

***CHAPTER-VII***  
***NON-TAX RECEIPTS***

## CHAPTER-VII: NON-TAX RECEIPTS

### 7.1 Introduction

Non-tax revenue of the State Government mainly comprises receipts from interest, mines and minerals, miscellaneous general services, water resources, public works, police, medical and health, forestry and wildlife. The total revenue and non-tax revenue raised by the State Government during the years 2007-08 to 2011-12 were as under:

(₹ in crore)

Year	Total revenue raised by the State	Total non-tax revenue of the State	Percentage of non-tax revenue to total revenue
2007-08	17,328.66	4,053.93	23.4
2008-09	18,832.21	3,888.46	20.6
2009-10	20,972.49	4,558.22	21.7
2010-11	27,053.20	6,294.12	23.3
2011-12	34,552.15	9,175.10	26.6

### 7.2 Analysis of arrears of revenue

The arrears of revenue in mining receipts (excluding arrears of illegal excavation/despatch of minerals) as on 31 March 2012 amounted to ₹ 50.57 crore, of which ₹ 8.07 crore were outstanding for five years or more. The following table depicts the position of arrears of revenue as on 31 March 2012.

(₹ in crore)

Year of arrear	Total arrears as on 1.4.2011	Recovery during the year 2010-11	Recoveries outstanding as on 31.3.2012
Up to 2006-07	90.62	82.55	8.07
2007-08	101.42	91.64	9.78
2008-09	103.17	97.85	5.32
2009-10	119.22	102.58	16.64
2010-11	125.76	115.00	10.76
<b>Total</b>	<b>540.19</b>	<b>489.62</b>	<b>50.57</b>

The chances of recovery of arrears of ₹ 8.07 crore, outstanding for five years or more are bleak.

**It is recommended that the Government may take appropriate action to recover the arrears.**

### 7.3 Impact of Audit Reports

During last five years, cases of non/short levy, non/short realisation, underassessment/loss of revenue, application of incorrect rate of royalty, incorrect computation of royalty *etc.* with revenue implication of ₹ 1137.42 crore in 74 paragraphs were pointed out through the Audit Reports. Of these, the Department/Government had accepted audit observations in 42 paragraphs involving ₹ 326.64 crore and had since recovered ₹ 22.67 crore in 24 paragraphs (September 2012) as shown in the following table:

(₹ in crore)

Year of Audit	Paragraphs included		Paragraphs accepted		Amount recovered	
	Number	Amount	Number	Amount	Number of paragraph	Amount
2006-07	15	34.29	9	3.24	6	1.02
2007-08	13	275.30	10	23.86	5	4.31
2008-09	27	259.67	17	22.01	11	17.04
2009-10	6	410.16	5	276.67	1	0.06
2010-11	13	158.00	1	0.86	1	0.24
<b>Total</b>	<b>74</b>	<b>1137.42</b>	<b>42</b>	<b>326.64</b>	<b>24</b>	<b>22.67</b>

Amount of recovery is far less than the accepted amount. The Department stated that in some cases recovery had been stayed by the judicial authorities, while in others, demands were pending at various stages of recovery.

### 7.4 Working of Internal Audit Wing

Internal audit is an important mechanism to ensure that the Departmental operations are carried out in accordance with the applicable laws, regulations and approved procedures in an economical, efficient and effective manner, that subordinate offices are maintaining various records, registers/account books properly and accurately and that adequate safeguards are being taken against non/short collection or evasion of revenue.

Records of the Director, Mines and Geology (DMG), Udaipur revealed that audit of almost all the mining units was pending since 2004-05. In absence of internal audit **the Departmental authorities remained unaware of the areas of malfunctioning in the system, evasion/leakage of revenue. The matter was pointed out in the C&AG's Audit Report 2010-11. However, no action was taken by the Department.**

## 7.5 Results of Audit

Test-check of the records of the Mines, Geology and Petroleum Department conducted during the year 2011-12 revealed non/short recovery of revenue amounting to ₹ 636.94 crore in 23,024 cases, which broadly fall under the following categories:

(₹ in crore)

Sl. no.	Category	Number of cases	Amount
<b>Mines, Geology and Petroleum Department</b>			
1.	Unauthorised excavation	1,156	420.53
2.	Non/short recovery of dead rent and royalty	714	48.96
3.	Non-levy of penalty/interest	626	5.28
4.	Non-forfeiture of security	22	2.33
5.	Other irregularities	20,506	159.84
	<b>Total</b>	<b>23,024</b>	<b>636.94</b>

During the year 2011-12, the Mines, Geology and Petroleum Department accepted short realisation and other deficiencies of ₹ 21 crore in 1,758 cases, of which 983 cases involving ₹ 10.47 crore were pointed out during the year 2011-12 and the others in earlier years. The Departments recovered ₹ 22.37 crore in 1,631 cases, of which 304 cases involving ₹ 58.92 lakh pertained to the current year audit and the others pertained to earlier years.

A few illustrative audit observations involving ₹ 319.57 crore are mentioned in the succeeding paragraphs.

## **Mines, Geology and Petroleum Department**

### **7.6 Audit observations**

*Test-check of records of the Mines, Geology and Petroleum Department revealed several cases of non-observance of the provisions of Act/Rules, non-adherence to the Government orders/procedure and other irregularities. A few of these cases are mentioned in the succeeding paragraphs of this chapter. Such omissions are being pointed out in audit every year, however, not only the irregularities persist, but these also remain undetected till an audit is conducted. There is a need for the Government to improve the internal control system in the Department.*

### **7.7 Non-observance of the provisions of Acts/Rules**

*The Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act), Mineral Concession (MC) Rules, 1960, Mineral Conservation and Development (MCD) Rules, 1988 and Rajasthan Minor Minerals Concession (RMMC) Rules, 1986 provide for:*

- (i) levy of royalty at the prescribed rates;*
- (ii) levy of cost of minerals illegally excavated/despached;*
- (iii) levy of interest on delayed payments;*
- (iv) grant of leases and*
- (v) conservation of minerals.*

*The Mining Engineers/Assistant Mining Engineers and Departmental authorities did not observe the provisions of the Act/Rules in the cases mentioned in paragraphs 7.7.1 to 7.7.15. This resulted in non/short realisation of royalty, non/short realisation of cost of mineral and non-levy of interest.*

### 7.7.1 Irregular sanction of limestone leases as minor mineral

The Government of India declared (6 March 1965) limestone as a minor mineral when used in kilns for manufacture of lime as building material and authorised (14 September 1989) the State Governments to grant mining leases for limestone as a minor mineral only, after satisfying that the limestone is fit to be used only for manufacture of lime as building material on the basis of chemical analysis reports.

Limestone assaying less than 40 *per cent* CaO or more than 16 *per cent* SiO<sub>2</sub> and 5 *per cent* or more of MgO only may be considered as a minor mineral. For this, the Department should obtain a chemical analysis report of a reputed analyst. As per Rule 48 (5) of the RMMC Rules, 1986, cost of mineral, ten times of the royalty, is recoverable, when mineral is excavated and despatched unlawfully.

Under Section 13 of the MMDR Act, 1957, the Central Government has powers to make rules for regulating the grant of prospecting licences and mining leases in respect of minerals and for the purposes connected therewith. Under Section 15 *ibid*, the Central Government has delegated powers to the State Governments to make rules in respect of concessions of minor minerals.

During test-check of the concession, assessment files and the supporting returns in seven Mining Engineer (ME)/Assistant Mining Engineer (AME) offices<sup>1</sup>, it was found (July 2011 to March 2012) that

28 leases of limestone were sanctioned for making lime as building material. However, the lessees had despatched the limestone to various cement factories and steel plants for production of cement and iron, which was contrary to the end use condition and violation of the conditions of the mining leases. The chemical analysis report was not made available to audit.

It was further noticed that in case of AME, Gotan, that 70 per cent mineral excavated and despatched from lease area was of SMS grade<sup>2</sup>/cement grade and in case of AME, Kotputli, the mining lease no. 259/94 was sanctioned for minor mineral with the condition that mineral excavated from lease area was to be despatched to a cement factory which was contrary to the provisions of the Act .

The action of the lessees to deviate the end use of mineral and its supplying to cement factories and steel plants, in contravention of conditions of the leases, was illegal. The Department was also responsible for the irregularity. The cost of such illegally excavated and despatched mineral was ₹ 240.29 crore.

The matter was pointed out to the Department and reported to the Government (July 2011 to March 2012); their replies were awaited (November 2012).

<sup>1</sup> Banswara, Gotan, Jodhpur, Kota, Kotputli, Sirohi and Udaipur

<sup>2</sup> high grade limestone for use of steel melt shop(SMS) in the steel plant

## 7.7.2 Illegal production of mineral

As per Rule 18(10) of the RMMC Rules, 1986, the lessee shall abide by all existing Acts and Rules enforced by the Government of India and the State Government and all such other Acts and rules as may be enforced from time to time in respect of working of mines. Under Section 21(4) of the Air (Prevention and Control of Pollution) Act, 1981 and Section 25 and 26 of the Water (Prevention and Control of Pollution) Act, 1974, the lessee is required to obtain a consent to operate from the Rajasthan State Pollution Control Board (RSPCB) determining quantity of the minerals that can be excavated during the prescribed period. Further, Rule 48(5) of the Rules *ibid* provides that whenever any person without a lawful authority, raises and despatches any mineral, the Assistant Mining Engineer/Mining Engineer (AME/ME) concerned may recover cost of such mineral computed as ten times of the royalty payable at prevalent rates, along with the royalty of the mineral.

**7.7.2.1** During cross verification of the concession files, assessment files and supporting returns and permissions of excavation obtained from RSPCB in eight ME/AME offices<sup>3</sup>, it was noticed (July 2011 to March 2012) that 17 mining lease holders excavated excess of 9,62,812 MT of minerals such as marble, limestone (building) and masonry stone over and above of the quantity authorised by the RSPCB during the period from 2006-07 to 2010-11. The concerned MEs issued *rawannas* for the quantity of mineral more than that authorised by the RSPCB. Thus, the Department did not restrict issue of *rawanna*

upto the quantity of mineral authorised by the RSPCB. This resulted in illegal excavation of 9,62,812 MT of minerals valued at ₹ 80.76 crore which was not recovered by the Department.

The matter was pointed out to the Department and reported to the Government (September 2011 to March 2012); their replies were awaited (November 2012).

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<sup>3</sup> Ajmer, Banswara, Bikaner, Nagaur, Rajsamand-I, Rajsamand-II, Ramganjmandi and Udaipur

As per condition 11 C of part VII of lease agreement executed under Rule 31 of the MC Rules, 1960, the lessee shall take measures for the protection of environment and such other measures as may be prescribed by the Central or State Government. Rule 37 of the MCD Rules, 1988, provides that air pollution during prospecting, mining, metallurgical operations and related activities shall be controlled and kept within 'permissible limits' specified under the Air (Prevention and Control of Pollution) Act, 1981 and Environment (Protection) Act, 1986 by the holder of prospecting licence or a mining lease. Further, as per Section 21(5) of the MMDR Act, 1957, the price, along with royalty, of the mineral, illegally excavated and disposed off, shall be recovered from the defaulter.

**7.7.2.2** During cross verification of the concession files, assessment files with the supporting returns and permissions of excavation obtained from RSPCB in three offices of Superintending Mining Engineer/ Mining Engineer/ Assistant Mining Engineer (SME)/ (ME)/(AME)<sup>4</sup>, it was noticed (July/October 2011 and February 2012) that unlawful production of 1,47,745 MT of major minerals was carried out over and above the quantity permitted to be produced by the RSPCB, the cost of such excess minerals produced worked out to ₹ 3.36 crore, which was not recovered.

The matter was pointed out to the Department and reported to the Government (between August 2011 and February 2012); their replies were awaited (November 2012).

### **7.7.3 Non-recovery of royalty of mineral lime-stone (cement grade)**

As per Section 9(2) of the MMDR Act, 1957, the holder of a mining lease shall pay royalty in respect of any mineral removed or consumed by him from the leased area at the rate for the time being specified in the second schedule of the Act in respect of that mineral.

During cross verification of the concession files, assessment files with the supporting returns in five ME offices, it was found (July 2011 to January 2012) that six lessees of mineral limestone (cement grade) were using mineral in the crushers established in lease areas for making gitties and onward preparation of clinker for manufacture of cement. Royalty amounting to ₹ 23.42 crore in respect of 43,81,258 MT of mineral limestone shown as waste in the returns during the crushing into gitties, was not paid by the lease

<sup>4</sup> SME Bikaner, ME Rajsamand I, AME Shriganganagar



holders as under :

Name of the ME office	ML No.	Period	Quantity of mineral wasted (MT)	Recoverable royalty amount (₹ in crore)
Ajmer	24/97(R)	01.04.2009 to 31.03.2011	4,98,505	2.93
Chittorgarh	10/83	01.04.2008 to 31.03.2011	7,87,345	4.34
	24/92	01.04.2008 to 31.03.2011	8,04,326	4.68
Kota	1/92	2006-07 to 2010-11	4,06,525	2.14
Ramaganjmandi	1/95	21.02.2006 to 20.02.2011	44,191	0.22
Sirohi	6/94	2006-07 to 2010-11	18,40,366	9.11
<b>Total</b>			<b>43,81,258</b>	<b>23.42</b>

The matter was pointed out to the Department and reported to the Government (September-October 2011 and March 2012); their replies were awaited (November 2012).

#### 7.7.4 Unauthorised excavation and use of minerals by public works contractors

As per Government order dated 8 October 2008, the public works contractor shall have to obtain short term permit (STP), for the minerals to be used in the works, from the concerned ME/AME before starting the work. In case of use of mineral in work without STP, the concerned works department is responsible for depositing cost of minerals used without STP.

The contractor has to submit records for assessment of royalty of minerals authorised in STP and actually used in the work within 15 days of completion of STP period.

As per Rule 63 of the RMMC Rules, 1986, the cost of entire excess quantity of the minerals illegally excavated and used shall be recovered, if such quantity exceeds 25 *per cent* over and above permitted in STP. The cost of minerals shall be 10 times of the prevalent royalty as envisaged in Rule 48 of *ibid*.

**7.7.4.1** During cross verification of short term permits issued to public works contractors with the work orders 'G' schedules<sup>5</sup> maintained in 17 ME/AME offices, it was noticed (June 2011 to March 2012) that 111 work contractors in 172 works excavated/consumed minerals masonry stone, bajri, gravel, ordinary soil etc. either without obtaining STP or more than 25 *per cent* of the quantity permitted in the STP. The cost of 99,737 MT minerals illegally excavated, worked out to ₹ 11.83 crore, was not recovered from concerned contractors.

The matter was pointed out to the Department and reported to the Government (August 2011 to March 2012); their replies were awaited (November 2012).

<sup>5</sup> Abstract of cost

**7.7.4.2** During test-check of the royalty deduction and minerals consumption files maintained in two ME offices, it was noticed (August and October 2011) that in 276 works, contractors excavated and consumed minerals without obtaining STPs from concerned MEs. The Public Works Department deducted single royalty<sup>6</sup> of the minerals used in works by the contractors and deposited it with the Mining Department. Since the mineral was excavated and used without STPs the concerned department was required to deposit the cost of mineral as per order dated 8 October 2008, instead of the recovered royalty amount only. The recoverable cost of minerals worked out to ₹ 6.40 crore as detailed below:

(₹ in lakh)

Name of ME	Royalty deducted	Cost of minerals
Alwar	63.03	630.27
Bharatpur	0.94	9.42
<b>Total</b>	<b>63.97</b>	<b>639.69</b>

After being pointed out, Department stated (September and October 2011) that recovery of the amount shall be made after issuing notices to the concerned works departments.

The matter was pointed out to the Department and reported to the Government (October and November 2011); their replies were awaited (November 2012).

**7.7.4.3** During the cross verification of short term permit issued to public works contractor with the work order 'G' schedule/consumption statement maintained in ME office, Sirohi, it was noticed (August 2011) that work for widening, strengthening and improvement of riding quality of Sirohi-Mandar-Deesa Road {SH-27, Km. 197/0 to 268/400 (under BOT)} was awarded (August 2008) to M/s Shiv Puja Construction (P) Ltd. by Chief Engineer, Public Works Department, Rajasthan, Jaipur which was completed on 27 August 2010. It was noticed from mineral consumption statement sent (20 October 2010) by Executive Engineer, PWD Division, Sirohi to ME that the contractor had used excess quantity of minerals grit/blast, gravel/bajri and ordinary soil over and above the quantity authorised in the STP. As per item number 5 of the 'G' schedule, 1,99,920 MT (1,42,800 cum x 1.4) of soil was required in construction of embankment but the contractor used it without obtaining STP for full quantity. Recoverable royalty and cost of minerals quantity used in excess of the authorisation in STP or without STP worked out to ₹ 2.59 crore<sup>7</sup> was not recovered as mentioned below:

(₹ in lakh)

Name of the mineral	Quantity of minerals used (MT)	Quantity of minerals as per STP (MT)	Unauthorised quantity of minerals (MT)	Royalty amount			Cost of mineral
				Recoverable	Recovered	Short recovered	
Grit/Ballast	2,67,266	67,000	2,00,266	26.73	6.70	20.03	200.27
Gravel/Bajri	83,600	76,000	7,600	8.36	7.60	0.76	-
Ordinary soil	1,99,920	28,000	1,71,920	4.00	0.56	3.44	34.38
<b>Total</b>				<b>39.09</b>	<b>14.86</b>	<b>24.23</b>	<b>234.65</b>

<sup>6</sup> Single royalty means the royalty payable to the Government in respect of the mineral as prescribed in schedule-I under rule 18 (1) (b) of RMMC Rules 1986

<sup>7</sup> (₹ 234.65 lakh + ₹ 24.23 lakh)

The matter was pointed out to the Department and reported to the Government (October 2011); their replies were awaited (November 2012).

### 7.7.5 Mineral excavation without approval of mining plan/ scheme

#### 7.7.5.1 Major Mineral

As per Rule 22 A (1) of the MC Rules, 1960 and Rule 9 of the MCD Rules, 1988 no person shall commence mining operation in any area except in accordance with a mining plan approved under Section 5(2)(6) of the MMDR Act, 1957. Section 21 (5) of the Act ibid envisages that cost of mineral along with royalty shall be recovered in case of unlawful excavation/despatch of the mineral.

During test-check of concession assessment files and the supporting monthly returns filed by the lessees in two AME offices, Shriganganagar and Gotan, it was noticed (July and November 2011) that holders of seven leases excavated and despatched 4,87,831 MT of mineral gypsum and china clay without approved mining plan. In case of Shriganganagar it was found that Indian Bureau of Mines (IBM) also commented

(16.06.2007) that the lessee holding mining lease no. 2/2000 did not submit the mining scheme under the provisions of Rule 12(3) of MCD Rules, 1988. Production of mineral gypsum and china clay without approved mining plan/scheme was illegal. It attracted recovery of cost of mineral amounting to ₹ 11.04 crore as detailed below:

(₹ in lakh)

Name of AME office	ML No.	Period of illegal production	Name of mineral	Illegal production (In MT)	Cost of mineral
Gotan	1/03	1.1.10 to 4.3.11	China clay	11,272	33.81
	3/04	24.3.10 to 23.3.11	-do-	510	1.53
	6/04	7.4.10 to 1.8.10	-do-	555	1.66
	1/05	7.9.10 to 31.3.11	-do-	599	1.80
	16/05	14.11.10 to 31.3.11	-do-	527	1.58
	10/05	17.11.10 to 31.3.11	-do-	3,133	9.40
Shriganganagar	2/2000	1.5.06 to 31.1.11	Gypsum	4,71,235	1054.64
<b>Total</b>				<b>4,87,831</b>	<b>1,104.42</b>

The matter was pointed out to the Department and reported to the Government (August and December 2011); their replies were awaited (November 2012).

### 7.7.5.2 Minor Mineral

As per Rule 18(10) of the RMMC Rules, 1986, the lessee shall abide by all existing Acts and Rules framed by the Government of India or the State Government and all such other Acts or Rules as may be enforced from time to time in respect of working of mines and other matters affecting safety, health and convenience of the lessee or of the public. Rule 16 and 17 of the Granite Conservation and Development Rules, 1999 and the Marble Development and Conservation Rules, 2002 envisage that no person shall commence mining operation except in accordance with an approved mining plan.

During test-check of concession, assessment files and the supporting monthly returns in five ME/AME offices<sup>8</sup>, it was found (July to November 2011) that nine holders of mining leases excavated and despatched 12,276 MT mineral marble and granite without approved mining plan, which was violation of rules and provisions. Production of mineral without approved mining plan/mining scheme was illegal and attracted recoverable mineral cost of ₹ 1.92 crore, which was not recovered.

The matter was pointed out to the Department and reported to the Government (August to December 2011); their replies were awaited (November 2012).

### 7.7.6 Illegal subletting of lease

Rule 37 of the MC Rules, 1960, provides that the lessee shall not, without the previous consent in writing of the State Government, assign, sublet, mortgage, or in any other manner, transfer the mining lease or any right, title or interest therein, or enter into or make any *bonafide* arrangement, contract or understanding whereby the lessee will or may be directly or indirectly financed to a substantial extent by, or under which the lessee's operations or understandings will or may be substantially controlled by, to any person or body of persons other than the lessee.

During test-check of concession files, assessment files and supporting monthly returns in ME office, Ajmer, it was noticed (July 2011) that a lease number 34/85 for mineral Quartz, Felspar and Wollastonite near village Alipur, Tehsil Pisangan District Ajmer was effective in favour of (M/s Arvind Minerals (proprietor Shri Arvind Kumar Garg). The lessee transferred (22 June 2004) all mining rights in favour of M/s Indigo Minerals (firm) without previous consent of the State Government. The

mining operations were carried out by M/s Indigo Minerals since 13 July 2006 as the lessee gave possession of the lease to the firm. As per assessment

<sup>8</sup> Kotputli, Nimbahera, Rajsamand-I, Rishabhdev and Sojat city

records, the unlawful quantities of mineral excavated and despatched along with recoverable cost ₹ 1.74 crore worked out was as follows:

(₹ in lakh)

Period	Name of mineral excavated	Quantity (MT.)	Cost of mineral
13.07.2006 to 12.07.2007	Quartz	484.020	1.82
13.07.2007 to 12.07.2008	Feldspar	2,795.070	4.18
	Wollastonite	16,382.905	168.26
<b>Total</b>			<b>174.26</b>

The matter was pointed out to the Department and reported to the Government (September 2011); their replies were awaited (November 2012).

### 7.7.7 Non-raising of demand of cost of mineral excavated and despatched illegally

Rule 18 (9) (c) of the RMMC Rules, 1986, provides that lessee or any other person shall not remove or despatch or utilise the mineral from the mines and quarry without *rawanna*. In case of despatch of mineral without lawful authority, cost of mineral, as envisaged in Rule 48 (5) of the said Rules, 10 times of the royalty payable at the prevalent rates, is to be recovered along with royalty.

During test-check of inspection reports conducted by the Department and demand approval files in ME office, Alwar, it was found (August-September 2011) that as per joint inspection reports of Mines and Geology, Forest and Revenue Departments, in 16 cases, lessees and other persons had illegally excavated and despatched mineral masonry stone without *rawanna* from December 2007 to February

2011, but the cost of mineral along with royalty aggregating to ₹ 7.91 crore were not demanded by the Department as mentioned below:

Period of inspection	Number of cases	Range of delay period	Quantity of mineral illegally excavated/ despatched (MT)	Cost of mineral (Ten times of royalty) PMT (₹)	Recoverable amount (₹ in crore)
December 2007	4	more than 4 years	99,625.5	130	1.29
October 2010 and February 2011	12	6 to 2 months	8,27,091.5	80	6.62
<b>Total</b>	<b>16</b>	<b>-</b>	<b>9,26,717.0</b>	<b>-</b>	<b>7.91</b>

The cases are still pending with Government for decision even after a lapse of one to five years resulting in non-realisation of cost of mineral valued at ₹ 7.91 crore.

The matter was pointed out to the Department and reported to the Government (October 2011); their replies were awaited (November 2012).

**The Government may fix a time frame to finalise the cases so that the due amount may be recovered in time.**

### 7.7.8 Non/short raising demand of cost of minerals

As per notification dated 10 June 1994 issued under Rule 65 A of the RMMC Rules, 1986, the kiln owner shall obtain permission for the brick earth to be used in making bricks. The permission shall be at least for one year and maximum for five years. The royalty on brick earth shall be recovered on the basis of annual metric ton quantity of earth used as per formula 150 days x 3.5 MT x number of *ghories*. Further, Rule 48 of the *the said* Rules, provides that whenever any person raises, without lawful authority, any mineral, he shall be liable to pay cost of the mineral so excavated along with royalty.

**7.7.8.1** During test-check of inspection reports conducted by the Department/*panchnamas* in ME office, Jaipur and SME office, Bikaner, it was noticed in (June 2011 and February 2012) that in 49 cases, kiln owners used brick earth illegally without obtaining requisite permits and paying royalty. The Department, however, raised demand on the basis of actual quantity of bricks found on the spot at the time of inspection

instead of cost of quantity of brick earth excavated and used in kiln in one year. The recoverable cost worked out to ₹ 3.94 crore as detailed below:

(₹ in lakh)

Sl. No.	Name of office	No. of cases	Month of <i>panchnama</i>	Recoverable cost <sup>9</sup>	Demand raised by the Department	Short raised demand
1.	ME, Jaipur	8	May 2010 to February 2011	140.09	11.80	128.29
2.	SME, Bikaner (ME, Bikaner)	41	October 2009 to May 2010	278.77	13.41	265.36
<b>Total</b>				<b>418.86</b>	<b>25.21</b>	<b>393.65</b>

The matter was pointed out to the Department and reported to the Government (August 2011 and February 2012); their replies were awaited (November 2012).

<sup>9</sup> Amount has been worked out on the basis of the capacity of kiln for utilising of the earth in one year.

As per DMG, Udaipur circular dated 6 December 2004, prior approval of the Superintendent Mining Engineer for cost of mineral is required before raising demand in all cases of *panchnamas* of illegal excavation and despatch of minerals.

**7.7.8.2** During test-check of the file of inspection report of illegal mining in ME office, Alwar, it was noticed (September 2011) that as per *panchnama* made on 23 February 2011 by ME, the lease holders Shri Dinesh Chand Saini and Shri Kishan Lal Saini

of lease number 110/98 and 111/98 respectively had excavated 43,177.40 MT<sup>10</sup> of masonry stone and gravel from six pits situated outside the leased areas. Notices for recovery of cost of illegally excavated and despatched minerals amounting to ₹ 67.96 lakh<sup>11</sup> and ₹ 27.03 lakh<sup>12</sup> were issued (11 March 2011) to lessees. The ME confirmed illegal excavation of minerals and the *panchnamas* were sent (10 June 2011) to SME Circle, Bharatpur for approval of cost. However approval of the Superintendent Mining Engineer for cost of mineral was not obtained and the amount has not been realised till date.

The matter was pointed out to the Department and reported to the Government (October 2011); their replies were awaited (November 2012).

### 7.7.9 Lacunae in Government order - short recovery of royalty

Section 9 of MMDR Act, 1957 envisages that a holder of mining lease granted under the Act shall pay royalty of the mineral removed or consumed from the leased area.

Rule 63(1) of the RMMC Rules, 1986, envisages that ME/AME may grant short term permit (STP) to a person for excavation and use of specific quantity of minerals on paying prevalent royalty of the minerals as notified under Rule 18(1) of the Rules *ibid*. The permit holder shall be responsible for submission of his record for assessment of royalty of the minerals excavated/despatched within 15 days of the expiry of the permit.

**7.7.9.1** The State Government vide order dated 8 October 2008 decided that the public works contractor shall obtain, before start of work, STP for minerals to be used in the works and royalty of the minerals was to be deducted at prescribed percentage of cost of work depending on the nature of work as follows:

Nature of the work	Percentage royalty deduction
Road Construction	1.75
Building construction	1.00
Renewal of roads	0.75
Other works where mineral is used	0.50

<sup>10</sup> 43,177.4 MT (12285 masonry stone +30892.4 gravel)

<sup>11</sup> ₹ 67.96 lakh (30,892.4 MT x ₹22x10)

<sup>12</sup> ₹ 27.03 lakh (12,285 MT x ₹22x10)

The above order of the State Government is contrary to the provisions of Section 9 of the Act read with Rule 63 and 18(1) of the RMMC Rules which stipulated payment of royalty in advance before the mineral was removed or consumed. Actual royalty deducted on the basis of percentage of work was much less than royalty accrued on account of the consumption of the minerals in works by the contractors.

During test-check of short term permits issued to public works contractors and work orders, minerals supply orders 'G' schedules maintained in four ME/AME offices, it was noticed (October 2011-March 2012) that mineral gravel, masonry stone, soil etc. of about 6,22,801 MT were used in 46 numbers of public work. Royalty amount at the prescribed percentage of cost of works was deducted as per Government order dated 8 October 2008, which was lesser than the actual recoverable royalty amount on the basis of quantity of the minerals used in the works as shown below:

(₹ in lakh)

Name of the ME/AME	No. of works	Quantity of minerals used (as authorised in STP) (MT)	Royalty		Difference amount
			Recovered (At prescribed percentage)	Payable (as per schedule)	
Barmer	16	86,012 (Gravel)	1.75	9.02	7.27
Jaisalmer	5	84,015 (Gravel, murrum etc.)	4.03	13.34	9.31
Sikar	24	1,63,574(Gravel, murrum etc.)	6.30	24.48	18.18
Rajasamand-I	1	2,89,200(Bajari, gravel, gitti, ordinary soil)	28.51	41.87	13.36
<b>Total</b>	<b>46</b>	<b>6,22,801</b>	<b>40.59</b>	<b>88.71</b>	<b>48.12</b>

Thus, the Government order was in contravention of the provisions of the Act/Rules which resulted in short recovery of royalty of ₹ 48.12 lakh.

The matter was pointed out to the Department and reported to the Government (October 2011 to March 2012); their replies were awaited (November 2012).

**7.7.9.2** During test-check of the consumptions statement of Works department and royalty deduction records in three ME/AME offices, it was found (August-December 2011) that in 29 road works, mineral gravel was used. The royalty at the rate 1.75 per cent of cost of work was deducted as per Government order dated 8 October 2008, which was ₹ 25.70 lakh less than the actual recoverable royalty amount as prescribed on the quantity of mineral



gravel used in works as shown below:

Sl. No.	Name of ME/AME office	No. of works	Quantity of mineral gravel used (In MT)	Royalty amount		Difference amount
				Deducted @ 1.75 per cent	payable	
1.	Balesar	10	88,728	1.57	8.87	7.30
		5	59,850	0.94	5.99	5.05
2.	Nagaur	10	1,08,726	4.28	10.87	6.59
3.	Salumber	4	50,710	0.43	7.19	6.76
<b>Total</b>		<b>29</b>	<b>3,08,014</b>	<b>7.22</b>	<b>32.92</b>	<b>25.70</b>

Thus, in contravention of the provisions of the Act/Rules, the Government order resulted in short recovery of royalty amounting to ₹ 25.70 lakh.

The matter was pointed out to the Department and reported to the Government (October 2011 to January 2012); their replies were awaited (November 2012).

#### 7.7.10 Loss of revenue due to non recovery of compound fee

Section 21(5) of the MMDR Act 1957, envisages that whenever any person raises any mineral from any land without any lawful authority, the State Government may recover from such person, the price thereof and royalty or tax, as the case may be. Further, as per Government of Rajasthan circular dated 13 January 2011 read with notification dated 28 January 2011, an amount of ₹ 25,000 as compound fee was to be recovered from each vehicle carrying mineral unauthorisedly.

During test-check of the check post registers in ME office, Nagaur, it was noticed (August 2011) that cost of mineral gypsum along with royalty was recovered from owners of 193 transport vehicles (tractors and camel carts) carrying mineral unauthorisedly between 13 January and 31 March 2011 but compound fee ₹ 25,000 per vehicle recoverable as per the State Government circular dated 13 January 2011 was not recovered. This resulted in loss of revenue of ₹ 48.25 lakh<sup>13</sup>.

The matter was pointed out to the Department and reported to the Government (October 2011); their replies were awaited (November 2012).

<sup>13</sup> 48.25 lakh (193 vehicles x ₹ 25,000).

**7.7.11 Short recovery of royalty of SMS grade limestone**

Section 9(2) of the Mines and Minerals (Development and Regulation) Act, 1957 envisages that holder of a mining lease shall pay royalty in respect of any mineral removed from the leased area at the rate for the time being specified in respect of that mineral.

With effect from 13 August 2009 the Government of India has fixed the rate of royalty of ₹ 72 per MT for SMS grade limestone containing silica content less than 1.5 per cent and ₹ 63 per MT for other type of limestone.

During test-check of concession, assessment files and monthly returns in the office of the AME, Jaisalmer, it was found (March 2012) that two leases of limestone (SMS grade) were granted to M/s Rajasthan State Mines and Minerals Ltd. The lessee excavated and despatched SMS<sup>14</sup> grade limestone grit of different sizes (10 to 30 mm, 30 to 80 mm and of other sizes) containing silica content less than 1.5 per cent.

The company paid royalty at the rate of ₹ 72 per MT for the grit of 30 to 80 mm size but paid royalty at the rate of ₹ 63 per MT for the grit of 10 to 30 mm and other sizes. This resulted in a short recovery of royalty amounting to ₹ 42.40 lakh as under:

(₹ in lakh)					
M.L. No.	Period	Quantity of mineral despatched MT	Royalty Recoverable @ ₹ 72 PMT	Royalty recovered @ ₹ 63 PMT	Short recovery of royalty
27/96	01.04.10 to 31.03.11	2,47,327	178.08	155.82	22.26
1/97	01.04.10 to 31.03.11	2,23,736	161.09	140.95	20.14
<b>Total</b>		<b>4,71,063</b>	<b>339.17</b>	<b>296.77</b>	<b>42.40</b>

After being pointed out, the Department stated (March 2012) that amount shall be recovered after raising demand.

The matter was pointed out to the Department and reported to the Government (March 2012); their replies were awaited (November 2012).

<sup>14</sup> SMS-steel melting shop.

### 7.7.12 Non-levy of interest

Section 9 (2) of the MMDR Act 1957 and the Government's instructions of April 2000 and March 2008 provide that lessee shall pay the excess royalty amount on the quantity of mineral despatched during the month. Further, Rule 64A of the MC Rules 1960, provides that lessee shall be liable to pay interest at the rate of 24 *per cent* per annum on the delayed payments for the period of delay computing from 60<sup>th</sup> day of the due date.

As per terms and conditions of the excess royalty collection contract agreement executed under Rule 37 (2) of the RMMC Rules, 1986, the contractor has to pay the instalments of the contract by 10<sup>th</sup> of the each month in advance. Interest amount is to be paid on delayed deposits at the rate of 15 *per cent* per annum for the period of delay.

Rule 61 of the RMMC Rules, 1986 provides that interest at the rate of 15 *per cent* per annum shall be charged in case the amount of dead rent, royalty etc. is paid after 15 days from the date it becomes due.

(i) During test-check of demand and collection registers in six ME/AME offices<sup>15</sup>, it was found (June to October 2011) that demand of interest of ₹ 1.66 crore for delayed/non-payments in 22 cases was not raised and recovered.

After this being point out the Department accepted the audit observation and stated that an amount ₹ 84,423 has been collected.

(ii) During test-check of demand and collection registers in three ME offices<sup>16</sup>, it was found (July to October 2011) that demand of interest of ₹ 32.62 lakh in 17 cases was not raised.

After this being point out the Department accepted the audit observation and stated that demand for an amount ₹ 21.20 lakh has been raised in 10 cases.

(iii) During test-check of demand and collection register in ME office, Jaipur, it was observed (June 2011) that interest amounting ₹ 6.10 lakh on delayed payment of instalments in 67 cases of brick kiln owners was not raised and recovered.

After being pointed out, the ME stated (June 2011) that the amount will be recovered.

The matter was pointed out to the Department and reported to the Government (August and November 2011); their replies were awaited (November 2012).

<sup>15</sup> Ajmer, Bhartpur, Bikaner, Shriganganagar, Jaipur and Sirohi

<sup>16</sup> Bikaner, Jaipur and sojatcity

**7.7.13 Despatch of mineral without transit pass**

As per Rules 3 and 11 of the Rajasthan Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules, 2007, no person shall carry on the business of buying, selling, storing, distributing or processing of mineral or mineral ores directly or use minerals and/or its ingredient as a raw material without being registered as a dealer under these rules. No person shall transport or carry away any mineral from any place without obtaining a transit pass from the ME/AME concerned. Whoever contravenes the provision of these rules shall be punishable under the provisions of Section 21 of the MMDR Act, 1957. As per Section 21(5) *ibid*, where the mineral is excavated/despached unlawfully, the cost of the mineral along with royalty shall be recovered from the defaulter.

During test-check of inspection reports in AME office, Shriganganagar, it was noticed (July 2011) that M/s Shree Cement Ltd despatched 8211.91 MT of mineral 'gypsum' without transit pass between 26 January and 19 April 2010. The action of the firm was contrary to the provisions of the Rajasthan Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules, 2007. The cost of the mineral along with royalty amounting to ₹ 29.56 lakh<sup>17</sup> was recoverable.

The matter was pointed out to the Department and reported to the Government (August 2011); their replies were awaited (November 2012).

**7.7.14 Non-raising of demand of cost of mineral used at the stone crushers**

Rule 69 of the RMMC Rules, 1986, provides that the assessing authority may summon any of the parties using and/or dealing in the mineral in the State and may demand necessary information. Any person engaged in trading of minerals shall maintain a correct account of mineral purchased, stocked and sold for inspection, if required by assessing authority, failing which the assessing authority may recover cost, along with royalty, of the mineral from the trader as per Rule 48(5) of the Rules *ibid*. The cost of the mineral will be computed as ten times the royalty payable at the prevalent rates.

During test-check of inspection reports of ME, Jaipur and AME, Balesar, it was noticed (June and December 2011) that during inspection of 31 stone crushers between January 2006 and May 2010, total 23,492 MT mineral 'masonry stone' and 'crusher grit' was found at site, but the source of procuring the mineral was not intimated by the crusher owners despite

<sup>17</sup> ₹ 29.56 lakh ( Cost of 8211.91MT x ₹ 300 + Royalty of 8211.91MT x ₹60)

issuing show cause notices to them. The demand of cost of mineral along with royalty ₹ 25.56 lakh was not raised by the Department as mentioned below:

Name of the ME/ AME	Period of inspection	Number of cases	Quantity of mineral illegally excavated/ despatched (MT)	Cost of mineral (Ten times of royalty) PMT (₹)	Recoverable amount (₹ in lakh)		
					Cost	Royalty	Total
Balesar	23.07.2008 to 23.08.2009	2	16,792	100	16.79	1.68	18.47
Jaipur	30.01.2006 to 30.08.2006	4	1,315	80	1.05	0.11	1.16
	14.12.2007 to 29.05.2010	25	5,385	100	5.39	0.54	5.93
<b>Total</b>		<b>31</b>	<b>23,492</b>		<b>23.23</b>	<b>2.33</b>	<b>25.56</b>

The matter was pointed out to the Department and reported to the Government (August 2011 and January 2012); their replies were awaited (November 2012).

#### 7.7.15 Loss of stamp duty and registration fee due to non-execution of agreement

Under the Indian Registration Act, 1908, leases of immovable property for any term exceeding one year have to be registered compulsorily. Further, Government of Rajasthan clarified in circular dated 24 November 1993 that stamp duty and registration fee are leviable on the execution of leases.

During test-check of concession files/ sanction order files in the office of the of Director, Petroleum, Rajasthan, Jaipur, it was noticed (June 2011) that 10 mining leases for mineral crude oil and natural gas were sanctioned between October 1997 and June 2010, which

were effective for 20 years. However, the lease deeds were not executed and registered, resulting in non-recovery of stamp duty and registration fee amounting to ₹ 88.83 lakh.

After being pointed out, the Government stated (June 2012) that lease deeds have not been executed and registered due to non-approval of draft agreement proforma by the Central Government. Stamp Duty shall be recovered on the execution of lease deed after approval of draft agreement proforma by the Central Government.

However, the fact remains that non-execution of agreement in spite of lapse of two to 13 years resulted in non-recovery of stamp duty and registration fee amounting to ₹ 88.83 lakh.

The matter was reported to the Government (July 2011); their replies were awaited (November 2012).



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**Jaipur**  
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**(VINOD RAI)**  
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