

# **CHAPTER-VII**

## **MINING RECEIPTS**

## EXECUTIVE SUMMARY

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| <b>What we have highlighted in this Chapter</b>   | <p>In this Chapter we present illustrative cases of ₹ 35.57 crore selected from observations noticed during our test check of records during 2012-13 relating to Mineral concession, Fees and Royalty in the office of the Director of Mines, Dy. Director of Mines and District Mining Officers, where we found that the provisions of Act/Rules were not observed.</p> <p>It is matter of concern that similar omissions have been pointed out by us repeatedly in the Audit Reports for the past several years, but the Department has not taken corrective action.</p> |
| <b>Trend of Receipts</b>                          | <p>In 2012-13, mining receipts increased by 18.01 <i>per cent</i> over the previous year.</p>  |
| <b>Internal audit</b>                             | <p>The Department has no internal audit wing of its own. The Finance Department conducted audit of only one unit (DMO, Bokaro) during the period 2012-13.</p>  |
| <b>Impact of audit conducted by us in 2012-13</b> | <p>In 2012-13 we test checked the records of 20 units relating to the Mines and Geology Department and found non/short levy of royalty, short levy of royalty due to downgrading of coal, non/short levy of dead rent, non-levy of penalty, non-levy of interest and other irregularities involving ₹ 68.78 crore in 1,254 cases. During the year 2012-13, the Department accepted underassessment and other deficiencies of ₹ 41.98 crore in 426 cases pointed out by us and recovered ₹ 4.28 crore.</p>  |
| <b>Our conclusion</b>                             | <p><b>The Mines and Geology Department needs to improve the internal control system including setting up of Internal Audit Wing of its own so that weaknesses in the system are addressed and omissions of the nature detected by us are avoided in future.</b></p>  |

## CHAPTER – VII: MINING RECEIPTS

### 7.1 Tax administration

The levy and collection of royalty in the State is governed by the Mines and Minerals (Development and Regulation) Act, 1957, the Mineral Concession Rules, 1960 and the Jharkhand Minor Mineral Concession Rules, 2004.

At the Government level, the Secretary, Mines and Geology Department and at the department level, the Director of Mines is responsible for administration of the Acts and Rules. The Director of Mines is assisted by an Additional Director of Mines (ADM) and Deputy Director of Mines (DDM) at the headquarters level. The State is divided into six circles<sup>1</sup>, each under the charge of a DDM. The circles are further divided into 24 district mining offices<sup>2</sup>, each under the charge of a District Mining Officer (DMO)/Assistant Mining Officer (AMO). The DMOs/AMOs are responsible for levy and collection of royalty and other mining dues. They are assisted by Mining Inspectors (MIs). DMOs and MIs are authorised to inspect the lease hold areas and review production and dispatch of minerals.

### 7.2 Trend of receipts

According to the provisions of the Bihar Financial Rules, Vol. I (adopted by the Government of Jharkhand) the responsibility for preparation of budget estimates of revenue receipts is vested in the Finance Department. However, the material for the budget estimates is obtained from the concerned Administrative Department which is responsible for the correctness of the material. In case of fluctuating revenue the estimates should be based on a comparison of the last three years' receipts.

Actual receipts from Mining Receipts against budget estimates during 2008-09 to 2012-13 along with the total non-tax receipts during the same period is exhibited in the following table:

(₹ in crore)

| Year    | Revised estimates | Actual receipts | Variation excise (+)/shortfall (-) | Percentage of variation | Total non-tax receipts of the State | Percentage of actual receipts vis-a-vis total non-tax receipts of the State |
|---------|-------------------|-----------------|------------------------------------|-------------------------|-------------------------------------|---|
| 2008-09 | 1,740.00          | 1,477.94        | (-) 262.06                         | (-) 15                  | 1,951.74                            | 75.72   |
| 2009-10 | 2,126.47          | 1,733.15        | (-) 393.32                         | (-) 18.50               | 2,254.15                            | 76.89   |
| 2010-11 | 2,086.76          | 2,055.90        | (-) 30.86                          | (-) 1.48                | 2,802.89                            | 73.35   |
| 2011-12 | 2,759.75          | 2,662.79        | (-) 96.96                          | (-) 3.51                | 3,038.22                            | 87.64   |
| 2012-13 | 3,209.92          | 3,142.47        | (-) 67.45                          | (-) 2.10                | 3,535.63                            | 88.88   |

Source: Finance Account and revised estimates as per Statement of Revenue and Receipts Government of Jharkhand for 2013-14.

<sup>1</sup> Chaibasa, Daltonganj, Dhanbad, Dumka, Hazaribag and Ranchi.

<sup>2</sup> Bokaro, Chatra, Chaibasa, Daltonganj, Deoghar, Dhanbad, Dumka, Garhwa, Giridih, Godda, Gumla, Hazaribag, Jamshedpur, Jamtara, Khunti, Koderma, Latehar, Lohardaga, Pakur, Ramgarh, Ranchi, Sahebganj, Saraikela-Kharsawan and Simdega.

In 2012-13, the receipts from Non-ferrous Mining and Metallurgical Industries increased by 18.01 *per cent* over the previous year. The Department stated that there increase was due to enhancement in rate of royalty on coal.

### 7.3 Working of Internal Audit Wing

As informed by the Department it has no Internal Audit Wing of its own. However, the Finance Department acts as an auditor. The Department has informed (September 2013) that the Finance Department has conducted audit of only one unit, DMO, Bokaro, during the period 2012-13 and raised 13 observations having financial implication of ₹ 12.82 crore. However, it did not intimate follow up action taken thereon (December 2013).

### 7.4 Analysis of arrears of revenue

The arrear of revenue as on 31 March 2013 were ₹ 763.17 crore, of which ₹ 158.42 crore were outstanding for more than five years as reported by the Department. The year-wise position of arrears of revenue during the period 2008-09 to 2012-13 is mentioned in the following table:

| (₹ in crore) |                 |                 |
|--------------|-----------------|-----------------|
| Year         | Opening balance | Closing balance |
| 2008-09      | 290.72          | 298.35          |
| 2009-10      | 298.35          | 285.58          |
| 2010-11      | 285.58          | 565.21          |
| 2011-12      | 565.21          | 567.45          |
| 2012-13      | 567.45          | 763.17          |

Source: Mines and Geology Department.

The arrears of revenue increased from ₹ 567.45 crore as on 31 March 2012 to ₹ 763.17 crore on 31 March 2013. The Department furnished the stages at which action on arrears of ₹ 933.34 crore<sup>3</sup> was pending. Out of ₹ 933.34 crore, demand of ₹ 463.34 crore were certified for recovery as arrears of land revenue. Recovery of ₹ 408.38 crore and ₹ 8.68 crore was stayed by Court and appellate authorities respectively. Demand of ₹ 28.65 lakh and ₹ 2.67 crore were held up due to rectification/review of application and dealer/party becoming insolvent respectively. Specific action taken in respect of the remaining arrears of ₹ 49.98 crore had not been intimated.

### 7.5 Impact of audit

#### 7.5.1 Status of compliance to Audit Reports (2007-08 to 2011-12)

During the period 2007-08 to 2011-12 we had pointed out cases of non/short levy of royalty, rent and penalty with financial implication of ₹ 221.58 crore in 18 paragraphs. Of which the Department/Government accepted our observation of ₹ 195.51 crore and reported recovery of ₹ 259.30 crore upto 2012-13. The details are shown in the following table:

<sup>3</sup> The Department furnished stages of recovery of arrears for an amount of ₹ 933.34 crore against the reported arrears of revenue of ₹ 763.17 crore as on 31 March 2013. This discrepancy needs to be reconciled by the Department.

(₹ in crore)

| Year         | No. of paragraph | Amount objected | Accepted recoverable amount | Amount recovered <sup>4</sup> upto 2012-13 out of Col. 4 |
|--------------|------------------|-----------------|-----------------------------|--|
| 1            | 2                | 3               | 4                           | 5  |
| 2007-08      | 5                | 17.00           | 16.57                       | 117.66   |
| 2008-09      | 3                | 22.75           | 13.33                       | 124.44   |
| 2009-10      | 3                | 11.26           | 11.26                       | 14.95  |
| 2010-11      | 6                | 24.26           | 14.65                       | 1.89   |
| 2011-12      | 1                | 146.31          | 139.70                      | 0.36   |
| <b>Total</b> | <b>18</b>        | <b>221.58</b>   | <b>195.51</b>               | <b>259.30</b>  |

Source: Information furnished by the Mines and Geology Department.

### 7.5.2 Status of compliance to outstanding Inspection Reports (2007-08 to 2011-12)

During the period 2007-08 to 2011-12 we test checked 81 units relating to the Mines and Geology Department and pointed out through our Inspection Reports underassessment of royalty etc., with revenue implication of ₹ 795.80 crore in 15,390 cases. Of these, the Department/Government accepted audit observations in 12,646 cases involving an amount of ₹ 286.25 crore and recovered ₹ 44 lakh. The details are shown in the following table:

(₹ in crore)

| Year         | No. of units audited | Amount objected |               | Amount accepted |               | Amount recovered upto 2012-13 out of Col. 6 |
|--------------|----------------------|-----------------|---------------|-----------------|---------------|---|
|              |                      | No. of cases    | Amount        | No. of cases    | Amount        |   |
| 1            | 2                    | 3               | 4             | 5               | 6             | 7   |
| 2007-08      | 14                   | 10,908          | 407.80        | 10,114          | 203.12        | 0.10  |
| 2008-09      | 20                   | 3,043           | 210.51        | 2,507           | 51.29         | 0   |
| 2009-10      | 11                   | 249             | 126.65        | 23              | 11.26         | 0.32  |
| 2010-11      | 19                   | 1,156           | 49.88         | 2               | 20.58         | 0.02  |
| 2011-12      | 17                   | 34              | 0.96          | 0               | 0             | 0   |
| <b>Total</b> | <b>81</b>            | <b>15,390</b>   | <b>795.80</b> | <b>12,646</b>   | <b>286.25</b> | <b>0.44</b>                                 |

### 7.5.3 Status of compliance to Inspection Reports (2012-13)

Our test check during 2012-13 of the records of 20 units, having revenue collection of ₹ 2,292.78 crore, out of 33 units relating to the Mines and Geology Department. Test checked units revealed non/short levy of royalty, dead rent, penalty, interest and other irregularities involving ₹ 68.78 crore in 1,254 cases which fall under the following categories:

(₹ in crore)

| Sl. No.      | Categories                                       | No. of cases | Amount       |
|--------------|--|--------------|--------------|
| 1            | Non/short levy of royalty                        | 131          | 57.33        |
| 2            | Short levy of royalty due to downgrading of coal | 2            | 0.90         |
| 3            | Non/short levy of dead rent                      | 16           | 0.43         |
| 4            | Non-levy of penalty                              | 89           | 1.57         |
| 5            | Non-levy of interest                             | 22           | 0.32         |
| 6            | Non-institution of certificate proceedings       | 89           | 4.89         |
| 7            | Other cases                                      | 905          | 3.34         |
| <b>Total</b> |  | <b>1,254</b> | <b>68.78</b> |

<sup>4</sup> Though the money value under Non-ferrous Mining and Metallurgical Industries was ₹ 17 crore, ₹ 22.75 crore and ₹ 11.26 crore for Audit Report 2007-08, 2008-09 and 2009-10 respectively the Government reported recovery of ₹ 117.66 crore, ₹ 124.44 crore and ₹ 14.95 crore.

During the course of the year, the Department accepted under-assessments and other deficiencies amounting to ₹ 41.98 crore in 426 cases pointed out by us during 2012-13 and recovered ₹ 4.28 crore in six cases.

In this chapter we present a few illustrative cases having recoverable financial implication of ₹ 35.57 crore. These have been discussed in succeeding paragraphs.

## 7.6 Non-observance of the provisions of Acts/Rules

*The Mines and Minerals (Development and Regulation) (MMDR) Act, 1957 and the Minerals Concession (MC) Rules, 1960 provide for payment of royalty on the minerals removed and consumed from the leased area at the rates prescribed, within the due dates.*

*The Mines and Geology Department did not observe the provisions of the Acts/Rules with regard to application of correct rate of royalty, scrutiny and verification of monthly returns etc. in the cases mentioned in paragraphs 7.7 to 7.10 which resulted in non/short levy/realisation of ₹35.57 crore.*

## 7.7 Short levy of royalty due to application of incorrect rate

Under the provisions of Section 9 of the MMDR Act, 1957, the holder of a mining lease is required to pay royalty on removal or consumption of the mineral from the leased area at the rate for the time being specified in the Second Schedule in respect of that mineral. Further, Government of India (GOI) prescribed a formula for determination of rate of royalty on coal for various grades on the basis of basic pit head price of ROM<sup>5</sup> coal. In case of iron ore, the rate of royalty is based on the iron content in the mineral under Rule 64 D of the MC Rules, 1960.

We scrutinised (between January and March 2013) the monthly returns furnished by 76 lessees out of 214 lessees in three Mining Offices<sup>6</sup>. Out of test checked 76 lessees we noticed that 28 lessees had dispatched 96.31 lakh MT of different minerals during 2011-12, on which royalty of ₹ 177.13 crore was levied instead of ₹ 209.35 crore leviable on the basis of basic pit head price of

ROM coal notified by the CIL and price of iron ore published by the IBM as prescribed under provisions of the Act. Thus, the DMOs did not enforce provisions of the Act for application of correct rates. This resulted in short levy of royalty of ₹ 32.22 crore as detailed in the table given below:

(₹ in lakh)

| Sl. No       | Name of the office<br>Number of Leases | Name of the mineral<br>Period | Quantity (in lakh MT) | Royalty leviable<br>Royalty levied          | Short levied    | Remarks   |
|--------------|--|-------------------------------|-----------------------|---|-----------------|---|
| 1.           | Bokaro<br>9                            | Coal<br>2011-12               | 9.73                  | <u>1,759.66</u><br>1,588.76                 | 170.90          | Rate of royalty was not calculated on the basis of basic pit head price of ROM coal as notified by the Coal India Ltd.      |
| 2.           | Dhanbad<br>17                          | Coal<br>2011-12               | 71.55                 | <u>11,464.55</u><br>9,473.25                | 1,991.30        |   |
| 3.           | Chaibasa<br>2                          | Iron Ore<br>2011-12           | 15.03                 | <u>7,710.90</u><br>6,650.94                 | 1,059.96        | Royalty was not calculated on the basis of iron content wise average monthly price published by the Indian Bureau of Mines. |
| <b>Total</b> | <b>28</b>                              |                               | <b>96.31</b>          | <u><b>20,935.11</b></u><br><b>17,712.95</b> | <b>3,222.16</b> |   |

<sup>5</sup> Run of Mines.

<sup>6</sup> Bokaro, Chaibasa and Dhanbad.

We reported the matter to the Department/Government in May 2013. The Government stated in September 2013 that demand for ₹ 32.08 crore had been raised in 28 cases pertaining to DMOs, Bokaro, Dhanbad and Chaibasa, of which ₹ 4.23 crore has been realised in three cases. In one case of Chaibasa it was stated that royalty was realised on the basis of all India average price of iron ore lump having iron content in excess of 65 per cent. The reply is not in order as our observation was based on calculation of royalty on the basis of monthly average price of iron ore lump having iron content ranging between 62 per cent and 65 per cent for Jharkhand. Further reply and reply on realisation in remaining cases is awaited (December 2013).

Similar issue featured in Paragraph No. 7.4.17.1 of Audit Report (Revenue Sector) for the year ended 31 March 2012, where the Government informed that demand had been raised for the entire amount of ₹ 13.53 crore. However, the nature of lapses/irregularities are still persisting which shows ineffectiveness of the Internal Control System of the Department to prevent recurring leakage of revenue.

### 7.8 Short levy of royalty due to downgrading of coal

Section 9 of the MMDR Act, 1957 provides for payment of royalty by a lessee on the quantity of mineral removed or consumed from the leased area at the rate prescribed according to the grade<sup>7</sup> of coal. Under the provisions of Rule 4(2) of the Colliery Control Rules, 2004, the owner of a colliery shall declare its grade and pay royalty at the rate specified.

We scrutinised (between November 2012 and March 2013) monthly returns and demand files of nine collieries out of 32 collieries in Mining Offices, Godda and Ramgarh. Out of test checked nine collieries, we noticed that two collieries, one each of Eastern Coalfields Ltd. (ECL) and Central Coalfields Ltd. (CCL), had paid royalty of ₹ 3.88

crore instead of ₹ 5.10 crore<sup>8</sup> on dispatch of 3.88 lakh MT of coal in 2011-12 by downgrading the coal as grade-G and C-LF from grade F and B-LF respectively as declared by CCL and ECL in their grade notifications and reflected in their monthly returns submitted to the DMOs. The DMOs also did not scrutinise and verify the grades of dispatched coal as claimed by the collieries in their monthly returns with those notified by ECL and CCL for

<sup>7</sup> Grade of coal is based on useful heat value, ash content and ash plus moisture contents.

| Name of the colliery | Actual grade Down graded to | Period                      | Quantity dispatched (in MT) | Levied          |               | Leviable        |               | Short levy    |
|----------------------|-----------------------------|-----------------------------|-----------------------------|-----------------|---------------|-----------------|---------------|---------------|
|                      |                             |                             |                             | Rate (₹ per MT) | Amount        | Rate (₹ per MT) | Amount        |               |
| Saunda-D             | B-LF                        | April to Dec. 2011          | 26,622.39                   | 187.50          | 49.92         | 329.50          | 87.72         | 46.35         |
|                      | C-LF                        | Jan. to Mar. 2012           | 8,595.95                    | 230.00          | 19.77         | 329.50          | 28.32         |               |
| Rajmahal OCP         | G<br>F                      | Between April and Dec. 2011 | 3,53,236.04                 | 90.00           | 317.91        | 111.50          | 393.86        | 75.95         |
| <b>Total</b>         |                             |                             | <b>3,88,457.38</b>          |                 | <b>387.60</b> |                 | <b>509.90</b> | <b>122.30</b> |



levy of royalty at the correct rate. This resulted in short levy of royalty of ₹ 1.22 crore.

We reported the matter to the Government in May 2013. The Government accepted our observation in respect of Rajmahal OCP and stated (September 2013) that demand of ₹ 30.02 lakh had been raised by levying royalty at the rate of ₹ 98.50 per MT. However, we calculated the amount of royalty at the rate of ₹ 111.50 per MT on the basis of basic pit head price of ROM coal as notified by the Coal India Ltd. as per provision of the Act. Thus, the Department short raised the demand by ₹ 45.93 lakh. In case of Saunda-D colliery it was stated that reply furnished by the Project Officer, Saunda-D was being examined. Further reply has not been received (December 2013).

Similar issue featured in Paragraph No. 7.4.17.2 of Audit Report (Revenue Sector) for the year ended 31 March 2012 and the Government accepted those cases and raised demand for entire amount of ₹ 3.22 crore. The same irregularities are still persisting which shows weakness of the Internal Control System of the Department.

## 7.9 Short levy of royalty due to suppression of dispatch

Under the provisions of Section 9 of the MMDR Act, 1957, the holder of a mining lease is required to pay royalty on removal or consumption of the mineral from the leased area at the rate for the time being specified in the Second Schedule in respect of that mineral. Further, as per order issued by the Department of Mines and Geology, Government of Bihar in June 1970, the DMO is required to check the monthly returns and compare with the DCB Register.

We scrutinised (November 2012) the monthly returns of Chitra colliery of Eastern Coalfields Ltd. out of nine collieries<sup>9</sup> in District Mining Office, Deoghar. We noticed that in the month of February 2011 the closing stock of grade 'B' and 'D' coal was shown as 159.04 MT and 84,438.90 MT whereas in March 2011 the opening stock was depicted as 24 MT and 16,833 MT respectively. Thus, the lessee had suppressed dispatch of 135.04 MT of grade-B coal and 67,605.90 MT of grade-D coal.

Though, the DMO was required to scrutinise the monthly returns with the earlier month's returns vis-à-vis Demand Collection and Balance (DCB) Register, yet the same was not done. This resulted in the discrepancy remaining undetected with consequent short levy of royalty of ₹ 1.18 crore<sup>10</sup>.

<sup>9</sup> Other collieries are non-functional.

<sup>10</sup>

| Grade of coal | Closing Balance of February 2011 | Opening balance of March 2011 | Difference (in MT) | (₹ in lakh)                |               |
|---------------|----------------------------------|-------------------------------|--------------------|----------------------------|---------------|
|               |                                  |                               |                    | Rate of royalty (₹ per MT) | Short levy    |
| B             | 159.04                           | 24.00                         | 135.04             | 329.50                     | 0.44          |
| D             | 84,438.90                        | 16,833.00                     | 67,605.90          | 174.50                     | 117.97        |
| <b>Total</b>  |                                  |                               | <b>67,740.94</b>   |                            | <b>118.41</b> |

We reported the matter to the Government in May 2013. The Government stated (September 2013) that ₹ 1.85 lakh had been realised and certificate case had been instituted for ₹ 1 crore. However, action taken on remaining balance of ₹ 16.32 lakh had not been intimated. Further reply has not been received (December 2013).

Similar issue featured in first bullet of Paragraph No. 7.3.2.3 of Audit Report (Revenue Receipts) for the year ended 31 March 2009. However, nature of such lapses/irregularities are still persisting which shows ineffectiveness of internal control system to prevent recurring leakage of revenue.

### **7.10 Incorrect adjustment of royalty**

Under the provisions of Section 9 of the MMDR Act, 1957, the holder of a mining lease is required to pay royalty on removal or consumption of the mineral from the leased area at the rate for the time being specified in the Second Schedule in respect of that mineral. Further, the DMO is required to check the periodical monthly returns.

We scrutinised (November 2012) the monthly returns furnished by five sister collieries pertaining to one area<sup>11</sup> out of 22 collieries in District Mining Office, Ramgarh. Out of test checked five collieries we noticed that a colliery<sup>12</sup> had shown receipt of 28,682.26 MT of grade-B coal from its sister colliery<sup>13</sup> during 2011-12 and adjusted a sum of ₹ 94.44 lakh treating it as royalty paid coal.

However, our cross-verification with the monthly returns of the sister colliery revealed that royalty had not been paid on the above. Thus, the colliery had availed of incorrect adjustment of royalty as the DMO did not cross-verify the returns submitted by the lessee with the returns of its sister colliery available in his office. This resulted in allowance of incorrect adjustment of royalty of ₹ 94.44 lakh.

We reported the matter to the Government in May 2013. The Government stated (September 2013) that demand of ₹ 1.14 crore had been raised against our observation of ₹ 94.44 lakh. However, report on realisation is awaited (December 2013).

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<sup>11</sup> Barka Sayal Area.

<sup>12</sup> Bhurkunda colliery.

<sup>13</sup> Saunda colliery.

Similar issue had also featured in Paragraph No. 7.4.17.3 of Audit Report (Revenue Sector) for the year ended 31 March 2012 wherein the Government accepted the cases and raised the demand for entire amount of ₹ 77.04 crore. However, nature of such lapses/irregularities are still persisting which shows ineffectiveness of internal control system to prevent recurring leakage of revenue.

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