

CHAPTER-VI
MINING RECEIPTS

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6.1 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 circles¹, each under the charge of a DDM. The circles are further divided into 24 district mining offices², 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.

6.2 Results of audit

Our test check during 2013-14 of the records of 18 units, having revenue collection of ₹ 3,029.73 crore, out of 50 units relating to the Mines and Geology Department revealed non/short levy of royalty, dead rent, penalty and other irregularities involving ₹ 128.44 crore in 2,394 cases as mentioned in the **Table – 6.2.**

Table – 6.2

Sl. No.	Categories	(₹ in crore)	
		No. of cases	Amount
1	Non/short levy of royalty	227	113.67
2	Non/short levy of dead rent	22	0.19
3	Non-levy of penalty	17	5.90
4	Non-institution of certificate proceedings	78	0.01
5	Other cases	2,050	8.67
Total		2,394	128.44

During the course of the year, the Department accepted under-assessments and other deficiencies amounting to ₹ 36.78 crore in 1,904 cases pointed out by us during 2013-14.

The Department recovered ₹ 7.34 crore in six cases including ₹ 7.30 crore involved in five cases, pointed out in draft paragraph by us during 2013-14.

¹ Chaibasa, Daltonganj, Dhanbad, Dumka, Hazaribag and Ranchi.

² 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 this chapter a few illustrative cases having recoverable financial implication of ₹ 35.78 crore, the Department accepted audit observation of ₹ 17.21 crore in four cases which have been discussed in the succeeding paragraphs.

6.3 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 6.4 to 6.7 which resulted in non/short levy/realisation of ₹ 35.78 crore.

6.4 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 Run of Mines (ROM) coal. In case of iron ore and bauxite, the rate of royalty is based on the iron and aluminium metal content respectively in the minerals under Rule 64 D of the MC Rules, 1960.

We test checked (between September 2013 and March 2014) the monthly returns of 198 out of 220 lessees in five Mining Offices³ and noticed that 40 lessees had dispatched 47.31 lakh MT of different minerals during 2011-12 and 2012-13, on which royalty of ₹ 69.12 crore was levied instead of ₹ 87.89 crore leviable on the basis of basic pit head price of ROM coal notified by the Coal India Limited (CIL), price of iron ore and bauxite published by the Indian Bureau of Mines (IBM) and in case of bauxite used in alumina and aluminium metal extraction royalty calculated on the basis of London Metal Exchange price, 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 ₹ 18.77 crore as detailed in the **Table - 6.4**.

Table – 6.4

(₹ in lakh)

Sl. No	Name of the office Number of Leases	Name of the mineral Period	Quantity (in lakh MT)	Royalty leviable Royalty levied	Short levied	Remarks
1	Dhanbad 23	Coal 2012-13	39.61	<u>7,472.97</u> 5,739.09	1,733.88	Rate of royalty was not calculated on the basis of basic pit head price of ROM coal as notified by the CIL.
2	Hazaribag 1	Coal 2011-12	0.87	<u>199.19</u> 162.81	36.38	
3	Chaibasa 1	Iron Ore 2012-13	2.78	<u>663.01</u> 590.42	72.59	Royalty was not calculated on the basis of iron content wise average monthly price published by the IBM.
4	Lohardaga 5	Bauxite 2012-13	3.77	<u>431.78</u> 404.88	26.90	Royalty was not calculated on the basis of alumina content as per mining plan.

³ Chaibasa, Dhanbad, Gumla, Hazaribag and Lohardaga.

Table – 6.4

(₹ in lakh)

Sl. No	Name of the office Number of Leases	Name of the mineral Period	Quantity (in lakh MT)	Royalty leviable Royalty levied	Short levied	Remarks
5	Gumla 10	Bauxite 2012-13	0.28	<u>21.95</u> 14.39	7.56	Royalty was not calculated on the basis of average monthly price published by the IBM.
Total	40		47.31	<u>8,788.90</u> 6,911.59	1,877.31	

After we pointed out the cases (between September 2013 and March 2014), the DMO, Chaibasa raised (March 2014) the demand for ₹ 72.59 lakh. While, in remaining cases the DMOs stated (between September 2013 and March 2014) that matter would be examined and action would be taken accordingly. Further reply has not been received (November 2014).

We reported the matter to the Government between July 2013 and May 2014; their reply has not been received (November 2014).

Similar issue featured in Paragraph No. 7.7 of Audit Report (Revenue Sector) for the year ended 31 March 2013, where the Government informed (September 2013) that demand had been raised for ₹ 32.08 crore, out of which ₹ 4.23 crore had been recovered. 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.

6.5 Short levy of royalty

Under the provisions of Section 9 of the Mines and Minerals (Development and Regulation) Act, 1957, the holder of a mining lease is required to pay royalty in respect of any mineral removed or consumed from the leased area at the rate for the time being specified in the Second Schedule in respect of that mineral. Further, Rule 4(2) of the Colliery Control Rules, 2004 provides that the owner of a colliery is required to declare grade of coal mined in the colliery. The Central Government prescribed formulas as rate of royalty = a + bp, where 'a' is a fixed component and 'bp' = 5 per cent of basic pit head price of ROM coal. Further, royalty was revised to 14 per cent of basic pit head price of ROM coal with effect from 10 May 2012.

We test check (November 2013) the demand files of three lessees out of five lessees in the District Mining Office, Pakur and noticed that a lessee had declared grade of coal for 2012-13 as G-6, G-8 and G-9 on the basis of Gross Calorific Value (GCV). Whereas, the monthly returns submitted in the mining office during 2012-13 the lessee declared dispatch of 67.25 lakh MT of coal as grade C, D, E and F and paid royalty of ₹ 90.58 crore for aforesaid dispatch. Declaration of coal on the basis of Useful Heat Value was discontinued from January 2012 and grading of coal on the basis of Useful Heat Value in the monthly returns was irregular. The DMO was required to scrutinise the monthly returns with the declared grade and accordingly demand was to be raised on the basis of the formulas prescribed. As such, the royalty was calculated at ₹ 102.85 crore on the basis of Grade C as G-6, Grade D and E as G-8 and Grade F as G-9 and by using formulas prescribed by the Central

Government. Thus, incorrect grading of coal on the basis of Useful Heat Value instead of Gross Calorific Value resulted in short levy of royalty of ₹ 12.28 crore.

After we pointed out the case in November 2013, the DMO stated (May 2014) that certificate case had been instituted for realisation of demand under audit observation. Further reply has not been received (November 2014).

We reported the matter to the Government in April 2014; their reply has not been received (November 2014).

Similar issue featured in Paragraph No. 6.8.2 of Audit Report (Revenue Receipts) for the year ended 31 March 2011. The same irregularities are still persisting.

6.6 Non/Short levy of penalty for illegal mining

Under the provisions of Rule 23(e) of the Jharkhand Minor Mineral Concession Rules, 2004, if a lease renewal application of a minor mineral lease is not disposed off by the Collector within the time frame or before the expiry of the lease, it will be presumed that it is extended for next 90 days or till the date of order passed by the sanctioning authority, whichever is earlier. If the lease application is not disposed off within this extended time frame then it is assumed to be rejected. Further, Rule 54(8) provides that any person who does not have any valid mining lease/permit, if he or any agent, manager or contractor on his behalf extracts minor minerals the person shall be presumed to be a party to the illegal extraction and the price of mineral shall be recovered from him.

6.6.1 We test check (November 2013) the demand files and Demand, Collection and Balance (DCB) Register of 110 leases out of 443 leases of minor minerals in the District Mining Office, Pakur and noticed that a renewal application of a lessee, whose lease validity period had expired in February 2012, had not been disposed off. But the ex-lessee had extracted minerals even after the expiry of extended period of 90 days and dispatched 1.43 lakh cum of stone boulder between June 2012 and March 2013 and paid royalty ₹ 89.82 lakh for the dispatched mineral. Thus, dispatched mineral were liable to be treated as illegal extraction for which price of mineral of ₹ 4.33 crore was recoverable. The DMO did not monitor the lease register and demand file which resulted in short levy of penalty of ₹ 3.44 crore.

After we pointed out the case (November 2013), the DMO, Pakur stated (May 2014) certificate case had been instituted for realisation of demand under audit observation. Further reply has not been received (November 2014).

We reported the matter to the Government in January 2014; their reply has not been received (November 2014).

Under the provisions of Rule 56 of the Jharkhand Minor Mineral Concession Rules, 2004, all promoters or private companies engaged in construction work shall ensure that procurement of minor mineral to be consumed is made from valid lease holder or permit holder through legal transporting challans, failing which they shall be liable to pay royalty and penalty equivalent to the royalty.

6.6.2 We test check (October 2013) the permit files along with monthly returns of 10 out of 64 permit holders in DMO, Ramgarh and noticed that a contractor of the National Highway Authority of India (NHAI) had been granted two permits in December 2011 and February 2012 for 2,00,000 cum of earth over 21.36 acre area. As per monthly returns submitted by the contractor 1,60,000 cum of earth was procured between January and December 2012 by utilising 8,000 nos. of transporting challans. Further, in December 2012 Mining Inspector conducted inspections on permit areas and reported that mineral was not procured from these areas. As such the procurement reported in monthly returns was illegal and was liable to pay royalty together with penalty equivalent to royalty, amounting to ₹ 76.80 lakh but the District Mining Officer failed to impose the same.

After we pointed out the cases (October 2013), the DMO stated (January 2014) that demand notice has been issued (December 2013). Further reply has not been received (November 2014).

We reported the matter to the Government in December 2013; their reply has not been received (November 2014).

Similar issue featured in second bullet of Paragraph No. 7.4.22.1 of Audit Report (Revenue Sector) for the year ended 31 March 2012. The Government accepted (September 2012) our observations and stated that demand had been raised. However, nature of such lapses/irregularities are still persisting which shows ineffectiveness of internal control system to prevent recurring leakage of revenue.

6.7 Excess adjustment of royalty

Under the provisions of Section 9 of the Mines and Minerals (Development and Regulation) 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 (February 2014) the monthly returns furnished by one colliery⁴ under Sijua Area of Bharat Coking Coal Limited (BCCL) in District Mining Office, Dhanbad and noticed that the colliery had shown receipt of 4,05,037.39 MT of grade IV coal from its sister collieries⁵ during 2012-13 and adjusted a sum of ₹ 8.51 crore. However, our cross-verification with the monthly returns of the sister collieries revealed that royalty of only ₹ 7.99 crore had been paid. The DMO did not cross-verify the returns submitted by the lessee with the returns of its sister collieries available in the office and allowed incorrect adjustment. This resulted in allowance of excess adjustment of royalty of ₹ 52.02 lakh.

After we pointed out the case in February 2014, the DMO stated (February 2014) that the matter would be examined and action would be taken as per law. Further reply has not been received (November 2014).


⁴ Sendra Bansjora.

⁵ Tetulmari and Nichtipur.

We reported the matter to the Government in April 2014; their reply has not been received (November 2014).


Similar issue had also featured in Paragraph No. 7.10 of Audit Report (Revenue Sector) for the year ended 31 March 2013 wherein the Government accepted (September 2012) the cases and raised the demand for ₹ 1.14 crore against our observation of ₹ 94.44 lakh. 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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