

CHAPTER - VI

MINING RECEIPTS

6.1 Non tax revenue administration

Assessment and collection of mining receipts are regulated by the Mines and Minerals (Development and Regulation) (MMDR) Act, 1957, the Mineral Concession (MC) Rules, 1960, Mineral Conservation and Development (MCD) Rules, 1988 and Odisha Minerals, Prevention of Theft, Smuggling and Illegal Mining and Regulation of possession, Storage, Trading and Transportation (OM) Rules, 2007 framed there under. The above Act/Rules are administered by Director of Mines, Odisha under the overall supervision of Principal Secretary to Government in the Department of Steel & Mines. He is assisted by the Deputy Directors of Mines (DDM) and Mining Officers at the Circle levels who are the assessing authorities (AAs) of mining receipts like royalty, dead rent fees and fines etc. on raising and removal of minerals.

6.2 Internal Audit

Audit noticed that though programme for the year 2013-14 had been chalked out for the Internal Audit Wing of the Director of Mines, Odisha (DMO) for auditing of accounts of circle offices, no audit was conducted. The Department did not furnish the position of outstanding paras of earlier Inspection Reports pending for disposal as on 31 March 2014 although asked for.

6.3 Results of audit

In 2013-14, test check of the records of 11 units relating to the Steel & Mines Department showed non/short receipts of Government Revenue and other irregularities amounting to ₹ 3,482.86 crore in 248 cases which fall under the following categories as indicated in Table below.

A. REVENUE RECEIPTS

Sl. No.	Categories	₹ in crore)	
		Number of cases	Amount
1	Non/short receipts of Government revenue under Government account	64	1,364.66
2	Other irregularities	184	2,118.20
Total		248	3,482.86

During the course of the year 2013-14, the Department accepted under assessment and other deficiencies of ₹ 2,200.22 crore in 162 cases which was pointed out in earlier years. An amount of ₹ 3.03 crore was realised in 133 cases during the year 2013-14. A few illustrative cases involving ₹ 84.43 crore are discussed in paragraphs 6.5.1 to 6.5.6.

B. EXPENDITURE

In 2013-14, test check of records showed irregularities in expenditure/cash management involving ₹ 0.82 crore in 37 cases, which fall under the following categories.

(₹ in crore)			
Sl. No.	Subject	No. of cases	Amount
1.	Non/short realisation of arrears house rent/service charges	34	0.08
2.	Non levy of penalty on delayed work	1	0.04
3.	Blockage of funds due to delay in completion of work	2	0.70
Total		37	0.82

During the year, the Department accepted deficiencies of ₹ 0.25 crore in 33 cases pointed out in 2013-14 and realised ₹ 0.11 crore in 17 cases relating to objection raised earlier from the year 2007-08 to 2012-13.

6.4 Audit observations

Audit scrutinised the records maintained in the office of the DMO, DDMs and Mining Officers (MOs) and noticed cases of non/short levy of royalty, irregular raising of minerals and loss of revenue as mentioned in succeeding paragraphs. These cases are illustrative and are based on a test check carried out by Audit.

6.5 Non-observance of the provision of Acts/Rules

MMDR Act, 1957, MC Rules, 1960, MCD Rules, 1988 read with the notifications and instructions of the State/Central Governments issued from time to time provide for assessment, levy and realisation of

- *the cost of minerals unlawfully raised without any valid lease as well as over and above the production level of 1993-94 and in excess of the permissible limit when it is already disposed of;*
- *the cost of minerals unlawfully extracted, removed, transported etc., by seizure and disposal of same under orders of competent Court of Law;*
- *royalty at prescribed rates against different grades of minerals from the leaseholders of mines; and*
- *royalty on unprocessed mineral in case of processing of mineral other than Run-of-Mine (RoM) minerals.*

Non-observance of the above provisions are mentioned in the following paragraphs.

6.5.1 Non-realisation of cost of coal extracted beyond the approved plan

Under Section 4 of MMDR Act, 1957, no person shall undertake any mining operation in any area except under and in accordance with the terms and conditions of a mining lease granted under the Act or the rules made there under. Rule 13 of the MCD Rules, 1988 provides that every holder of a mining lease shall carry out mining operations in accordance with the approved mining plan with such conditions as may have been prescribed. Under Section 21(5) of MMDR Act, whenever any person raises without any lawful authority, any mineral from any land, the State Government may recover from such person, the mineral so raised or when such mineral has already been disposed of, the cost price thereof along with royalty.

During test check of records of DDM, Talcher, Audit noticed (December 2013) that as per the mining plan of Bhubaneswari Open Cast Project (BOCP) of M/s. Mahanadi Coalfields Limited (MCL) approved by the GoI, Ministry of Coal (MoC), the approved quantity of production of coal for 2012-13 was 17.50 million tonne. Audit however, noticed that MCL produced 18.10 million tonne of coal from BOCP during 2012-13. As such, six lakh tonne of coal extracted in excess from the mines was to be recovered from MCL. Audit noticed that the DDM neither recovered the excess coal so produced nor realised ₹ 33.02 crore towards the cost price of the coal worked out at the prevailing minimum rate of ₹ 550 per tonne.

After Audit reported (July 2014) the matter, Government stated (October 2014) that during 2012-13, MCL had actually extracted 17.93 million tonne grade V coal out of which Grade IV coal of 0.17 million tonne was generated. Government further stated that the production limit of BOCP for 2012-13 was later revised (February 2014) to 18.00 million tonne by GoI, Ministry of Coal and as such the production was within the approved limit. However, the fact remains that MCL had disclosed production of 18.10 million tonne showing Grade IV coal of 0.17 million tonne and Grade V coal of 17.93 million tonne separately. Further, the revised production schedule approved in February 2014 is applicable from 2013-14 onwards and not for 2012-13 as there is no provision in the Act and rules for revision of production limit retrospectively.

6.5.2 Short-levy of royalty on bauxite

Under Second Schedule of the MMDR Act, 1957, royalty on bauxite produced and despatched for use in alumina and aluminium metal extraction is leviable at the rate of 0.50 *per cent* of London Metal Exchange Aluminium metal price chargeable on the contained aluminium metal (Al_2O_3) in ore. For Bauxite or Laterite ore despatched for use in alumina and aluminium metal extraction or despatched to alumina or aluminium metal extraction industry within India, Rule 64-D of the MC Rules, 1960 substituted vide Notification dated 10 December 2009 provide for computation of royalty. As per the said Rules, the total contained alumina in the bauxite or laterite on dry basis produced during a period as per statutory monthly return shall be considered for the purpose of computing royalty in the first place and then royalty shall be computed as

percentage of average monthly price for the contained aluminium metal in the said alumina content of the ore published by the Indian Bureau of Mines (IBM) as per the formula prescribed. As per the proviso to Rule 10 (7) of the Odisha Minerals (Prevention of Theft, etc.) Rules (OM Rules), 2007, in case of fully mechanised mines, if the lessee declares to pay highest rate of royalty as prescribed under the Second Schedule of MMDR Act, stacking and sampling as provided under Sub-Rules (6) and (7) of the above Rules shall be dispensed with.

During test check of assessment records and returns of DDM, Koraput, Audit noticed (December 2012 and November 2013) that the DMO, in consideration of full mechanisation of a mine¹, exempted the lessee from stacking and sampling of bauxite with effect from August 2012 on the condition that the lessee would pay highest rate of royalty as prescribed under the Second Schedule of the MMDR Act, 1957. According to guidelines issued under 64-D(iv) of the MCR, the highest rate of royalty on bauxite is linked with aluminium content (Al_2O_3) in bauxite despatched during the period for which royalty is computed. Audit noticed that the lessee despatched 38.79 lakh tonne of bauxite during August 2012 to March 2013 and paid royalty of ₹ 48.43 crore based on the monthly average of aluminium content (Al_2O_3) in the ore instead of royalty of ₹ 55.44 crore payable on highest Al_2O_3 content. The DDM also while assessing the royalty, accepted the same. This resulted in short levy of royalty of ₹ 7.01 crore.

Audit further noticed that Transit permit for removal of ore was issued to the lessee for the first time in June 2012 and the said permits did not contain stack number and report of Senior Inspector of Mines certifying the grades of minerals. Since grades of bauxite were not determined by stacking and sampling, the lessee was required to pay royalty at the highest rate prior to August 2012 also. But, the lessee paid royalty of ₹ 84.86 crore on bauxite of 65.43 lakh tonne despatched during the period from April 2011 to July 2012 basing on monthly average aluminium content (Al_2O_3) in the ore instead of royalty of ₹ 98.06 crore payable on highest Al_2O_3 content. DDM, while assessing the royalty, accepted the same. This resulted in short-levy of royalty of ₹ 13.20 crore.

After Audit reported (July 2014) the matter, Government stated (October 2014) that DDM, Koraput raised demand of ₹ 46.52 crore on the lessee towards differential dues of royalty.

6.5.3 Short-levy of royalty on sized coal

As per notification dated 1 August 2007 of GoI, MoC effective upto 9 May 2012, royalty on coal was a combination of a specific rate and a variable *ad valorem* rate which was five *per cent* of basic pithead price of Run-of-Mines (ROM) coal as reflected in the invoice excluding taxes, levies and other charges. However, with effect from 10 May 2012, MoC revised the rate of royalty on coal to 14 *per cent ad valorem* on price of coal as reflected in the invoice excluding taxes, levies and other charges. Further, as per the price notification of December 2007 of Coal India Limited (CIL) effective upto 15

¹ Panchapatmali (C&N) Block Bauxite Mines of M/s NALCO Ltd.

October 2009 and subsequent notification in October 2009 effective from 16 October 2009, if the top size of coal is limited to 100 mm through manual or mechanical means, a charge of ₹ 55 and ₹ 61 per tonne respectively shall be added to the price applicable for ROM coal. Under Rule 64(B)(1) of the MC Rules, in case processing of ROM minerals is carried out within the leased area, royalty shall be chargeable on the processed mineral removed from the lease area.

During test check of assessment files, monthly returns of production and despatch in the office of DDM, Talcher, Audit noticed (between November 2010 and December 2013) that one coal mine² of MCL processed and despatched 253.54 lakh tonne of sized coal of less than 100 mm during the period from April 2009 to March 2013 and paid royalty at the rate applicable to ROM coal. However, sizing charges at the rate of ₹ 55 per tonne upto 15 October 2009 and ₹ 61 per tonne thereafter were not included in the price of said ROM coal for computation of royalty. Audit noticed that due to non-inclusion of the sizing charges in the price of sized coal, there was short levy of royalty of ₹ 12.20 crore.

After Audit reported (July 2014) the matter, Government stated (November 2014) that DDM, Talcher raised (between October 2011 and October 2014) demand of ₹ 12.20 crore and steps would be taken for realisation of the demanded amount.

6.5.4 Non-levy of royalty on low grade chromite fines

Under Section 9 of the MMDR Act, the holder of a mining lease granted on or after the commencement of the Act shall pay royalty in respect of any mineral removed or consumed by him or by his agent, manager, employee, contractor or sub-lessee from the leased area at the rate for time being specified in the Second Schedule in respect of that mineral. The royalty prescribed in the Schedule was on *ad valorem* basis on the monthly average sale price published by the IBM. In respect of chromite, IBM publishes average sales price both for lumps and fines having 40 *per cent* Cr₂O₃ and above. GoI, Ministry of Mines on 10 October 2009, notified the threshold value of minerals according to which chrome ore having mineral content of 10 *per cent* and above (Cr₂O₃) is saleable.

During test check of assessment records with monthly returns and permission file of DDM, Jajpur Road, Audit noticed (December 2013) that during 2012-13, a lessee issued 7.39 lakh tonne chrome fines having Cr₂O₃ below 40 *per cent* to its Chrome Ore Beneficiation Plant for production of chrome concentrate. However, chrome ore upto 25 *per cent* Cr₂O₃ recovered in course of beneficiation was shown as tailing loss by the lessee treating the same as non-saleable sub-grade ore. During 2012-13, the lessee disclosed such tailing loss of 3.34 lakh tonne of chrome ore valued at ₹ 8.07 crore and excluded the same from its closing stock. The Assessing Officer while assessing royalty on chrome ore for the year 2012-13 also ignored the quantity of chrome ore (upto 25 *per cent* Cr₂O₃) shown as tailing loss by the lessee for levy of royalty. Further, the Department did not take any action for chemical analysis of the

² Lingaraj Open Cast Project (LOCP).

ore shown as loss for determining actual percentage of chrome content for the purpose of royalty. Thus, non-assessment of royalty on 3.34 lakh tonne of chrome ore shown as loss during 2012-13 resulted in short realisation of royalty of ₹ 8.07 crore.

After Audit pointed this out, the DDM, Jajpur Road stated that the lessee had been requested to deposit the amount of ₹ 8.07 crore towards royalty for 2012-13 and after recovery of the same, final compliance would be submitted.

Audit reported the matter to the DMO and the Government in July 2014. Their replies are awaited (November 2014).

6.5.5 Short levy of royalty on iron ore due to incorrect assessment

According to the proviso under Rule 10(7) of OM Rules, in case of a fully mechanised mine, if the lessee declares to pay highest rate of royalty as prescribed under Second Schedule of the MMDR Act, determination of grade of the minerals through stacking and sampling shall be dispensed with after accordance of permission of the DMO. Further, as per Government of Odisha, Steel and Mines Department's order of 7 September 2010, royalty on iron ore fines was to be charged at the rate of lumps on *ad valorem* basis.

During test check of records relating to lease and assessment files of MO, Keonjhar, Audit noticed (February 2014) that stacking and sampling of minerals in respect of one iron ore mines of Odisha Mining Corporation (OMC) was dispensed with by the DMO from August 2012 with the condition that royalty in respect of minerals despatched should be paid at the highest prescribed rate. Audit noticed that OMC despatched 4,02,439 tonne of iron ore of different grades during the period between October 2012 and March 2013. Although royalty of ₹ 23.76 crore was leviable on the average sale price published by IBM for iron ore lumps of highest grade i.e. 65 per cent Fe and above, the MO levied royalty of ₹ 17.82 crore *ad valorem* on the average sale prices of corresponding grades. This resulted in short levy of royalty of ₹ 5.94 crore.

After Audit pointed this out, MO, Keonjhar stated that reply would be submitted after due verification of records.

Audit reported the matter to the DMO in May 2014 and the Government in July 2014. Their replies are awaited (November 2014).

6.5.6 Short-levy of royalty on steam coal

The GoI, Ministry of Energy, Department of Coal, in their notification dated 16 July 1979, clarified that ROM coal comprises of all sizes of coal as it comes out of the mine without any crushing or screening. The fraction of ROM coal as is retained on a screen, when subject to screening or is picked out by a fork-shovel during loading, is called steam coal. The *ad valorem* variable part of royalty is levied as per the price chart notified by CIL from time to time in addition to the fixed part of royalty.

During test check of monthly returns, wagon loading statements and assessment orders of DDM, Talcher, Audit noticed (December 2013) that MCL despatched 22.15 lakh tonne of 'F' grade coal of +100 mm size from its

coal mine between April 2012 and March 2013 and paid royalty of ₹ 18.25 crore at the rate applicable for ROM coal. Coal of +100 mm size is categorised as steam coal since such size is obtained by segregation through a screening process. Hence royalty of ₹ 23.24 crore at the rate applicable to steam coal was leviable on coal of +100 mm size. However, the Assessing Authority, while assessing royalty, adopted the rate applicable to ROM coal which resulted in short levy of royalty of ₹ 4.99 crore.

After Audit reported (July 2014) the matter, Government stated (October 2014) that the DDM, Talcher raised demand for ₹ 4.99 crore on MCL in March 2014 followed by reminder in August 2014 and that steps are being taken to realise the demanded amount.

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