CHAPTER-VI

EXECUTIVE SUMMARY

Tax collection	In 2012-13, the revenue collection from mineral receipts was ₹ 1,496.49 crore, and the same had increased by about 12.79 *per cent* over 2011-12.
Insignificant recovery by the Department of observations pointed out by us in earlier years	During the years 2008-09 to 2012-13, we had, through our Audit Reports pointed out non/short levy, non/short realisation of revenue amounting to ₹ 3,417.37 crore in 57 paragraphs. Of these, the Government/Department had accepted audit observations in 13 paragraphs involving ₹ 1,212.81 crore and had since recovered only ₹ 7.26 crore. The recovery made by the Department is only 0.58 *per cent* of the amount involved in the total accepted cases.
Results of audit conducted by us in 2012-13	In 2012-13, we test checked the records of 18 offices of the Department and found underassessment of royalty, interest, penalty and other irregularities amounting to ₹ 52.63 crore in 86,326 cases. The Department accepted under assessments of ₹ 11 crore in 386 cases and recovered ₹ 1.71 crore in 18 cases pointed out in earlier years.
What we have highlighted in this Chapter	Non/short levy royalty, incorrect adoption of IBM rates, non-recovery of royalty/dead rent, non realisation of stamp duty and registration fee on mining leases involving ₹ 2.15 crore are highlighted in this Chapter.

CHAPTER-VI: MINERAL RECEIPTS

6.1 Tax administration

The responsibility for the management of mineral resources is shared between the Central and State Governments[1]. The Mines and Minerals (Development and Regulation) (MMDR) Act, 1957 enacted by the Central Government, lays down the legal framework for regulation of mines and development of minerals[2]. The Mineral Concession (MC) Rules, 1960, the Mineral Conservation and Development (MCD) Rules, 1988 and the Granite Conservation and Development Rules, 1999 have been framed for conservation and systematic development of minerals and for regulating grant of permits, licences and leases.

6.2 Trend of receipts

Budget Estimates (BEs) and actual receipts from mineral receipts during the years 2008-09 to 2012-13 along with the total non tax receipts during the same period are exhibited in the following table and graphs.

Table 6.1: Trend of receipts

(₹ in crore)

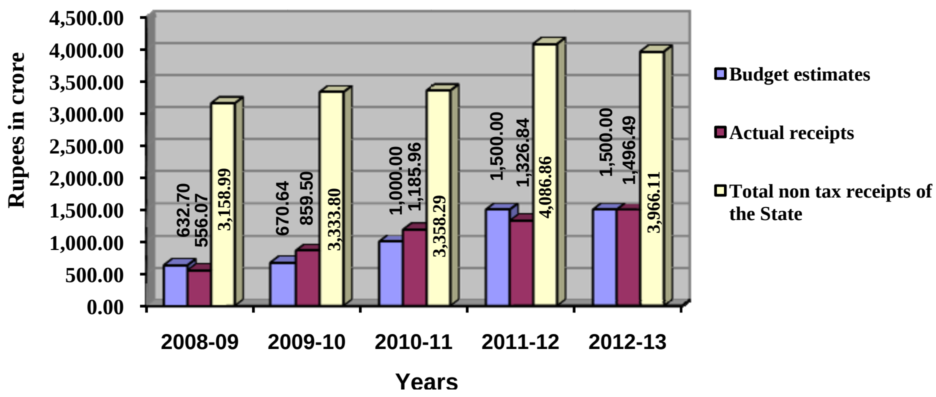
Year	Budget estimates	Actual receipts	Variation excess(+)/ shortfall(-)	Percentage of variation	Total non-tax receipts of the State	Percentage of actual receipts vis-à-vis total non-tax receipts
2008-09	632.70	556.07	(-) 76.63	(-) 12.11	3,158.99	17.60
2009-10	670.64	859.50	(+) 188.86	(+) 28.16	3,333.80	25.78
2010-11	1,000.00	1,185.96	(+) 185.96	(+) 18.60	3,358.29	35.31
2011-12	1,500.00	1,326.84	(-) 183.16	(-) 12.21	4,086.86	32.46
2012-13	1,500.00	1,496.49	(-) 3.51	(-) 0.23	3,966.11	37.73

The percentage of actual mineral receipts to the total non-tax receipts ranged between 17.60 and 37.73 *per cent* during five year period from 2008-09 to 2012-13.

[1] Entry 54 of the Union list (list I) and entry 23 and 50 of the State list (list II) of the Seventh Schedule of the Constitution of India.

[2] Other than petroleum and natural gas and atomic minerals.

Graph 6.1 : Budget estimates, Actual receipts and Total non tax receipts



6.3 Impact of Audit Reports

During the last five years, through our Audit Reports, we had pointed out non/ short levy, non/short realisation and loss of revenue, etc. with revenue implication of ₹ 3,417.37 crore in 57 paragraphs. Of these, the Government/Department had fully/partly accepted audit observations in 13 paragraphs involving ₹ 1,212.81 crore and since recovered ₹ 7.26 crore.

The details are given in the following table:

Table 6.2: Compliance with earlier Audit Reports

(₹ in crore)

Year of Audit Report	Paragraphs included		Paragraphs accepted		Amount recovered	
	Number	Amount	Number	Amount[3]	Number	Amount
2008-09	02	0.19	01	0.06	01	0.04
2009-10	03	0.58	02	0.23		-
2010-11	-	-	-	-	-	-
2011-12	47	3,414.45	09	1,212.12	03	7.22
2012-13	05	2.15	01	0.40	-	-
Total	**57**	**3,417.37**	**13**	**1,212.81**	**04**	**7.26**

Out of this, the amount of ₹ 3,414.45 crore relating to Audit Report of 2011-12 pertains to Performance Audit on ‘Controls and Systems for Sustainable Mining in Karnataka’.

As seen from the above table, the recovery made by the Department is only 0.58 *per cent* of the amount involved in the total accepted cases.

3 Indicates the amount of acceptance and recovery in respect of individual cases included in the respective paragraphs.

6.4 Results of Audit

We conducted a test check of the records of 18 offices of the Department of Mines and Geology during the year 2012-13, which revealed underassessment of royalty, interest, penalty and other irregularities amounting to ₹ 52.63 crore in 86,326 cases, which fall under the following categories:

Table 6.3: Results of audit

(₹ in crore)

Sl. No.	Category	Number of paragraphs	Number of cases	Amount
1.	Non-levy of interest, penalty, royalty on dead rent payable in advance in respect of idle quarry leases	27	86314	10.14
2.	Non-levy of processing fee and penalty for transporting building stone without MDP[4]	05	05	32.64
3.	Other irregularities	05	07	9.85
Total		**37**	**86,326**	**52.63**

During the year the Department accepted under assessments of tax of ₹ 11 crore in 386 cases and recovered ₹ 1.71 crore in 18 cases pointed out in earlier years.

A few illustrative cases involving ₹ 2.15 crore are mentioned in the following paragraphs.

[4] Five cases involving 1,74,509 Mineral Dispatch Passes (MDPs) pertain to transport of building stones without issue of MDPs. These cases have been featured in separate Audit Report on “Controls and Systems for Sustainable Mining in Karnataka” which has already been laid in the State Legislature in December 2012.

6.5 Non-observance of provisions of the Acts/Rules

The MMDR Act 1957 provides as under:

- *Section 9 of MMDR Act, 1957 – Holder of a mining lease shall pay royalty in respect of the mineral removed or consumed by him from the leased area at the rate specified in the Second Schedule in respect of that mineral.*
- *Section 25 of MMDR Act stipulates that any rent, royalty, tax, fee or other sum due to Government under the Act or Rules may be recovered as arrears of land revenue.*
- *Rule 64-A of the Mineral Concession Rules (MCR) prescribes levy of interest at 24 per cent per annum on any dues under the Act from the sixtieth day after the expiry of the day fixed for payment.*
- *Rule 36(1) of Karnataka Minor Mineral Concession (KMMC) Rules, 1994, a holder of a quarrying lease shall pay dead rent or royalty at specified rates whichever is more, whether mineral is removed or consumed by him.*
- *Rule 36(2) of KMMC Rules, 1994, dead rent shall be paid in advance at every six months.*
- *Rule 41 – The State Government may charge simple interest at the rate of fifteen per cent per annum on any dead rent, royalty or penalty or other sum due to the State Government under the Act or the rules from the sixtieth day after the expiry date fixed for payment of such rent, royalty, penalty or other sum.*

We conducted the audit of all mining leases under major minerals and a test check of the quarry leases under minor minerals in the 16 offices selected for audit in our Annual Audit Plan. We noticed in three offices of Senior Geologists and four offices of Deputy Directors of the Mines and Geology Department that the above provisions were not fully followed by the concerned authorities. This resulted in discrepancies which led to non/short realisation of Government revenue amounting to ₹ 2.15 crore. The Government/Department accepted audit observations in two cases involving ₹ 42.26 lakh. Replies in respect of the remaining cases have not been received (December 2013).

6.5.1 Non/short levy of royalty

Section 9 of the MMDR Act, 1957 stipulates that the holder of a mining lease shall pay royalty in respect of the mineral removed or consumed by him from the leased area at the rate specified in the Second Schedule in respect of that mineral. The royalty rates of iron ore were on tonnage basis till 12.09.2009 and 10 *per cent* ad valorem on the sale prices published by Indian Bureau of Mines (IBM) thereafter.

6.5.1.1 We scrutinised the annual assessment records of a lessee in the office of Senior Geologist, Bellary in November 2012. We found that the Geologist had inspected the mine on 28 April 2008 and had certified that the production and despatches of iron ore in respect of that mine were nil. Thereafter Sr. Geologist finalised the assessment of the mine on 30 April 2008 and issued an Audit Report showing production and despatch as nil. A copy of the same was sent to the lessee.

In July 2010, the lessee intimated the Director, Department of Mines and Geology (DMG), claiming to have made a production of 1.01 lakh MT of iron ore during 2007-08 out of which 21,600 MT was despatched.

The Director directed the Senior Geologist, Bellary to revise the audit reports for the year 2007-08 and levy royalty accordingly.

However, no action has been taken to revise the audit report and collect royalty leviable @ ₹ 19 per MT which works out to ₹ 9.44 lakh, including interest. Besides the claim of the lessee had to be investigated in view of the inspection conducted by the Geologist where nil production was reported.

This was pointed out to the Department in December 2012 and reported to the Government in July 2013. Their replies have not been received (December 2013).

6.5.1.2 We scrutinised, in February 2011, the annual assessment records of a lessee in the office of Deputy Director, Hospet. We found that the lessee had declared the despatch of a quantity of 16,155 MT of sub grade iron ore in their production and despatch statement filed for the year 2008-09. Though this was taken in the annual assessment report for the year, the same was omitted to be assessed for royalty. The non levy royalty works out to ₹ 2.16 lakh, including interest.

This was pointed out to the Department in February 2011 and reported to the Government in July 2013. Their replies have not been received (December 2013).

6.5.2 Incorrect adoption of IBM rates

Two Deputy Directors, Ilkal and Tumkur and Senior Geologist, Bellary

The royalty rates of iron ore were on tonnage basis till 12.09.2009 and 10 *per cent* ad valorem on the sale prices published by IBM thereafter. Till 9 December 2009, an additional 20 *per cent* was added to the sale price published by IBM for the purpose of levy of royalty. Further rule 64-A of the MCR prescribes levy of interest at 24 *per cent* per annum on any dues under the Act from the sixtieth day after the day fixed for payment.

Annual assessments in respect of six leases for the years 2009-10 and 2010-11 were finalised between April 2010 and April 2011. In these cases royalty of ₹ 3.90 crore was levied on 5.19 lakh MT of iron ore as against the actual liability of ₹ 4.57 crore. This was due to non/incorrect adoption of IBM sale prices by the Department. The resultant short levy of royalty works out to ₹ 66.76 lakh on which interest of ₹ 13.01 lakh was also leviable.

After these cases were pointed out between October 2010 and January 2013, the Department accepted the observations in two cases involving ₹ 42.26 lakh of which, notice was issued in one case. Replies have not received in the remaining cases (December 2013).

These cases were reported to the Government in July 2013. Their replies are not yet received (December 2013).

6.5.3 Non-recovery of dead rent

Section 38 of MMDR Act stipulates that if the holder of a quarrying lease or licence makes any default in the payment of royalty or dead rent payable, the competent authority, after giving a notice to pay the dues within sixty days, may take action against such holder, determine the lease or licence and forfeit the whole or part of security deposit.

Under Rule 36(1) of the KMMC Rules, 1994, a holder of a quarrying lease shall pay dead rent or royalty at specified rates, whichever is more, whether mineral is removed or consumed by him.

As per Rule 36(2) of KMMC Rules, 1994, dead rent shall be paid in advance at every six months. Accordingly fifty percent of dead rent was payable on 1 April and the balance on 1 October of each year.

Further Rule 41 of KMMC Rules, 1994 stipulates levy of simple interest at 15 *per cent* on dead rent, royalty or penalty not paid from the sixtieth day after the expiry of date fixed for payment of dead rent, royalty or penalty.

We noticed in two offices of Senior Geologist, Chickaballapur and Mandya that dead rent payable in 180 cases of quarry leases amounting to ₹ 49.98 lakh in 2008-09 and ₹ 31.09 lakh in 2009-10 were not paid. Though the amounts were outstanding, no efforts were found on record to expedite the recovery of the same by issuing notice under section 38. This resulted in non-recovery of dead rent of ₹ 81.07 lakh.

Further, non-payment of dead rent in advance on due dates attracted levy of interest, which was not levied and taken to demand by the Department. The non-levy of interest in these cases amounted to ₹ 7.68 lakh.

After these cases were pointed out between October 2010 and March 2011, the Department accepted our observations in 103 cases involving dead rent and interest of ₹ 62.26 lakh. In respect of the remaining 77 cases replies have not been received (December 2013).

These cases were referred to the Director, Mines and Geology Department between October 2010 and March 2011. The matter reported to the Government in July 2013; their replies are not yet received (December 2013).

6.5.4 Non-recovery of royalty

Rule 64-A of MCR prescribes levy of interest at 24 *per cent per annum* on any sum due to the Government under the MMDR Act from the sixtieth day after the expiry of the day fixed for payment.

We scrutinised in January 2013 the annual assessment records of a lessee in the office of Deputy Director, Tumkur. As per the assessment concluded for the year 2011-12 there was an arrear royalty of ₹ 21.32 lakh relating to the year 2010-11. We noticed that transportation permits were issued for the year 2011-12 without ensuring the clearance of the outstanding amount. Thus royalty of ₹ 21.32 lakh remained unrecovered.

Further interest leviable from June 2011(sixtieth day after the expiry of the year 2010-11) to November 2012 (till the date of assessment for the year 2011-12) works out to ₹ 7.67 lakh. However, the Department had levied an interest ₹ 1.04 lakh only. The resultant short levy of interest works out to ₹ 6.63 lakh. The reason for short levy was not found on record.

The case was pointed out to the Department in March 2013 and reported to the Government in July 2013. Their replies have not been received (December 2013).

6.5.5 Non-realisation of stamp duty and registration fee on mining leases

Section 27 of the Karnataka Stamp Act, 1957 stipulates that all instruments chargeable with duty and executed by any person in the State of Karnataka shall be stamped before or at the time of execution. Section 27 stipulates levy of stamp duty on the anticipated royalty in respect of mining leases.

We noticed in the office of Deputy Director (DD), Department of Mines and Geology, Chitradurga during December 2012 that three[5] mining lease deeds were granted with anticipated royalty of ₹ 60.03 lakh. These leases were not registered and stamp duty was also not paid. This deprived Government of revenue by way of stamp duty of ₹ 6.35 lakh and registration fee of ₹ 54,000.

These cases were pointed out to the DD in January 2013 and referred to the Inspector General for Registration and Commissioner of Stamps in May 2013; their reply is awaited (December 2013).

These cases were reported to the Government in July 2013. Their replies have not been received (December 2013).

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[5] ML Nos. 2591, 2638, 2634