EXECUTIVE SUMMARY

Marginal increase in collection of revenue	In 2011-12, the collection of revenue from Mines and Minerals increased by 21.80 *per cent* over the previous year which was due to revision of royalty on coal and limestone from ₹ 165 and ₹ 45 to ₹ 290 and ₹ 63 respectively.
Internal audit not conducted	The department did not have an internal audit organisation. The internal audit organisation functioning under the Examiner of Local Accounts is responsible to conduct internal audit. However, audit of Mining and Geology Department had never been conducted to evaluate the system of working of the Directorate and to suggest ways and means to plug leakage of revenue.
Negligible recovery by the Department on observations pointed out by us in earlier years.	During the period 2007-08 to 2011-12, we had pointed out non/short levy, non/short realisation of royalty, cess *etc.* on coal and limestone with revenue implication of ₹ 308.01 crore in 32 cases. Of these, the Department/ Government accepted audit observation in eight cases involving ₹ 53.11 crore but recovered only ₹ 5.57 crore in one case. The recovery position as compared to acceptance of objections was negligible.
Result of audits conducted by us in 2011-12	In 2011-12, we test checked the records of four units relating to receipts from Mines and Minerals and found non/short realisation/levy of royalty cess, penalty *etc.* involving ₹ 77.99 crore in 14 cases. The Department failed to reply to any of the cases during 2011-12. No recovery was intimated.

What we have highlighted in this Chapter	In this chapter, we present illustrative cases of ₹ 20.21 crore selected from observations noticed during our test check of records relating to collection of royalty, cess, penalty *etc*. in the office of the Director of Mineral Resources (DMR), Divisional Mining Officer (DMO), Jowai and Williamnagar where we found leakage of revenue due to delay in implementation of revised rate of royalty and evasion of royalty on export of limestone and coal. 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 to prevent recurring loss of revenue. We are also concerned that though these omissions were apparent from the records, which were made available to us, the Department was unable to detect these mistakes.
Our conclusion	The Department needs to improve the internal control system and internal audit system should be made functional. Inter departmental co-ordination should be strengthened to address the weakness in the system and avoid omission of the nature detected by us in future. It also needs to initiate immediate action to recover the royalty, cess, penalty *etc*, pointed out by us; more so in those cases where it has accepted our contention. Arrear revenue may be recovered as arrears of land revenue by initiating certificate proceedings.

CHAPTER VIII: MINING RECEIPTS

8.1 Tax administration

The State of Meghalaya is endowed with rich mineral deposits, particularly coal and limestone. Constitutionally, the State Government is the owner of the minerals and as such receives rent and royalty accruing from grant of prospecting and mining rights to individuals and firms. The Constitution of India, however, empowers the Parliament of India to make laws for regulation of mines and minerals. Under this power, the Central Government enacted the Mines and Minerals (Development and Regulation) (MMDR) Act, 1957, and the Mineral Concession (MC) Rules, 1960. Subsequently, the State Government introduced the Meghalaya Minerals Cess (MMC) Act, 1988 to mobilise additional revenue. In Meghalaya, the royalty and cess on coal were ₹ 165 and ₹ 55 per MT respectively, and royalty and cess on limestone were ₹ 45 and ₹ 20 respectively, with effect from 6 January 2009. The rate of royalty on coal was further revised to ₹ 290 per MT with effect from 1 September 2009 while the cess was withdrawn. The rate of royalty on limestone was revised from ₹ 45 to ₹ 63 per MT from 13 August 2009.

8.2 Trend of receipts

Actual receipts from Mining & Geology Department during the years 2007-08 to 2011-12 along with the non-tax receipts during the same period is exhibited in the following table and graph.

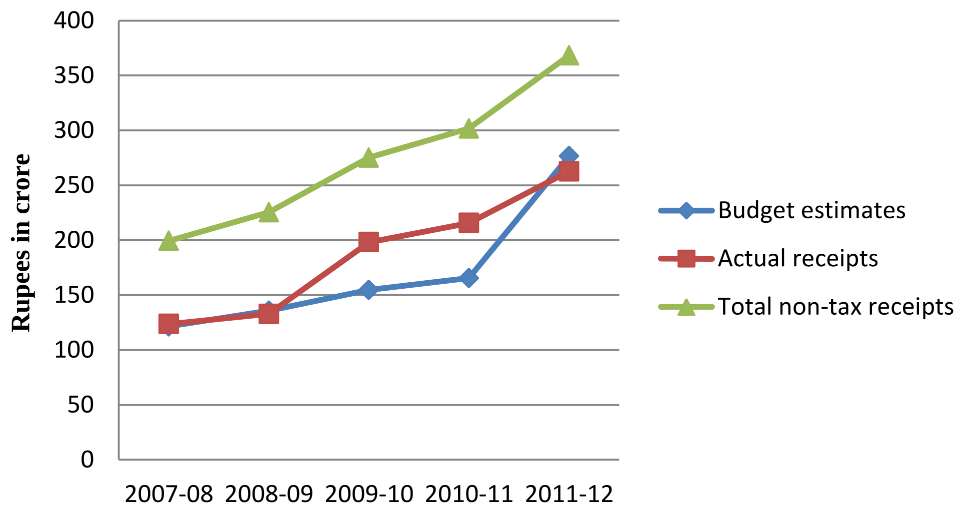
(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total non-tax receipts of the State	Percentage of actual receipts *vis-à-vis* total non-tax receipts
2007-08	121.43	123.66	(+) 2.23	2	199.35	62
2008-09	135.69	132.73	(-) 2.96	2	225.31	59
2009-10	154.63	198.21	(+) 43.58	28	275.09	72
2010-11	165.44	215.58	(+) 50.14	30	301.69	71
2011-12	276.42	262.58	(-) 13.84	5	368.24	71

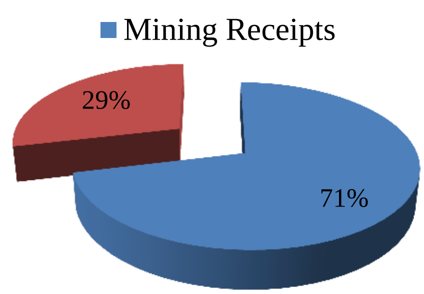
The wide variation between budget estimates and actual collection in the years 2009-10 and 2010-11 shows that the budget is not being realistically framed.

Mines and minerals receipts formed about 59-71 *per cent* of the total non-tax receipts of the State during the last five years.

A line graph of budget estimates, actual receipts and total non-tax receipts may be seen below:



Also a pie chart showing the position of actual mining receipts *vis-à-vis* the other non-tax receipts of the State during the 2011-12 may be seen below:



8.3 Impact of audit reports

During the last five years (including the current year's report), we have pointed out non/short levy, non/short realisation, underassessment/loss of revenue, incorrect exemption, concealment/suppression of turnover, application of incorrect rate of tax, incorrect computation *etc*., with revenue implication of ₹ 308.01 crore in 32 paragraphs. Of these, the Department / Government had accepted audit observations in 8 paragraphs involving ₹ 53.11 crore and had since recovered ₹ 5.57 crore. The details are shown in the following table:

(₹ in crore)

Year of Audit Report	Paragraphs included		Paragraphs accepted		Amount recovered	
	No	Amount	No	Amount	No	Amount
2007-08	5	21.35	-	-	-	--
2008-09	5	41.12	-	-	-	--
2009-10	10	151.42	1	0.46	-	--
2010-11	8	73.91	7	52.65	1	5.57
2011-12	4	20.21	-	-	-	-
Total	**32**	**308.01**	**8**	**53.11**	**1**	**5.57**

Thus, against the accepted cases involving ₹ 53.11 crore, the Department/ Government has recovered an amount of ₹ 5.57 crore which is 10.49 *per cent*.

We recommend that the Department needs to revamp its revenue recovery mechanism to ensure that they could recover atleast the amount involved in the accepted cases.

8.4 Results of audit

Test check of the records of four units of the Mining & Geology Department during the year 2011-12 revealed non-realisation of duties, royalties etc., amounting to ₹ 77.99 crore in 14 cases which can be categorised as under:

(₹in crore)

Sl. No.	Category	Number of cases	Amount
1.	Non/Short realisation of revenue	7	15.10
2.	Loss of revenue	4	62.13
3.	Other irregularities	3	0.76
Total		**14**	**77.99**

During the year, the Department failed to respond to any of the cases. No recovery was intimated.

8.5 Non-compliance of the provisions of the Acts/Rules

The provision of the MMDR Act, 1957, MC Rules, 1960 and MMC Act, 1988 require levy and payment of:

- Collection of royalty on coal and limestone at rate(s) as prescribed by the GOI from time to time.
- Collection of cess on limestone at prescribed rate.
- Interest at prescribed rate for default in payment of dues.
- Levy of interest due to default in payment of dues.

Non-compliance of the provision of the Act/Rules in some cases as mentioned in the following paragraphs. This resulted in non/short realisation of ₹ 20.21 crore.

8.6 In Meghalaya the maximum legal permissible load per truck is 9 MT. The royalty on coal fixed by the GOM was ₹ 290 per MT effective from 01 September 2009. Coal can only be transported after the royalty is deposited in advance at the Directorate of Mineral Resources (DMR), Shillong or the Divisional Mining offices in the districts whereupon a Mineral Transport Challan (MTC) is issued to the transporter authorising the movement of the quantity of coal on which royalty has been paid subject to the maximum legal permissible load of 9 MT per truck per MTC. The DMR check posts located throughout the State check that coal is transported on the strength of MTCs and that the load is not more than 9 MT per truck. If the load is in excess of this capacity the transporter is required to pay at the check post, the royalty on the quantity of excess coal transported *plus* an additional 25 *per cent* as additional royalty.

8.6.1 Check posts taken over by miscreants

Failure of the Department to regain control of Borsora and Cherragaon check posts from miscreants for over three years was a complete abdication of the State's authority and led to a revenue loss of around ₹ 1.35 crore.

It was noticed during test check of records of the DMR in December 2011 that the DMR check posts in West Khasi Hills District (WKHD) at Borsora and Cherragaon in the 32-month period from April 2009 to December 2011 collected royalty/additional royalty on coal only during two months, in April and November 2009 totalling ₹ 2.45 lakh.

An enquiry into the reasons revealed that the officer in-charge of the two check posts reported to the DMR on 23 July 2010 that exporters transporting coal through Borsora and Cherragaon refused to produce their MTCs at the two check posts. The DMR on 14 August 2010 then requested the Deputy Commissioner, WKHD to provide police protection to the check posts officials to enable them to carry out their duties which however, was only provided on 28 October 2010 and subsequently withdrawn after three days. No further follow up action was taken by the DMR to seek police protection for its staff at Borsora and Cherragaon. On 03 November 2010 the staff deserted their posts because of threats from miscreants who had by then taken over both check posts. Audit observed that the DMR staff was again available at the two check posts from 25 February 2011 to 31 October 2011 as monthly statements of number of coal carrying trucks passing through these check posts during this period were being received by the DMR.

In April 2012, Audit further ascertained that there was no revenue collection during the remaining three months of 2010-11 (January-March 2011) as also during 2011-12 which implied that though the DMR staff were physically present at both check posts from 25 February 2011 to 31 October 2011, they were unable to or prevented from discharging their duties.

The fact that control of the two check posts of the DMR was usurped by miscreants for over three years[1] indicated a complete abdication of the State's authority and the Department's indifference to this situation. Calculated with reference to the average royalty/additional royalty[2] collected by the Borsora and Cherragaon check posts in the three years ending 2008-09, the total revenue foregone during 2009-10, 2010-11 and 2011-12 was around ₹ 1.35 crore.

The matter was reported to the Mining & Geology Department, GOM in January 2012; reply was awaited (March 2013).

8.6.2 Loss of revenue due to issue of an irregular order

Issue of an irregular verbal order by the DMR led to non-realisation of royalty/additional royalty on coal amounting to ₹ 3.35 crore.

A test check of records of the Divisional Mining Officer (DMO), Williamnagar in January 2012 revealed that 20 exporters[3] were issued MTCs to export 7,400 MT of coal to Bangladesh through the Daluagre check post in West Garo Hills District. Verification of the check post records however, revealed that the exporters between December 2009 and May 2010 actually exported 99,749 MT of coal *i.e.*, 1348 *per cent* in excess of the amount authorised against the MTCs issued to them and were thus liable to pay royalty and additional royalty amounting to ₹ 3.35 crore[4] which however, the check post did not levy on the exporters. Records indicated that the reason for this was because the Director, DMR on 10 December 2009 had apparently issued verbal directions over phone to the DMO, Williamnagar directing that royalty and additional royalty was not to be collected.

The matter was reported to the Mining & Geology Department, GOM in January 2012; reply was awaited (March 2013).

[1] from May 2009 to April 2012 during which no revenue was collected except for one month in November 2009.

[2]

(₹ in lakh)

Royalty/additional royalty collected by Borsora/Cherragaon checkposts				Average collection for the three years
Year	2006-07	2007-08	2008-09	
Amount	20.90	35.69	77.95	44.85

[3] (l) Joy International (2) Subash Agarwal (3) Akriti Exporter (4) Khagen Saha (5) Barshilla N. Sangma (6) Heldina N. Marak (7) Manik Sarkar (8) Rhino Ispat (P) Ltd., (9) Pransish A. Sangma (10) Sadhara Koch (11) Utpal Marak (12)Anup Industries (13) N.N. Sangma (14) Meghalaya Seed Bhander (15)Anay Choudhury (16) Sumati Enterprise (17) Srinijay International (18) Sankar Kalwar (19) Madhu Sudhar Bania (20) Solmi Marak.

[4] (99,749 MT - 7,400 MT) X ₹ 290 per MT) + 25 *per cent* = ₹ 3.35 crore

8.7 Evasion of royalty on coal

The DMR check post failed to detect 4.03 lakh MT of coal carried in excess of the permissible limit resulting in evasion of royalty of ₹ 14.60 crore.

Coal can only be transported in the State

- ***after royalty on coal is paid in advance to the DMR/DMOs whereupon Mineral Transport Challans (MTC) are issued to the transporter authorising the movement of coal on which royalty has been paid subject to the maximum legal permissible load of 9 MT per truck per MTC; and***
- ***after the tax on coal is paid in advance to the Taxation Department (TD) whereupon the TD issues 'P' forms to the transporter authorising the movement of coal on which tax has been paid subject to the maximum legal permissible load of 9 MT per truck.***

DMR and TD check posts verify that coal is transported on the strength of 'MTCs' and 'P' forms respectively and that the load per truck is not more than 9 MT. Where the load is in excess of 9 MT,

- ***the DMR check post levies royalty on the quantity of coal transported in excess of 9 MT plus an additional 25 per cent as additional royalty; and,***
- ***the TD check post levies a penalty of ₹ 120 per MT on the quantity of coal transported in excess of 9 MT.***

Cases of evasion of payment of royalty /additional royalty at DMR check posts which were detected by Audit through a cross verification of records of the TD check posts located at the same place, had been reported in past Audit Reports (AR). Such cases featured in the AR 2003-04 and onwards are listed below:

(₹in crore)

Audit Report for the year ended	Para No.	Where evasion occurred	Period	Royalty/ penalty evaded
31.3.2004	5.13	DMR Shillong and DMO, Jowai	Oct 2000 to Feb 2003	1.51
31.3.2006	6.11	DMO Williamnagar	Apr 2000 to Mar 2004	0.08
31.3.2011	7.11	DMOs Williamnagar and Jowai	Mar 2008 to Mar 2010	4.32
Total				**5.91**

A similar exercise was carried out by Audit in February 2012 with respect to the TD and DMR check posts (which are adjacent to each other) at Dainadubi[5] in East Garo Hills District.

The records of the TD check post indicated that between April 2010 to March 2011 it had detected that 12.15 lakh MT of coal was carried in excess of the permissible load of 9 MT per truck. The records of the DMR check post however, indicated that only 8.12 lakh MT of coal was carried in excess of the permissible load of 9 MT per truck during the same period. Thus, 4.03 lakh MT of coal on which royalty and additional royalty was required to be collected by the DMR check post passed undetected resulting in evasion of royalty/additional royalty of ₹ 14.60 crore[6].

The case was reported to the Mining & Geology Department, GOM in April 2012; reply was awaited (March 2013).

8.8 Non- realisation and short realisation of royalty

Non-realisation and short realisation of royalty on limestone totalling ₹ 67.56 lakh.

Royalty and cess is leviable on limestone extracted in the State. Royalty on limestone was ₹ 63 per MT effective from 13 August 2009.

8.8.1 It was previously noticed that while the DMO, Williamnagar was levying and collecting cess on limestone, the corresponding royalty on limestone was not being realised. These cases were reported in earlier Audit Reports as under:

Audit Report for	Para No.	Period for which royalty not realised	Royalty not realised (₹ in lakh)
2009-10	7.12	April 2006 to March 2008	45.58
2010-11	7.13	April 2008 to March 2010	54.32
Total			**99.90**

A test check of the records of the DMO, Williamnagar in February 2012 indicated that situation remain unchanged. While the DMO, Williamnagar realised cess of ₹ 19.67 lakh on 98,380 MT of limestone extracted between April 2010 and December 2011, the royalty amounting to ₹ 61.98 lakh was not realised.

The fact that the only other DMO in the State *i.e.*, DMO, Jowai was realising royalty on limestone while the same was not being collected by the DMO, Williamnagar for years together indicated that there was a serious problem in the latter which the Department was yet to ascertain or address. The loss to the public exchequer on account of the royalty on limestone which was not

[5] coal is the major item transported through Dainadubi.

[6] Royalty = ₹ 290 X 4.03 lakh MT = ₹ 11.68 crore + Additional royalty = 25 *per cent* of royalty= ₹ 2.92 crore = ₹ 14.60 crore.

realised by the DMO, Williamnagar during April 2006 to December 2011 was ₹ 1.62 crore.

8.8.2 Scrutiny of the monthly returns ('Form -H8') submitted by a lessee[7] to DMO, Jowai in November 2011 revealed that 30,984.80 MT of limestone was consumed by the lessee between May 2010 and December 2010 on which royalty of ₹ 19.52 lakh was payable. The lessee however, paid royalty of only ₹ 13.94 lakh thereby resulting in short realisation of ₹ 5.58 lakh[8].

The cases were reported to the Mining & Geology Department, GOM in December 2011 and April 2012; replies were awaited (March 2013).

8.9 Non-levy of interest

Interest amounting to ₹ 23.32 lakh was not realised from a lessee for belated payment of dues.

Scrutiny of records of the DMR in November 2011 revealed that M/s Komorrah Limestone Mining Company Ltd. (KLMCL) extracted 2.35 lakh MT of limestone between July 2009 and August 2010 for which it was liable to pay royalty and cess of ₹ 98.73 lakh between 31 January 2010 and 31 January 2011. However, the KLMCL paid the amount belatedly between August 2010 and September 2011, much after expiry of the sixtieth day from the due date. For the belated payment of dues, interest of ₹ 23.32 lakh was leviable but was not levied by the DMR.

Rule 64A of Mineral Concession Rules, 1960 provides that if the dues payable by a lessee are not paid within the time specified, simple interest at the rate of 24 per cent per annum may be charged on the amount remaining unpaid from the sixtieth day of the expiry of the date fixed for payment of such dues. For the purpose of calculation of interest, the GOM fixed the due dates as follows:

Half yearly ending	Due date
30 June	31 July
31 December	31 January

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[7] M/s JUD Cement Limited

[8] Royalty realisable = 30984.80 MT x ₹ 63 = ₹ 19.52 lakh
Royalty realised = ₹ 13.94 lakh
Royalty less realised = ₹ 5.58 lakh

The case was reported to the Mining & Geology Department, GOM in January 2012; reply was awaited (March 2013).

Shillong **(A.W.K. Langstieh)**
The **Principal Accountant General (Audit)**
Meghalaya

Countersigned

New Delhi **(Vinod Rai)**
The **Comptroller & Auditor General of India**