transports the mineral before inclusion of the mineral in the lease deed. It is further replied that steps were being taken to recover the value of the minerals from the lessees for such violations.

6.2.4 Declaration of huge stock of old dumps

The mining plan for a lease prescribes ore to overburden ratio which determines the amount of dump available when mining is done as per mining plan.

We noticed that in respect of mining lease No. 2388 of Chitradurga, stock of six lakh MT of iron ore was declared (September 2005) by the

lessee as old dumps of previous activity and was allowed to be transported during the subsequent years. As verified from the mining scheme for 2006-07 to 2010-11 approved in January 2006, the iron ore production during the previous years was nil and there was no previous activity. As per the mining plan the lessee had produced only 58,400 MT of iron ore during the period from 1988 to 2005, accumulation of such huge quantity of old dumps was doubtful and declaration of 6 lakh MT of iron ore in September 2005 shows illegal extraction of iron ore valued at ₹ 47.34 crore which should have been recovered from the lessee.

After we pointed out, the Department issued notice (December 2011) to the lessee. Further progress made has not been received (October 2012)

6.2.5 Iron ore found in the area applied for lease

In respect of mining lease No. 2658 of Chitradurga, we noticed that the lessee had applied (July 2005) for grant of mining lease from a patta land. While the application was under process, the lessee requested for issue of permits for transportation of iron ore dumps found in the applied area.

The DD, Chitradurga permitted (March 2006) the lessee to transport the iron ore found in the applied area after collecting royalty and levying a fine of ₹ 25,000. The grant of permission for transportation of 37,593 MT iron ore without recovering the cost of the ore was incorrect and resulted in non-realisation of Government revenue of ₹ 2.97 crore.

The Department stated (September 2012) that notice was served on the lessee for the violation and the value of the mineral was being collected from the lessee.

³ By adopting the rate of @ ₹ 1184 per MT for Manganese ore and @ ₹ 722 per MT for iron ore

6.2.6 Short declaration of production

In a mining lease of M/s. Sandur Manganese and Iron Ore Limited (Mining Lease Nos. 2580 and 2581) of Hospet, we noticed that the lessee was operating two leases for extraction of iron ore and manganese ore. On verification of modified mining plan for the period 2009-10 to 2010-11 for the above leases approved by IBM in June 2009, we noticed that the production of manganese ore achieved in the mining plan for the period from 2006-07 to 2008-09 was 8,79,131 MT. However, cross verification of production mentioned in the modified mining plan and the production as per the DCB statement revealed that for the same years the production of manganese ore was shown as 6,76,768 MT as against 8,79,131 MT reported to IBM, resulting in short declaration of production by 2,02,363 MT valued at ₹ 81.18 crore. Since royalty is collected for the quantity of ore transported in terms of the DCB statement, escapement of royalty amounting to ₹ 2.44 crore⁴ in respect of 2,02,363 MT of manganese ore short declared could not be ruled out.

The Department accepted that the differences were found in the production declared to IBM and DMG by the lessee and instructions were issued to the field office to recover the difference in royalty.

6.2.7 Lack of co-ordination with other Departments

The extraction of minerals and despatch being monitored by various agencies, co-ordination among these agencies and other departments like Transport and Commercial Taxes are essential to detect and curb evasions and illegal mining. To ascertain the effectiveness of co-ordination, we cross verified data of the DMG with other agencies and Departments like IBM, Transport, Commercial Taxes and Forest. We noticed that there were differences in the data of these institutions as relates to mining activities as detailed below.

6.2.7.1 Indian Bureau of Mines (IBM)

Discrepancies in production figures reported by the lessees

We obtained production details from IBM, Nagpur and compared the same with production statement given by DMG district-wise and found that the figures are at variance indicating that there was lack of coordination between the IBM and DMG to ascertain the correct position of the production figures.

The following table depicts the difference between the figures of production furnished by lessees to the DMG and IBM:

⁴ At 3 per cent of the sale value of the ore computed on the basis of average price of the ore declared by the lessee during the period.

(in lakh MT)

Mineral	2006-07			2007-08			2008-09			2009-10		
	DMG	IBM	Difference	DMG	IBM	Difference	DMG	IBM	Difference	DMG	IBM	Difference
Iron Ore	414.66	342.01	72.65	629.26	440.81	188.45	693.75	494.05	199.70	529.22	338.31	190.91
Manganese	1.82	2.74	-0.92	2.64	3.12	-0.47	1.21	3.38	-2.16	0.47	2.76	-2.29
Lime Stone	146.75	149.39	-2.64	162.86	148.82	14.04	645.01	275.74	369.27	127.22	313.61	-186.39
Bauxite	1.04	3.13	-2.08	1.62	1.62	0.00	1.38	1.36	0.02	1.23	1.12	0.11
Gold in Kgs	2335.00	2335.00	0.00	3153.52	2817.00	336.52	2616.09	2445.00	171.09	2166.30	2095.00	71.30
Others	16.39	17.14	-0.75	22.99	21.52	1.47	24.33	23.26	1.07	16.38	21.54	-5.16

Thus it could be seen from the above that the figures furnished to the two departments were at variance and DMG at no time has attempted reconciliation between the figures to arrive at the actual figure of production.

We obtained the production details in respect of 73 iron ore lessees from the Regional Controller of Mines, IBM, Bangalore and compared it with the production figures mentioned as per Annual Audit Reports concluded by DMG and our scrutiny revealed the following discrepancies between the productions intimated to DMG and IBM in the following 57 cases:

6.2.7.1.1 Production reported in excess to Department of Mines and Geology

The production reported to IBM during the period from 2006-07 to 2009-10 in respect of 34 lessees was 282.25 lakh MT whereas the production reported by DMG in the annual audit reports during the same period was 347.94 lakh MT resulting in excess reporting of production of iron ore to DMG by 65.69 lakh MT valued at ₹ 698.30 crore. As the returns furnished by the lessees to IBM were verified during the periodical inspections conducted by IBM and in none of these cases any excess production was reported after inspection, the possibility of the differential production being obtained from outside the mines through illegal means cannot be ruled out. DMG had not developed any system for reconciliation of the figures furnished to them by the lessees with IBM to ascertain the actual production. The sources of excess ore need to be investigated.

After we pointed out this, the Deputy Directors, Chitradurga and Hospet stated that notices were issued to the concerned lessees calling for explanation for violation and necessary action would be initiated after receipt of replies.

If it is established that the ore was illegally extracted penalty of ₹ 698.30 crore (i.e. value of ore) was recoverable from the perspective of illegal mining.

The Department replied that ILMS introduced in the Department provides for online submission of monthly returns as per Rule of MCD Rules which would be helpful in solving the problem of differences in production between DMG and IBM.

6.2.7.1.2 Furnishing of lesser production to Department of Mines and Geology

In Tumkur, Chitradurga and Hospet, the production reported to IBM during the period from 2006-07 to 2009-10 in respect of 23 lessees was 141.67 lakh MT whereas the production reported to DMG by these lessees during the same period was 108.36 lakh MT. As the dispatches are made on the basis of production, the differential quantity of 33.31 lakh MT of iron ore valued at ₹ 315.15 crore was transported without obtaining valid permission from DMG which was contrary to the provisions of the Act and is liable to be recovered from the lessees concerned. The loss of royalty in this regard for the period from 2006-07 to 2009-10 works out to ₹ 5.93 crore⁵.

DD, Hospet replied that demand notices were issued to the concerned lessees for payment of ₹ 2.77 crore. DD, Chitradurga replied that notices were issued to the lessees calling for explanation for differences.

We recommended DMG should put in place a system of periodical reconciliation of the production figures furnished by the lessees with that of the IBM to ascertain the actual production of mineral wealth.

6.2.7.2 Commercial Tax Department

As per provisions under Section 4(1) of the Karnataka Value Added Tax (KVAT) Act 2003 read with relevant notifications (March/April 2005), every dealer engaged in the sales of iron ore has to pay a tax at the rate of four *per cent* on the turnover and also required to file monthly returns (Form VAT 100), annual return (form VAT 110) and audited statement (VAT 270) to the concerned Commercial Tax Officer.

We obtained details of the sales of iron ore made by 10 lessees from the Commercial Tax Department as per their returns and the connected records maintained and the same was compared with the despatch figures in the annual audit reports concluded by DMG. We found the following discrepancies:

In one case (ML 2236: Sessa Goa Limited: Chitradurga), we noticed that the lessee had declared sales of 3921172 MT of iron ore as per VAT returns whereas the quantity of despatch declared in DMG was 2575508 MT during 2005-06 and 2006-07 as detailed below.

Year	Total Sales in MT as VAT returns	Despatches in MT declared to DMG	Difference in MT	Value (at ₹ 750 per MT) in crore
2005-06	1744787	1072613	672174	50.41
2006-07	2176385	1502895	673490	50.51
Total	3921172	2575508	1345664	100.92

We noticed from the VAT returns that the assessee had not declared any purchase of iron ore during the course of his transactions in these years. The

⁵ Rate of royalty was adopted as ₹ 11 per MT during 2006-07 to 2008-09 and ₹ 80 per MT for 2009-10

value of the excess sale of mineral works out to ₹ 100.92 crore⁶ and royalty realisable thereon was ₹ 1.48 crore (at ₹ 11 per MT), which showed illegal extraction and sale of iron ore.

➤ **Trading by unregistered dealers:** According to section 22 of the Karnataka Value Added Tax (KVAT) Act 2003, every dealer who at any time has reason to believe that his turnover is likely to exceed two lakh rupees (₹ 5 lakh from April 2010) shall be liable to be registered from April 2005 and report such liability forthwith or on such date as may be notified by the Government. Dealers having the turnover below the above limit are treated as unregistered dealers (URD) and they have no liability to pay taxes. All the sanctioned mining leases are registered under KVAT Act (commonly known as registered commercial tax dealers).

We obtained information from the CTD and found that 97 registered dealers have purchased of iron ore worth ₹ 508.27 crore from URDs during 2006-07 to 2009-10. This information was not passed on to DMG and no efforts were made by the DMG to trace out URDs. This shows that a lack of co-ordination between the departments resulted in a large quantity of iron ore being handled by individuals who were not having any registration either with the CTD or with the DMG.

After this was pointed out by us, the DD Hospet stated that action was initiated in this regard by the Director's Office. However we found that Director's Office could not make much headway on the issue as they could not trace the concerned dealers since most of them were non-existent. This indicates that the enforcement wing of DMG was weak and could not trace the URDs engaged in the sales of iron ore and the mineral had been despatched without the knowledge of the Department.

Absence of a system to register all the dealers engaged in the transaction of iron ore and lack of timely action in co ordination with the Department of Commercial Tax resulted loss of royalty to the extent of ₹ 7.09 crore (₹ 11 per MT). In addition, the value of the iron ore thus illegally extracted worked out to ₹ 508.27 crore.

The Department stated (October 2012) that ILMS introduced in the Department would resolve such differences between DMG and CTD.

To stop the leakages in the revenue realisation we recommend that DMG in consultation with CTD may consider putting in place a system by way of cross verification for registration of all dealers engaged in the transaction of iron ore.

⁶ By adopting the rate of ₹ 750 per MT arrived as an average of local and interstate sales for the year 2005-06

6.2.7.3 Forest Department

In respect of leases operating in forest areas, the lessee has to obtain transit permits (geological permits) from DMG for transportation of the mineral extracted. Based on the same, Forest Department issues permits for the same quantity as indicated in the geological permits. Thus, the quantities permitted by DMG should match with the quantities permitted by the Forest Department to ensure that no illegal transportation had taken place.

We obtained details of the quantity of iron ore permitted to be transported by the Deputy Conservator of Forest, Bellary in respect of 71 lessees and compared the same with the quantity permitted to be transported as per the DCB of DMG. The scrutiny revealed discrepancies are

mentioned in the following paragraph:

Excess quantities transported based on permits issued by Forest Department

We observed that 399.90 lakh MT of iron ore was permitted by DMG for transportation by 32 lessees during 2006-07 to 2009-10. Cross verification of the quantum of iron ore permitted by the Forest Department for these leases, however, revealed that 437.42 lakh MT of iron ore was permitted by the Forest Department during the same period. Since geological permits are mandatory in respect of movement of mineral from the mine head, the movement of iron ore in excess of the geological permits was not authorised. The differential quantity of 37.52 lakh MT of iron ore, valued at ₹ 296.02 crore, thus permitted in excess by the Forest Department indicates that the same was irregularly extracted and transported without payment of royalty amounting to ₹ 4.13 crore. The details are as under:

Sl. No	Name of the lessee / ML Number	Years	Quantity of iron ore for which permits issued (in MTs)	Quantity of iron ore for which permits from DMG obtained (in MTs)	Difference quantity (in MTs)	Value of the mineral (₹ in crore)
1	M/s.Aswathnarayana Singh and Company, ML. No.2531	2006-2010	1828457	1714376	114081	9.00
2	Sri.Kanhaiyalal Dudheria, ML No.2563	2007-2010	2082160	2014730	67430	5.32
3	M/s. Kumaraswamy Mineral Exports, ML No.2141	2006-2010	3153777	2301258	852519	67.26
4	M/s.Mysore Minerals Limited (Subbarayanahalli)	2006-2009	4509448	4121425	388023	30.61
5	M/s.Mysore Minerals Limited (Thimmappanagudi), ML No.2002	2006-2010	5798686	4889158	909528	71.76

Sl. No	Name of the lessee / ML Number	Years	Quantity of iron ore for which forest permits issued (in MTs)	Quantity of iron ore for which permits from DMG obtained (in MTs)	Difference quantity (in MTs)	Value of the mineral (₹ in crore)
6	Smt. R. Mallamma, ML. No.1806	2006-2010	2337409	2232418	104991	8.28
7	M/s. Ramgad Minerals and Mining Pvt. Ltd., ML. No.2541	2006-2010	1201140	998021	203119	16.03
8	M/s. S.B. Minerals (Vyasakeri), ML No.2515	2006-2010	3552100	3314054	238046	18.78
9	Others 24 lessees	2006-2010	19278699	18404413	874286	68.98
TOTAL			4,37,41,876	3,99,89,853	37,52,023	296.02

6.2.7.4 Transport Department

As per circular instruction issued on 25 July 2006 by the Director, DMG, the maximum quantity of iron ore permitted for transportation of iron ore per truck is 17 MT; the value and royalty for every tonne of iron ore transported in excess of the permitted quantity was recoverable. However, this circular instruction was not communicated to other Departments like CTD, Transport Department, etc.

We noticed from the records of Regional Transport Office (RTO) for the years 2005-06 to 2010-11 that in 3,314 cases where vehicles were found overloaded beyond the permissible limit of 17 MT per truck. These cases were not referred by the Transport Department to DMG

indicating absence of coordination between RTO and DMG authorities in regulating and controlling movement of overloaded vehicles. Consequently, the levy of the value of the mineral for transporting iron ore of 38342 MT amounting to ₹ 4.61 crore thus transported beyond the permitted load and royalty amounting to ₹ 4.22 lakh could not be levied and collected by DMG as detailed below.

Office and period	Period	No. of vehicles overloaded	Quantity overloaded (in MT)	Royalty	Value of the overloaded quantity ⁷ (₹ in lakh)
Tumkur	2005-06 to 2008-09	83	972	0.11	8.67
Chitradurga	2006-07 to 2008-09	196	2,475	0.27	22.39

⁷ For the purpose of computation of value of iron ore, the details of overall quantity of iron ore produced and value realized in respect of iron ore as available in the Mineral Year Book published by IBM for the year 2005-06 to 2010-11 were considered. Accordingly, the rate of iron ore per MT has been adopted as ₹ 721, ₹ 789, ₹ 1160, ₹ 1219, ₹ 1116 and ₹ 1640 for the years 2005-06 to 2010-11 respectively.

Office and period	Period	No. of vehicles overloaded	Quantity overloaded (in MT)	Royalty	Value of the overloaded quantity ⁷ (₹ in lakh)
Hospet	2008-09 to 2010-11	3,035	34,895	3.84	429.96
Total		3,314	38,342	4.22	461.02

DD, Chitradurga replied that RTO, Chitradurga had not referred the cases of overloading of vehicles to DMG.

The Department stated (October 2012) that cases where the District Task Force Committee noticed overloading of mineral carrying vehicles during joint operations, action was taken to seize the ore and dispose of the same through public auction. However, Department has not furnished details in this regard.

Minor minerals (Stone)

6.2.8 Non-levy/short levy of value of mineral in cases of irregular quarrying of minor minerals

As per provisions under sub-rule (3) below Rule 44 of KMMC Rules 1994, any person who undertakes any quarrying operation in respect of minor mineral without a license or lease, is liable to pay a penalty of ₹ five thousand or value of the mineral whichever is higher. The cost of the mineral is mentioned in Schedule-III of the Rules. The rates have not been revised since 1994.

The Department adopted the benchmark rates prescribed in 1994 for auction of seized minor minerals under Schedule III of KMMC Rules 1994 for assessing the value of the minerals quarried instead of assessing the same based on the prevailing market

value.

In two test-checked cases (Ramanagar and Chitradurga), the Department found (May 2010 and October 2010) that the lessees had done quarrying beyond the leased area and had transported 403.842 cum of grey/multi-coloured granite. Audit observed that in one case in Ramanagar, the Department adopted the rate of ₹ 2,000 per cum as per Schedule III for collecting the value of the mineral. The cost of the mineral as per a sale invoice issued by the lessee was ₹ 12,000 per m³. Thus, non-revision of the rates resulted in short collection of value of the mineral in of ₹ 40.38 lakh⁸. Failure to revise the minimum rates thus resulted in short levy of the value of the mineral. In another case in Chitradurga, the Department did not levy the value ₹ 9.33 lakh for the mineral extracted irregularly. After we pointed this out, it was stated that that demand notice was since issued to the lessee.

The Department stated (October 2012) that proposal for revision of market rates was sent to the Government in June 2012 and steps would be taken to notify the value of the minerals on the basis of value so fixed for the purpose of recovery.

⁸ The rate of ₹ 12,000 per cum prevalent during 2009-10 as per sale invoice is adopted for calculation of short/non-levy.

6.3 Transportation of minerals without valid permits

The minerals extracted from the lease are to be removed and transported on the basis of mineral despatch permits (MDP) granted on payment of royalty. As per the conditions stipulated, the permits are valid for 30 days only. Permits not used within the valid period would lapse unless the same is not renewed. Further, along with the permits, the trip sheets in triplicate will be issued by the Department to the lessees to facilitate transportation of mineral.

The instructions of the Director, DMG (July 2006), specified that value of the minerals transported in excess over the permitted quantity in the MDPs was also required to be collected along with corresponding royalty from the lessees concerned. We noticed that the value of the minerals was not

collected for transportation of minerals in excess over the permitted quantity as brought out in the following paragraphs.

6.3.1 Delay in recovery of value of the minerals transported without permits

In respect of mining lease of Sessa Goa Limited (Mining Lease No. 2236) of Chitradurga, the Department had noticed (July 2006) that as against 5,98,686 MT of iron ore permitted for transportation during April 2006 to July 2006, a quantity of 6,58,929 MT was transported by the lessee resulting in excess transportation of 60,243 MT of iron ore without permit. The Department issued demand notice (August 2006) for payment of value of the mineral (₹ 6.20 crore) and royalty (₹ 16.27 lakh). Subsequently, the lessee submitted (November 2006) that the quantity of 60,243 MT was inclusive of 36,867 MT of fines and paid royalty amounting to ₹ 10.37 lakh in November 2006 and requested not to demand value of the mineral. Consequently, the Commissioner, DMG, Bangalore put the demand on stay (November 2006) subject to verification of records at the office of Deputy Director, DMG, Chitradurga.

We observed that action regarding recovery of the value of 60,243 MT of iron ore transported without permit was not taken by the Department though five years had elapsed since then.

After we pointed out, the Director issued (January 2012) instructions to the Deputy Director, Chitradurga to take action. Accordingly, DD, Chitradurga replied that notice was issued (February 2012) to the lessee intimating adjustment of ₹ 6.26 crore towards value of the iron ore thus illegally transported against the credit balance available with the Department in respect of the lessee as per DCB of 2010-11.

6.3.2 Utilisation of time-barred permits

In one case, the quantity of iron ore despatched during December 2009 in respect of one lessee (ML 2563: Kannaiyalal Dudheria: Hospet) was 61043 MT whereas the permits were issued only for 52000 MT during the month.

Further, no permits were issued during November 2009 and no lapsed permits were also got renewed by the lessee. Evidently, 9,043 MT of iron ore valued at ₹ 1.01 crore was transported without permit by the lessee. Similarly, audit observed that 3,21,668 MT of iron ore lumps and 3,32,185 MT of iron ore fines valued at ₹ 73.54 crore were transported by 12 lessees (Hospet) during 2006-10 through time barred permits.

The Department stated (October 2012) that notice was served on the concerned for the lapse and further action would be taken as per rules.

6.3.3 Non-collection of value of minerals

We noticed that DD, Hospet and DD, Tumkur had levied penalty on 293 trucks for carrying minerals without permit during 2006-10. However, value of the minerals amounting to ₹ 46.46 lakh was not levied and collected from the concerned transporters.

The Department replied that notice was served on the concerned for the lapse and further action would be taken as per rules.

6.3.4 Transportation of iron ore in excess over the quantity produced

In one case (Charuchandra: ML 2102: Hospet), the lessee transported (2003-06) 93,674MT of iron ore fines as against the available stock of 25000 MT declared by the lessee and there was no production during these years. Thus the Deputy Director allowed the transportation of excess quantity of 68,674 MT valued at ₹ 4.96 crore. The cost of the quantity transported was recoverable as it was on account of illegal extraction.

The Department replied that notices were issued to the concerned for the lapse and further action would be taken as per rules.

Minor minerals

6.3.5 Non-levy of penalty for not obtaining Mineral Despatch Permits

Rule 42 of the KMMC Rules, 1994 envisages that no person shall transport or cause to be transported any minor mineral except under or in accordance with a Mineral Despatch Permit (MDP). Further, as per Part-V Clause 4 of the quarry lease deed, the quarry lease holder will be liable for penalty at five times of royalty for transporting minor mineral without MDP.

Mention was made in Para 7.2.16 of the Audit Report of the Comptroller and Auditor General of India for the year 2005-06 regarding non-levy of penalty for not obtaining MDP for transportation of building stones.

As per the information furnished by the Department (pertaining to 25 offices out of 31 offices), 4.21 crore MT of building stone were transported by the lessees during the years 2006-07 to 2010-11. Out of this, only 0.16 crore MT of building stone were transported after obtaining MDPs and remaining 4.05 crore MT of building stone were transported without obtaining MDPs. However, penalty leviable at five times of royalty of ₹ 109.56 crore for transporting building stone without

obtaining MDPs which works out to ₹ 547.80 crore was not levied. In addition, processing fee of ₹ 50 per MDP leviable with effect from June 2007 also could not be levied due to non-obtaining MDP resulting in loss of revenue of ₹ 10.15 crore.

The Department stated (October 2012) that most of the stone quarries were being operated by traditional quarry workers and their education level was very low and hence the Department was not insisting these lessees for obtaining permits for mineral transportation. However, on the introduction of e-permit system, these quarry holders would also be covered in a year or two. But, the fact still remains that obtaining of MDP was essential to monitor extraction and despatch of mineral and the Department had not instituted any other mechanism to monitor the same. Provisions of the Act could not be violated on plea of ignorance and the Department should initiate action to educate and assist the quarry holders to comply with the provisions.

6.4 Conclusion

We found that the delay in framing the Rules till 2011 resulted in absence of control with respect to transportation and huge revenue loss to the State exchequer. We noticed that the Department had permitted removal of the mineral prior to grant of lease and had not monitored the extraction of iron ore in accordance with the approved mining plan. We noticed that there was lack of coordination among DMG, IBM, CTD, Transport Department, etc. to ascertain the correct position of the production figures. The data/information relating to mining activities available with the Departments like Transport, Forest, etc. were at variance with the data available with the DMG. The lackadaisical control exercised by the Department over the mining activities resulted in lessees excavating and despatching minerals without lawful authority. Lack of stringent action in respect of unauthorised transportation resulted in rampant illegal transportation of ores.

6.5 Recommendations:

It would be advisable to establish proper coordination among various Departments/Authorities/Agencies involved in mining activities like IBM, CTD, Transport Department, Forest Department, etc. with DMG to ensure better control over mining activities.