

## CHAPTER-V OTHER TAX AND NON-TAX RECEIPTS

### 5.1 Results of Audit

Test check of records in the offices of the District Geologists/ Assistant Geologists and Commissioner of Geology and Mining, office of the Chief Electrical Inspector and Collector of Electricity Duty and Operation and Maintenance Divisions of Electricity Distribution Companies and Director of Petroleum in the State during the year 2016-17 revealed under-assessment and other irregularities involving ₹ 152 crore in 185 cases, which fall under the following categories:

**Table: 5.1  
Results of Audit**

Sl. No.	Category	No. of cases	Amount (₹ in crore)
<b>Mining Receipts</b>			
1	Performance Audit of “Grant, Levy and Collection of Receipts from Mining Leases”	1	144.05
2	Non/ short levy of dead rent/ surface rent	13	0.57
3	Non/ short levy of royalty/ interest	7	0.33
4	Other irregularities	77	2.45
<b>Total (A)</b>		<b>98</b>	<b>147.40</b>
<b>Electricity Duty</b>			
5	Short levy of Electricity Duty and other irregularities	12	1.82
<b>Director of Petroleum</b>			
6	Non/ short levy of royalty/ dead rent/ surface rent/ stamp duty and registration fees and other irregularities	12	0.16
<b>Total (B)</b>		<b>24</b>	<b>1.98</b>
<b>Taxes on Vehicles</b>			
7	Non/ short levy of motor vehicles tax	20	2.52
8	Other irregularities/ Passenger Tax/ Expenditure Audit	43	0.10
<b>Total (C)</b>		<b>63</b>	<b>2.62</b>
<b>Grand Total (A + B + C)</b>		<b>185</b>	<b>152.00</b>

During the course of the year, the Departments accepted and recovered under-assessment and other irregularities of ₹ 86.60 lakh in 27 cases, which were pointed out in audit during 2016-17 and earlier years.

A Performance Audit of “Grant, Levy and Collection of Receipts from Mining Leases” and an illustrative audit observation on “Taxes on Vehicles” are mentioned in the succeeding paragraphs.

## 5.2 Performance Audit of “Grant, Levy and Collection of Receipts from Mining Leases”

### Highlights

The total amount of arrears pending collection on account of mining receipts as on 31 March 2016 in the State was ₹ 155.28 crore. Out of these, ₹ 51.17 crore (33 *per cent*) was pending for more than 10 years of which ₹ 22.26 crore was pending for more than 20 years.

**(Paragraph 5.2.6.2)**

Gujarat Mineral Policy was framed in 2003. This has not been revised despite the circulation of draft “Model State Mineral Policy, 2010” by the Government of India in 2010. Absence of a revised policy resulted in a number of discrepancies including estimating the reserves of the minerals, etc.

**(Paragraph 5.2.7)**

Due to the frequent changes in the Guidelines of 2011 issued by the Government of Gujarat for auction of blocks of minor minerals, the auction process was rendered faulty and a fair competitive bidding could not be ensured.

**(Paragraph 5.2.8.1)**

There were 4,749 applications for grant of leases pending allotment as on 31 March 2016. Out of these, 3,543 applications (74.60 *per cent*) were pending for want of technical opinion from various departments.

**(Paragraph 5.2.10)**

Ministry of Mines, Government of India declared 31 major minerals as minor minerals in February 2015. The Department prescribed the rates for levy of royalty and dead rent on these 31 re-classified minerals in June 2016, after a delay of more than one year and four months. Delay in revision of rates of royalty/ dead rent in these cases resulted in forgoing of revenue of ₹ 35.69 crore.

**(Paragraph 5.2.13)**

The percentage shortfall in yearly inspections of leases by the Department ranged between 74.24 to 89.86. In absence of adequate inspection of leases, the Department was unable to control the mining activities of the lessees.

**(Paragraph 5.2.17)**

In 10 District Geologist offices, 45 *per cent* of the application remain pending for clearance by SEIAA/ DEIAA. The Department allowed the continuance of leases without the ECs.

**(Paragraph 5.2.22)**

The co-ordination with Forest Department and Gujarat Pollution Control Board was insufficient for prevention of illegal/ unauthorised mining. This resulted in illegal excavation of minerals in 92 cases involving ₹ 1.51 crore.

**(Paragraph 5.2.23 to 24)**



The exploration and exploitation of major minerals is governed under the Mines and Minerals (Development and Regulation) Act, 1957 and Mineral Concession Rules 1960 made thereunder. Central Government determines policies for their regulation. These include Limestone, Bauxite, Lignite and Fluorspar. The State Government is empowered to make rules in respect of minor minerals by issue of notifications under Section 15 of MMDR Act. These include black trap, ordinary sand, gravel, clay and other building stones used for construction, etc. Fire-clay, china-clay, chalk, gypsum etc. have also been notified as minor minerals with effect from 10 February 2015. The minor minerals are governed under the Gujarat Minor Mineral Concession Rules 2010.

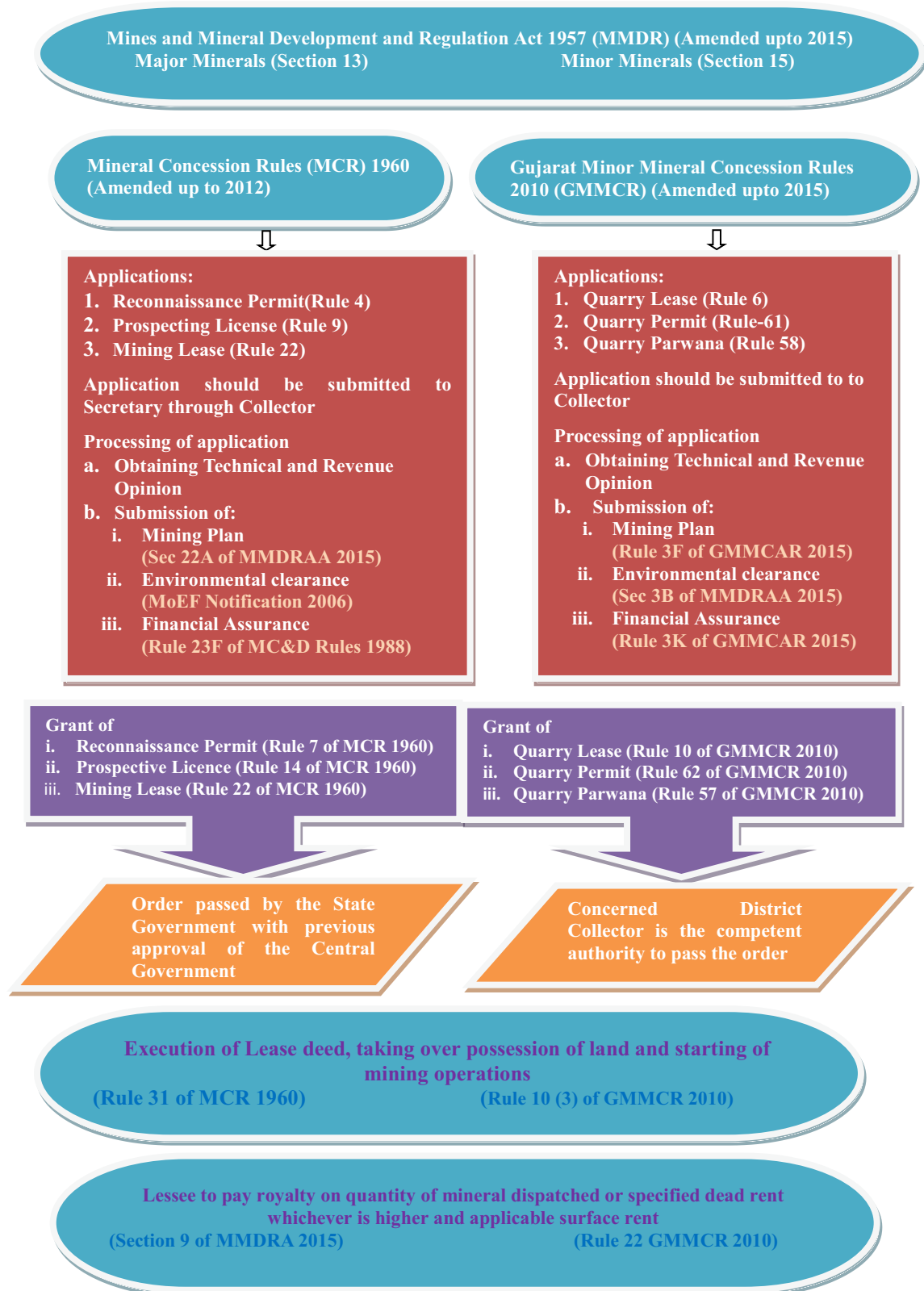
The extraction of mineral is being done by grant of mining leases in accordance with the provisions of the Acts and Rules. The mining leases of major minerals are granted by the State Government with the prior approval of Central Government. The quarry leases for minor minerals are granted by the Collector on the recommendation of Geologists.

The mining receipts mainly consist of royalty, dead rent, surface rent, interest and penalty. Their assessment and collection is regulated under the above Acts/ Rules framed by the Central and State Government from time to time. As on 31 March 2016, there were 7,481 leases<sup>1</sup> of major and minor minerals covering an area of 69,043 hectares on Government and private land in Gujarat. Regulatory framework and procedure for grant of Mineral Concessions is given in **Chart 5.2**.

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<sup>1</sup> Source: Commissioner of Geology and Mining, Industries and Mines Department

**Chart: 5.2**  
**Regulatory framework and procedure for grant of Mineral Concessions**



### 5.2.2 Organizational set up

The Commissioner of Geology and Mining (CGM) under the administrative control of Principal Secretary, Industries and Mines Department (IMD), Government of Gujarat (GoG), is the Head of the Department. He is assisted by three Additional Directors [dealing with matters relating to Flying Squad (FS)/ Appeals, Technical assistance and Development] and one Deputy Director dealing with the administrative matters of the Department. There are 33 districts in the State. Out of these, Dang district does not have mining activities. The remaining 32 offices in the State, each headed by Geologist/Asst. Geologists are responsible for controlling the mining activities in their respective districts.

### 5.2.3 Audit Objectives

The Performance Audit (PA) was conducted to ascertain whether:

- Prospecting and estimation of mineral resources was done systematically in a scientific manner before approval of the mining plans. The mining leases or quarrying licenses were being granted, renewed, closed, surrendered and cancelled in accordance with the provisions of the relevant Act/ Rules.
- The system of levy and collection of fees, rent, royalty, penalty, etc. was effective, transparent, adequate and in conformity with the provisions of the Acts and Rules framed from time to time.
- Adequate internal controls and co-ordination existed between the various departments involved in the mining activities to address the environmental and ecological concerns and prevent illegal mining.

### 5.2.4 Scope of Audit and Methodology

The PA was conducted for the period from 2011-12 to 2015-16 during the period from August 2016 to April 2017. Audit conducted a test check of records<sup>2</sup> of 11 out of 32 district offices. The offices were selected on the basis of statistical sampling. Revenue collected from these 11 district offices constituted 45 *per cent* of the total revenue received from the mining activities in the State.

An entry conference was held with the officers of the Department on 6 June 2016 in which the audit objectives and methodology to be adopted in conducting the PA was explained. The Draft Audit Report was forwarded to the Department and to the Government in July 2017, thereafter an Exit Conference was held in August 2017 in which Principal Secretary (IMD) and Commissioner of Geology and Mining and Additional Director (FS) participated. The replies received in the exit conference and at other points of time have been appropriately considered and included in the relevant paragraphs.

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<sup>2</sup> Except Oil and Natural Gas that were not selected for test check.



## 5.2.5 Audit Criteria

The audit criteria are derived from the following:

- (i) The Mines and Minerals (Development and Regulation) Act (MMDRA), 1957 and Amendment Act (MMDRAA), 2015
- (ii) The Mineral Concession Rules (MCR), 1960
- (iii) Gujarat Minor Mineral Concession Rules (GMMCR), 2010 and Amendment Rules (GMMCAR), 2015
- (iv) Gujarat Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules, 2005
- (v) Gujarat State Mineral Policy, 2003
- (vi) Mineral (Auction) Rules (MAR), 2015
- (vii) Mineral Conservation and Development Rules (MCDR), 1988
- (viii) Minerals (Evidence of Mineral Contents) Rules, 2015
- (ix) Guidelines/ Manual/ Instructions/ Circulars/ Orders issued by the Department.

## 5.2.6 Financial Status of Industries and Mines Department

### 5.2.6.1 Trend of Revenue

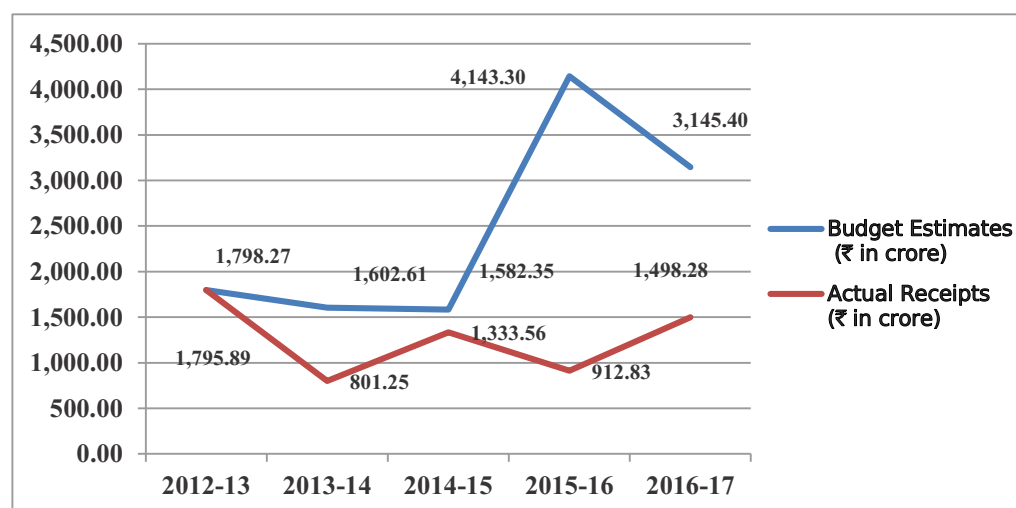
The budget estimates *vis-à-vis* gross mineral receipts collected between 2012-13 to 2016-17 in respect of major and minor minerals were as under:

**Table: 5.2**  
**Trend of Revenue**

Year	Budget Estimates	Actual Receipts	Excess (+) / Short fall (-)	Percentage of Variation
2012-13	1,798.27	1,795.89	(+)2.38	(-)0.13
2013-14	1,602.61	801.25	(-)801.36	(-)50.00
2014-15	1,582.35	1,333.56	(-)248.79	(-)15.72
2015-16	4,143.30	912.83	(-)3,230.47	(-)77.97
2016-17	3,145.40	1,498.28	(-)1,647.12	(-)52.37

(Source: Finance Accounts of the State)

**Chart: 5.3**  
**Trend of Revenue**



The above figures indicate that there was a steep fall in revenue during 2013-14 and 2015-16. It fell by 55 per cent during 2013-14 as compared to 2012-13 and 32 per cent in 2015-16 as compared to 2014-15. Similarly, the revenue receipts were substantially less than the budget estimates framed by the Government. The reasons for steep fall in revenue and variation in budget estimates, though called for were not intimated by the Department.

**Framing of budget estimates is an essential tool of financial management and control, it would be prudent, if the Department could ensure framing of budget estimates more carefully so that these are realistic when compared with the actual mining receipts of the State.**

### 5.2.6.2 Status of uncollected revenue: Arrears pending collection

As per information furnished by the Department the total amount of arrears pending collection on account of mining receipts as on 31 March 2016 in the State was ₹ 155.28 crore. Besides, the position of arrears pending collection in the 11 districts test checked was also obtained. It was analysed age wise as mentioned in the following table.

**Table: 5.3**  
**Arrears pending collection**

(₹ in crore)

Particulars	Total pending recoveries	Less than 5 years	5 to 10 years	10 to 15 years	15 to 20 years	More than 20 years
<b>Gujarat</b>	155.28	69.76	34.35	19.62	9.29	22.26
<b>Analysis of 11 districts test checked by audit</b>						
Ahmedabad	2.63	1.14	1.37	0.12	0.00	0.00
Chotta Udepur	1.97	1.18	0.29	0.50	0.00	0.00
Jamnagar	2.25	0.35	1.04	0.60	0.26	0.00
Junagadh	2.09	0.09	0.17	0.28	0.59	0.96
Kheda	2.64	0.42	2.22	0.00	0.00	0.00
Kachchh	20.22	9.91	8.51	1.62	0.18	0.00
Mehsana	2.93	0.49	2.44	0.00	0.00	0.00
Navsari	0.44	0.11	0.09	0.09	0.06	0.09
Palanpur	4.85	2.68	0.76	0.94	0.43	0.04
Porbandar	16.36	1.81	4.51	3.79	3.94	2.31
Surat	3.40	0.58	0.78	0.99	0.74	0.31
<b>Total of selected districts</b>	<b>59.78</b>	<b>18.76</b>	<b>22.18</b>	<b>8.93</b>	<b>6.20</b>	<b>3.71</b>

(Source: Commissioner of Geology and Mining, Gujarat State)

As would be seen from the above table arrears amounting to ₹ 22.26 crore were pending for more than 20 years while ₹ 28.91 crore were pending collection for more than 10 years and less than 20 years in the State.

Out of the selected districts, Kachchh district reported highest amount of arrears amounting to ₹ 20.22 crore. The Department did not intimate the stages at which the recoveries were pending and efforts made by them in recovering the same. Kachchh is the largest and highest revenue earning district for mining receipts in the State.



**It is recommended that the State Government may direct the Department to take steps to expedite the recovery of these arrears, particularly those that have been outstanding for a longer period as with the passage of time, the chances of their collection become remote.**

### **5.2.7 Non revision of State Mineral Policy for regularisation and exploration of Minerals**

Government of India, Ministry of Mines, formulated a National Mineral Policy (notified in March 2008) which *inter alia* provided for devising a programme for conducting survey, exploration, exploitation and management of resources which have been already discovered and those which are in the process of discovery as their optimal, economical and timely use are matters of national importance. It also provided that resource inventory should be prepared in accordance with the latest version of United Nations Framework Classification System (UNFC)<sup>3</sup>. The Ministry of Mines also formulated and circulated a “Model State Mineral Policy, 2010” for the guidance of the States. The model mineral policy was prepared with the perspective that scientific mining has to go hand in hand with sustainable management practices for the long term economic development of the State.

Gujarat Mineral Policy 2003 containing details of minerals, occurrences and estimated reserves of 18 important minerals was framed in 2003. This policy has not been revised despite the circulation of draft “Model State Mineral Policy, 2010” by the Government of India in 2010.

**5.2.7.1** As per the UNFC system referred to in National Policy 2008, the exploration for any mineral deposit involved four stages namely, Reconnaissance Survey (G4), Preliminary Exploration (G3), General Exploration (G2) and Detailed Exploration (G1). This resulted in identification of resource categories namely Reconnaissance Mineral Resource, Inferred Mineral Resource, Indicated Mineral Resource and Measured Mineral Resource, respectively reflecting the degree of geological assurance.

Audit examined whether resource inventory was prepared by the Department as per UNFC system from the CGM. There was nothing on records produced to audit indicating that the UNFC system was followed by the Department in inventorying resources, but out of 18 minerals, indicated resources (G2) and measured resources (G1) of Limestone and Marl (Calcium Carbonate or lime-rich mineral) were furnished by the Department.

As per the information furnished by the Department, “Indicated Mineral Resource” (G2) and “Measured Mineral Resource” (G1) of limestone was 36.63 and 1,033.78 million metric tonnes respectively in four districts (*viz* Junagadh, Jamnagar, Kachchh and Porbandar). Further audit scrutiny revealed that in “notice inviting tenders” issued (November 2015) in district Kachchh,

<sup>3</sup> It is a system in which reserves/resources of solid fuels and mineral commodities are classified on an internationally uniform system based on market economy criteria.

the estimated mineral resources in five mineral blocks was advertised as 1,083.5 million tonnes.

A comparison of the two<sup>4</sup> showed that the mineral mentioned in the tender notice in Kachchh was more than the mineral resources estimated in the four districts put together as per the Department. This indicated that estimated reserves of the minerals were not worked out correctly. Had the State framed revised mineral policy in accordance with the directions of the Ministry of Mines, the estimation and exploration of the mineral could have been done in a scientific manner. Notifying blocks for auction without establishing indicated/ measured mineral resource was not in line with the National Mineral Policy, 2008/ Model State Mineral Policy, 2010.

This was discussed in the exit conference held on 11 August 2017. The Principal Secretary and CGM agreed for the need of a comprehensive mineral policy in the changed scenario. However, reasons for not framing the revised policy till date were not furnished (September 2017).

### **5.2.8 Grant of leases through auction - System of regulation of auction of minor minerals in the State**

The Government of Gujarat issued guidelines on May 2010 and April 2011 which stipulated that all blocks of minor mineral concessions should be put in public domain. It also stipulated marking of the blocks as “Prime Location” or “Scattered Location” depending upon the number of respondents. If more than three applications were received for a block, the block was to be considered as “Prime Location” and allocation was required to be made through auction only. In case of two applications, the block was to be considered “Scattered Location” and allotment made through draw system and in case of one applicant allotment was required to be made directly.

Audit reviewed the records relating to auction of the minor mineral sand between the period 2010-11 and 2015-16. The findings are reported below:

#### **5.2.8.1 Inconsistencies in the Guidelines**

As per the Guidelines of April 2011, lease applications received prior to 31 March 2010 were not required to be considered for auction of minor minerals. Thus, applications for leases of minor minerals were disposed of after April 2011 without taking the applications received prior to March 2010 into consideration. However, in June 2016 the Department again instructed to take the applications received prior to March 2010 into consideration for auction of minor minerals. Thus, due to the frequent changes in the guidelines, the auction process was rendered faulty and fair competitive bidding could not be ensured during the period April 2010 to June 2016 due to non-inclusion of applications received prior to March 2010.

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<sup>4</sup> The information furnished by the Department and Notice Inviting Tenders (November 2015) of limestone blocks in Kachchh District

### **5.2.8.2 No attempt to put minor minerals other than ordinary sand in public domain**

The guidelines issued in May 2010 and April 2011 provided for disposal of applications received for minor mineral concessions through block auction. However, it was noticed that only blocks of ordinary sand were put in the public domain for auction. No attempt was made to put the remaining minor mineral<sup>5</sup> bearing areas in public domain for auction. The existing leasing of other minor minerals continued either by renewal or deemed extension or on applications.

The Department stated (September 2017) that GoG in 2010 had made an effort to put all mineral blocks for auction. Sand is geologically a simple mineral whereas other minerals are geologically complex. Ordinary sand block auctions were carried out on pilot basis. Few challenges were met and amendments were made accordingly. Ministry of Mines, Government of India had amended (January 2015) the MMDRA and decided to grant all mineral concessions through auction only and accordingly State Government framed Gujarat Minor Mineral Concession Rules in May 2017. The facts indicate that there was lack of control mechanism for allotment of minor minerals leases till the rules were amended in May 2017.

### **5.2.8.3 Lack of monitoring at apex level**

Audit observed in the office of the CGM that neither any register had been prescribed [to keep track of the total number of blocks put up in public domain for auction, number of blocks auctioned, number of Letter of Intent (LoI) issued, number of lease deeds executed, amounts recoverable and amounts recovered] nor was any periodical returns prescribed for submission to higher authorities for monitoring the leasing process. This information was maintained in a disaggregated manner at district level.

As per the information furnished by the Department (June 2017), during the period from 2010-11 to 2015-16, 853 blocks of ordinary sand in 185 villages of 26 districts of the State were notified for auction. Out of these, 635 blocks were put to auction. However, only 230 blocks could be auctioned. The reasons for non-auction of 405 blocks and revenue realization as a result of auctioned blocks were not furnished by the Department. Thus the performance of Department and revenue generated through auction could not be ascertained.

**It is recommended that the Government may strengthen its internal control mechanism by prescribing the registers for monitoring the auction of blocks and receipts therefrom.**

### **5.2.8.4 Terms and conditions of auction of blocks of ordinary sand**

The Department issued a notification on 30 June 2011 for auction of blocks of ordinary sand stipulating the terms and conditions of auction. Audit found that

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<sup>5</sup> like limestone, black trap, etc.

there was lack of uniformity in the terms and conditions as advertised in the notice inviting tenders viz. minimum bids to be considered for a successful auction, conditions for minimum bid price, minimum/ maximum area per block, period of lease, payment conditions, etc. stipulated in the notifications issued for auction of blocks of ordinary sand. Further, anomalies like allotment to a single qualified bidder, arbitrary revision of minimum bid price after opening bids and allotment of more than one block to one agency in respect of a single advertisement came to our notice (**Annexure C**).

#### **5.2.8.5 Area of blocks exceeded the maximum area prescribed**

Rule 14 of GMMCR 2010 (effective from 26 August 2010) restricts the maximum area for grant of lease of ordinary sand to 10 Hectares. But, audit observed that three sand blocks having area exceeding 10 hectares, were put to auction in Surat *vide* Notification of 04 August 2012 without mentioning the reasons for offering areas in excess of the prescribed limit. The excess area included in the auction ranged from 4,707 sq. mtr. to 15,506 sq. mtr.

#### **5.2.8.6 Equal platforms to new and existing lease holders**

The proviso below Rule 17(4) of GMMCR 2010 stipulates that if the application for renewal of lease is not disposed of by the competent authority before expiry of lease, the period of lease shall be deemed to have been extended.

Audit observed that as on 31 March 2016, 4,599 quarry lease renewal applications<sup>6</sup> were pending. The existing quarry lease holders were allowed to extract minerals (sand, black trap and limestone) even after the expiry of the leases, at the original royalty rates, whereas the new leases were to be granted based on highest bids obtained through auction. Unless equal platform is provided to the new and existing lease holders, it would be difficult for the Department to auction the blocks at higher premium.

When this was pointed out, the Department stated (September 2017) that rules for providing equal platform to the new and existing lease holders were framed with effect from May 2017 and all the leases were to be auctioned in a time bound manner. The reply, however, failed to address the macro issues raised by audit. It was silent about the reasons for making frequent changes in the guidelines that had made the auction faulty as a result of which fair competitive bidding could not take place. Besides, the information of the blocks put to auction and the amounts recovered therefrom were not furnished to audit. The Department further stated in September 2017 (in case of grant of sand blocks having areas exceeding 10 hectares) that Government could in any special case and under special circumstances, relax the provisions of the rule. The reply, however, neither indicated the reason for relaxing the provisions nor was it found in Departmental records produced to audit.

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<sup>6</sup> Number of applications for sand blocks was not ascertainable from the information provided by the Department.

Thus, it would be seen from the above that grant of quarry leases lacked transparency and a number of system deficiencies had occurred that could have been avoided had the mineral policy been revised in time which was finally done in May 2017 after a gap of nearly six years.

### Management of leases

After grant/ renewal of mining/ quarry leases, the Department was required to ensure that minerals were extracted as per the approved mining plans and conditions attached to the sanction order are fulfilled by the lessees. The deficiencies found in this regard in the 11 test-checked districts are reported below:

#### 5.2.9 Improper/ non- maintenance of registers

As per Section 12 of MMDRA, 1957 read with Mineral Concession Rules, 1960, the Department was required to maintain two set of registers one for registration of applications received and other for recording grant of Reconnaissance Permit (RP), Prospecting License (PL) and Mining Lease (ML).

Audit observed that the office of CGM maintained Registers of applications for RP, PL and ML but had not maintained registers for recording grant of RP, PL and ML. Thus, information relating to the number of RP, PL and ML granted and renewal thereof during the period from 2011-12 to 2015-16 was not furnished to audit, with the result the progress made in issue of the licences/ leases could not be ascertained in audit. These registers serve as an important tool to monitor the processing of applications of various mining operations.

The Department stated (September 2017) that registers of RP, PL and ML are being maintained in the district office. The reply is not correct as the concessions are being issued by the CGM, as such his office was required to maintain the relevant registers. This would have also enabled the CGM office to monitor the concessions.

#### 5.2.10 Delay in processing of lease applications

Rule 63 (A) of MCR, 1960 and Rule 8 of GMMCR, 2010 provide that applications for grant of mining<sup>7</sup> and quarry leases shall be disposed of within a period of one year and 90 days respectively.

A report called “Annual Review Report” is published by the Department annually. It *inter alia* contains information relating to receipt and disposal of the lease applications received by the Department. Since the Department did not furnish the year wise position of receipt and disposal of applications, in its absence, audit analysed the receipt and disposal of these applications mentioned in the Annual Review Report as under:

<sup>7</sup> w.e.f. February 2015, applications for major minerals not accepted.

**Table: 5.4**  
**Position of pending lease applications**

Year	Opening Balance <sup>8</sup>	Received	Total	Disposal	Percentage <i>vis a vis</i> Total	Pending (closing balance)
2011-12	10,679	12,266	22,945	6,945	30.27	16,000
2012-13	16,000	17,808	33,808	9,722	28.76	24,086
2013-14	24,086	5,308	29,394	7,963	27.09	21,431
2014-15	21,431	3,324	24,755	12,784	51.64	11,971
2015-16	11,971	1,924	13,895	9,146	65.82	4,749

(Source: Statement 6 of yearly review report published by CGM)

It would be seen from the above that the disposal of applications as percentage of total applications pending has been increasing in the year 2013-14 to 2015-16. There were 4,749 applications pending allotment as on 31 March 2016. Of these, 3,543 applications were stated to be pending (March 2016) for want of technical opinion from Revenue, Forest and other departments. Reasons for non-disposal of remaining applications were not furnished.

When this was pointed out, the Department stated (September 2017) that the Mining Industry was facing challenges due to numerous clearances to be taken i.e. Revenue opinion, Forest opinion, Environmental Clearance, etc. and various procedures need to be completed such as stamp duty, land measurement, land allotment process, etc. It further stated that the Department had adopted e-auction process for major minerals and similar process was being developed for minor minerals.

#### **5.2.10.1 Case study showing inordinate delay in processing of application**

GMDC applied (May 1991) for grant of mining lease of lignite in an area measuring 2,826.28 hectares<sup>9</sup>. The proposal was submitted by the Department to Ministry of Coal (MoC), New Delhi in September 1992, with recommendations for grant of lease only on Government waste and *gauchar* land measuring 1,501.06 hectares after deducting private land, quarry leases already granted and forest land. MoC gave the concurrence (October 1994) and LoI was issued for 1,501 hectares in May 1995. However, GMDC again requested (September 2005) to grant lease of total land measuring 2,186.76 hectares and stated that continuous scientific lignite mining cannot be undertaken unless remaining areas are included in the mining lease. MoC gave approval in September 2009. Thereafter, the Department issued a revised LoI (December 2009) for land measuring 2,186.76 hectares to GMDC. The Department finally sanctioned grant of mining lease on 2,186.76 hectares land to GMDC in January 2014.

<sup>8</sup> the closing balance of pending cases at the end of previous year did not tally with opening balance of pending cases at the beginning of next year except for 2012-13, the same has been adjusted

<sup>9</sup> in the villages Umarsar, Pranpur, Guneri and Chhugar of Tal-Lakhat, District Kachchh



Thus, the Department granted (January 2014) 2,186.76 hectares land to GMDC for a period of 20 years, i.e. after a delay of four years from the date of approval by MoC and eight years after the receipt of initial request of GMDC for grant of lease for entire land. This delay could have been avoided had a time limit been prescribed for each stage of grant. The delay resulted in loss of dead rent of ₹ 33.52 lakh (September 2009 to December 2013).

**The Department needs to strengthen its control mechanism to ensure that a time bound approach for grant of mineral concessions is adopted and may consider prescribing a time limit for each level involved in sanction of the leases in the interest of revenue and compliance with extant regulations.**

### 5.2.11 Deemed extension of mining leases

Section 8A(5) and 8A(6) of MMDRAA, 2015 stipulate that the period of lease granted before the date of its commencement shall be deemed to have been extended upto a period ending on 31 March 2030 for captive mines and upto 31 March 2020 where mineral is used for other than captive purpose or a period of 50 years from the date of grant of such lease, whichever is later, subject to the condition that all the terms and conditions of the lease have been complied with.

As per the information furnished by three District Geologists<sup>10</sup> 167 mining leases of Limestone, Bauxite and Lignite existed as on 31 March 2015. All the leases were required to be extended upto March 2020/ March 2030 as per the provisions of the Act, *ibid*. The check lists of all the leases were prepared and sent to the Department by District Geologists. Audit scrutiny revealed that formal approval of extension was given in only two cases while the remaining were pending with the Department. Though, differential stamp duty is leviable for the extended period of lease, no specific orders/ instructions were issued for its recovery.

Out of total 167 leases, the lease period of 111 leases had expired between 1987 to 2015. Nineteen leases were pending for renewal for more than 20 years and 72 leases were pending for renewal for 10 to 20 years. While 20 leases were pending for renewal upto 10 years. These leases required renewal prior to the promulgation of MMDRAA, 2015. Thus, Department neither renewed the leases as per the erstwhile provisions nor extended the leases as per the MMDRAA, 2015.

When this was pointed out, the Department stated that stamp duty in case of extended period of lease would be decided soon. Further, while quoting the provisions of Section 8A(5) and 8A(6), the Department stated that question of renewal of leases does not exist after passing of MMDRAA, 2015. However, the Department gave formal approval in the case of two out of the 167 lessees. Also, in the absence of a renewal lease agreements the amount of Stamp Duty could not be ascertained despite a lapse of two years from the date of promulgation of the Act.

<sup>10</sup> Junagadh, Kachchh and Porbandar

### 5.2.12 Non-cancellation of lease

In two offices<sup>11</sup> out of 11 selected offices, audit noticed that the Geologists had found breach of conditions resulting in irregular mining in respect of seven lease holders of limestone. They had recommended (between March 2013 and October 2015) for cancellation of their leases in terms of Rule 27(5) that prescribed determination of lease in such cases. CGM forwarded the cases to IMD. The leases have not been cancelled even after lapse of two to four years (**Annexure D**). No reason for non-cancellation of the leases was furnished to audit (September 2017).

### 5.2.13 Delay in prescribing rates of royalty and dead rent on re-classification of major minerals as minor minerals

As per Rule 21 of GMMCR, 2010, the holder of quarry lease or any other mineral concessions granted under these rules shall pay royalty as specified in Schedule-1 and yearly dead rent as specified in Schedule-2. Government of India, Ministry of Mines *vide* Notification dated 10 February 2015 declared 31 major minerals as minor minerals. The Department prescribed the rates for levy of royalty and dead rent on the above 31 re-classified minerals only on 18 June 2016, i.e. after a delay of more than one year and four months.

**5.2.13.1** Royalty on these 31 major minerals for the interim period from 10 February 2015 to 17 June 2016 was levied by treating them as major minerals at the rates published by IBM for the month of February 2015<sup>12</sup>.

In two District Geologists<sup>13</sup>, in case of eight<sup>14</sup> re-classified minerals, rates of royalty fixed by the Government on 18 June 2016 were higher than the rates at which royalty had been actually recovered for the interim period from February 2015 to June 2016. Delay in revision of royalty in these cases resulted in foregoing of royalty of ₹ 34.56 crore.

**5.2.13.2** The Government of India fixed the rate of dead rent on major minerals ranging between ₹ 400 and ₹ 2,000 per hectare in September 2014. The GoG revised these rates in respect of the re-classified minerals to ₹ 3 per sq. mtr. from June 2016 onwards. No instructions were issued by CGM regarding rate of dead rent of reclassified minerals for the interim period.

In three District Geologists<sup>15</sup>, in case of 54 leaseholders of seven re-classified minerals<sup>16</sup>, dead rent of ₹ 8.08 lakh for the period from 10 February 2015 to 17 June 2016 was recovered by treating the minerals as major minerals. Had the Department fixed the rates in time, it could have earned total revenue of

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<sup>11</sup> Kachchh and Porbandar

<sup>12</sup> IBM did not publish the rates of these minerals for the subsequent period as these minerals were declared as minor minerals.

<sup>13</sup> Kachchh and Porbandar

<sup>14</sup> Ball clay, Chalk, China clay, Clay others (Pozzolanic clay), Fire clay, Kaolin (white clay), Laterite and Silica sand.

<sup>15</sup> Chhota Udepur, Kachchh and Porbandar

<sup>16</sup> Ball clay, Chalk, China clay/ white clay, Dolomite, Fire clay/ Pozzolanic, Laterite and Silica sand

₹ 1.21 crore. Delay in fixation of rates of dead rent resulted in foregoing of revenue of ₹ 1.13 crore.

The Department stated (September 2017) that last published rate of royalty and dead rent for major minerals was considered by the State Government till new rates were published. Hence the same shall not be considered as loss of revenue.

The reply however, did not mention the reasons for delay in fixation of the rates on re-classification of minerals by more than one year and four months. The delay in prescribing the rates on re-classification of minerals deprived the Government revenue of ₹ 1.13 crore in three districts alone.

#### 5.2.14 Non-compliance with conditions attached to leases

The deficiencies in compliance with conditions attached to quarry/ mining leases observed in audit in the sampled districts were as follows:

**Table 5.5**  
**Non compliance**

Sl. No.	Condition	Audit observation
1	<b>Submission of mining plans</b> Rule 3N of GMMCAR, 2015 stipulates that every lease holder shall carry out mining operations for minor minerals in accordance with approved mining plan. The Department delegated (June 2015) powers to approve mining plans of minor minerals to District Geologist.	Audit observed that in nine <sup>17</sup> District Geologist offices, as against total of 800 lessees, mining plans were submitted by 378 lessees and 422 lease holders did not submit mining plan. Further, only 73 mining plans were approved in six offices <sup>18</sup> . The remaining lessees were conducting their mining operations without approved mining plans.
2	<b>Submission of financial assurances</b> Rule 3K of GMMCAR, 2015 provides for recovery of financial assurance at the rate of ₹ 50,000 per hectare subject to minimum of ₹ one lakh. Further, as per Rule 3K (5) the financial assurance can be forfeited in the event of non-reclamation of land as per Mine Closure Plan.	As per the information furnished by selected 11 District Geologist offices, audit observed that out of 3,017 cases of quarry leases in 1,182 cases, financial assurances amounting to ₹ 18.57 crore had not been obtained (March 2016).
3	<b>Delay in execution of lease deed</b>	In District Geologist office, Banaskantha, in seven cases the lease

<sup>17</sup> Ahmedabad, Banaskantha, Jamnagar, Junagadh, Kachchh, Kheda, Mehsana, Porbandar and Surat

<sup>18</sup> Banaskantha, Jamnagar, Junagadh, Kachchh, Kheda and Mehsana

Sl. No.	Condition	Audit observation
	<p>Rule 10(2) of GMMCR, 2010 stipulates that where a quarry lease (QL) is granted, the requisite lease deed shall be executed within three months of the date of order sanctioning the lease and if no such deed is executed within the said period, an order granting the lease shall be deemed to have been revoked. Competent authority can condone delay in execution of lease deed for period from three months upto one year. In case of delay exceeding one year from date of sanction of lease, the matter has to be referred to the Government.</p>	<p>deeds were executed after three months from the date of grant of lease<sup>19</sup>. The District Geologist accepted the lease deeds executed after expiry of three months. It included one lease deed executed after one year from date of grant of lease. The details of condonation of delay by the competent authority/ Government were not available on record.</p> <p>District Geologist, Banaskantha stated (April 2017) that reply would be furnished after scrutiny of records.</p>
4	<p><b>Execution of lease deeds for period more than granted</b></p> <p>Rule 17(4) of GMMCR, 2010 stipulates that application for renewal of quarry lease shall be presented at least 180 days before the expiry of the lease to the competent authority. Provided that any such application may be admitted after the expiry of stipulated period, if the competent authority is satisfied that the applicant had just and sufficient cause for not presenting the application within such period. Provided further that in no case, the application made after the expiry of the lease shall be entertained.</p>	<p>In District Geologist office, Kachchh, two leases of bentonite were initially granted (January 2008) for a period of five years, but lease agreements were erroneously executed (March 2008) for a period of 10 years. The lease holders had also not submitted renewal applications within time. The Department noticed the mistake only in April 2014 and locked the ATR<sup>20</sup> Pass Account(s). But, the leaseholders had already excavated 7,234 MT minerals unauthorisedly during the period from January 2013 to April 2014 (after payment of royalty of ₹ 18.09 lakh).</p>
5	<p><b>Idle leases (major minerals)</b></p> <p>Under Section 4 (4) of the MMDRA, 1957, where the holder of the mining lease fails to undertake mining operations for a period of two years after the date of execution of the lease deed or having commenced mining</p>	<p>In the District Geologist office, Chhota Udepur, the Gujarat Mineral Development Corporation (GMDC) was granted (July 1964) mining lease<sup>21</sup> of major mineral ‘fluorspar’<sup>22</sup>. Audit observed from the statement of production and dispatch that no excavation had been done from 2011-12</p>

<sup>19</sup> With delays ranging between 18 and 315 days

<sup>20</sup> All Time Royalty Pass

<sup>21</sup> on a land measuring 31.20 hectare, situated at S. No. 40, Village Ambadungar, Taluka-Kwant

<sup>22</sup> Fluorspar (CaF<sub>2</sub>) is an important industrial mineral used in a wide variety of chemical, metallurgical and ceramic processes or to make ornamental objects.

Sl. No.	Condition	Audit observation
	operations, has discontinued the same for a period of two years, the lease shall lapse on the expiry of the period of two years from the date of execution of lease deed or, as the case may be, discontinuance of mining operations.	to 2015-16. Last excavation of minerals was done in the year 2010-11 <sup>23</sup> The closing stock of 83,188 MT of mineral was lying undisposed. Thus, the lease remained idle for five years. The Department did not take any action for termination of lease. This also resulted in blockage of revenue to the tune of ₹ 79.86 lakh <sup>24</sup> in the form of royalty on stock lying with GMDC.
6	<p><b>Idle leases (minor minerals)</b></p> <p>Rule 42 of GMMCR, 2010 stipulates that the lease shall be liable to cancel if the lessee ceases to work on the quarry for a continuous period of one year.</p>	<p>In three District Geologists offices<sup>25</sup>, four quarry leases (measuring 17.19 hectares), had not submitted any returns while two quarry leases (measuring 2.47 hectares) had shown nil production in their periodical returns for the last two/ three years. However, the Department did not initiate any action for cancellation of the above mining/ quarry leases. Dead rent of ₹ 39.70 lakh was also not recovered from these lease holders.</p> <p>District Geologist/ Assistant Geologist stated (September 2016 to April 2017) that necessary action would be taken after scrutiny of records.</p>
7	<p><b>Excavation above the limit of approved mining plan</b></p> <p>As per Rule 13(1) of MCDR, 1988, every holder of a mining lease shall carry out mining operations in accordance with the approved mining plan. If the mining operations are not carried out in accordance with the mining plan, the Regional Controller, Indian Bureau of Mines (IBM) or the authorised officer may order suspension of all or any of the mining operations. Further, Section 21(5) of the MMDR Act, 1957 envisages that whenever, any</p>	<p>In two District Geologist Offices<sup>26</sup>, in eight mining leases of limestone and bauxite, the lease holders excavated minerals in excess of limits prescribed in the approved mining plan without prior approval of Department. The lease holders had paid the royalty applicable on excess minerals excavated. But, excavation of minerals in excess of limits prescribed in the mining plan was illegal and the Department was required to recover cost of minerals amounting to ₹ 39.44 crore.</p>

<sup>23</sup> It was noticed that 83,188 MT of ‘flourspar’ was held in stock as on 31 March 2016 which was excavated in the year 2009-10 and 2010-11.

<sup>24</sup> calculated at the rate of ₹ 96 per MT i. e. royalty per MT levied on the last dispatch of mineral

<sup>25</sup> Kachchh, Kheda and Surat

<sup>26</sup> Jamnagar and Porbandar

Sl. No.	Condition	Audit observation
	<p>person raises without any lawful authority, any mineral from any land, the State Government may recover from such person the mineral so raised, or where such mineral has already been disposed of, the price thereof along with royalty.</p>	
8	<p><b>Contribution towards District Mineral Foundation (DMF)</b></p> <p>Section 9B of the MMDR Act (as amended on 12 January 2015) stipulated that in any district affected by mining related operations, the State Government shall, by notification, establish a trust, as a non-profit body, to be called the District Mineral Foundation (DMF). Section 15A of the Act empowered the state Government to collect funds for the DMF in case of Minor minerals.</p> <p>Government of Gujarat, however, framed Gujarat District Mineral Foundation (DMF) Rules to regulate the composition, functions and manner of working of leases of minor minerals in April 2016. These Rules were deemed to have been come into force from 12 January 2015. As per the notification dated September 2016, ten <i>per cent</i> of the royalty was payable by each lease holder of the minor minerals with retrospective effect from January 2015.</p>	<p>Audit observed that that though the MMRD Act was amended on 12 January 2015, Rules for DMF were framed in April 2016 while notification specifying the rates in modification of the DMF Rules were issued in September 2016 which was late by more than one year eight months and issued with retrospective effect from 12 January 2015. This had delayed the process of collection of DMF. As per the information furnished by the CGM an amount of ₹ 25.45 crore was recovered from quarry lease out of ₹ 106.99 crore payable by the lease holders from April 2014 to February 2017. Year wise details of the recoveries, reasons for delay in issue of notification and with retrospective effect, though called for were not furnished to audit.</p> <p><b>The Government may consider taking speedy action for recovery of the amounts from the lease holders as with the passage of time the chances of its recovery become difficult.</b></p>

**The Department may ensure that instances of breach of conditions of leases are detected and rectified in time.**

### 5.2.15 Pendency of appeal cases

Rule 11(1)(a) of Gujarat Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules 2005 stipulates that any person aggrieved by an assessment order issued under these rules, may within 30 days from date of communication of such order to him, file an appeal against such order to the Additional Director (Appeal).



As per the information furnished by CGM, during the years 2011 to 2016, out of 1,321 appeal cases, 835 appeal cases were disposed of and 486 cases were pending for want of decision.

Further, as per instructions issued (December 2014) District Collectors are required to issue final orders on remand cases within 45 days from their receipt. Audit noticed that in five remand cases the District Collector, Kachchh issued final orders with delays ranging between three and 27 months.

The Department stated (September 2017) that action is being taken for disposal of pending appeal cases.

### **5.2.16 Analysis of Data obtained from Integrated Lease Management System (ILMS)**

CGM furnished dump data containing all the details relating to the mining operations in the State. However, it did not intimate whether it had made use of the data at any stage to ensure that mining operations were carried out smoothly. Audit analysed the data and found out a few irregularities that required departmental action. These are illustrated below:

#### **5.2.16.1 Non registration of lease holders under VAT Act**

Section 7 of Gujarat Value Added Tax stipulates that subject to the provisions of this Act, there shall be levied tax on the turnover of sales of goods specified in Schedule II. Under entry 51 of Schedule II of GVAT Act “Mineral or Ores” attracts tax at the rate of 5 *per cent* including one *per cent* additional tax.

During analysis of dump data of ILMS received from CGM for the period from 2011-12 to 2015-16, audit found that there were 14,032<sup>27</sup> Mining/Quarry lease holders in the State. Out of the above lessees, PAN number was mentioned in case of only 2,906 lessees. This was compared with dump data of *eVATIS* collected from Commercial Tax Department (CTD).

On cross verification of the PAN details of the lessees with the dump data provided by CTD, audit found that PAN details of 1,183 lessees were not found in the data of CTD. The lease holders’ data was forwarded to the CTD for verification and confirmation of their registration with the Department.

The CTD intimated (June 2017) that 862 lease holders were not registered under VAT Act and TIN of three lease holders had been cancelled. The details of the production made by lessees was checked with the CGM data and it was found that 683 lessees had shown extraction during the period 2011-12 to 2016-17.

<sup>27</sup> These are actually entries and our para is based on entries of this dump data.

**Table: 5.6**  
**Non registration of lease holders under VAT Act**

Sl. No	Particulars	No. of lease holders
1	Name of holders did not match with the name in PAN	365
2	PAN number shown as invalid number	10
3	Name of lease holders matched with the name in PAN	308

Further analysis of CGM data revealed that 609 lease holders out of 683 had produced 59.93 million MT of mineral valued at ₹ 645.88 crore<sup>28</sup> during the period from 2011-12 to 2016-17. This resulted in evasion of VAT to the tune of ₹ 31.12 crore<sup>29</sup> in the last six years from 2011-12 to 2016-17

Further, in absence of PAN details of 11,126 lease holders audit could not verify their registration in CTD.

The matter has been reported to CGM and CTD in July 2017. The CGM intimated (September 2017) that details of 11,126 lease holders was being obtained from field offices and would be provided to audit. The CTD had not intimated the action taken by them on this account.

**5.2.16.2** Analysis of dump data provided by CGM revealed that 63 mining leases and 91 quarry leases had discontinued their mining work more than two years earlier. The Department needs to verify the cases and terminate their leases, if these have remained idle for more than two years.

**5.2.16.3** Analysis of dump data of CGM revealed that in 223 cases, the Public Works Department of the State Government furnished the complete details such as material consumption statement to the concerned District Geologist, but verification of payment of royalty in respect of minerals used was pending with the IMD. The fact needs to be verified by the Department and necessary action taken accordingly

**5.2.16.4** Transit Pass is an authorization slip issued under Rule 3 of Gujarat Mineral (Prevention of Illegal Mining, Transportation and Storage) Rules, 2005 to a vehicle owner for transportation of minerals. Analysis of dump data of CGM revealed that 536 transit passes were issued without vehicle numbers. In the absence of valid vehicle numbers, it is difficult to establish the identity of the purchaser and genuineness of delivery challan.

<sup>28</sup> calculated on mineral value per MT as prescribed vide CGM letter dated 18 November 2009

<sup>29</sup> VAT calculated at the rate of five *per cent* on mineral value excluding the lease holders whose production value was less than ₹ five lakh, as they are not liable to be registered under GVAT Act.

## Detection and curbing of illegal mining

Rule 13(2) of Gujarat (Prevention of Illegal Mining, Transportation and Storage) Rules, 2005 stipulates that whenever any person raise, transport or store or cause to be raised or transported or stored without any lawful authority, the State Government may recover from such person the mineral so raised, or transported or stored and where such mineral has already been disposed of, the price thereof and may also recover from such person rent, royalty or tax as the case may be. Deficiencies noticed in detection and curbing of illegal mining are discussed in the following paragraphs:

### 5.2.17 Inadequate inspection of leases

Gujarat State Mineral Policy, 2003 stipulated that every lease shall be inspected once in a year to ensure implementation of terms and conditions of lease deeds. There is no system of monitoring the timely inspection of leases and action taken reports on the inspections conducted at the apex level.

The number of inspections to be carried out, actually conducted and percentage of shortfall in 10 offices<sup>30</sup> during five years is shown in the table below.

**Table: 5.7**  
**Shortfall in inspection of leases**

Year	No. of mining/ quarry leases	No. of inspections done	No. of inspections pending	Percentage of shortfall
2011-12	3,254	330	2,924	89.86
2012-13	3,379	599	2,780	82.27
2013-14	2,926	689	2,237	76.45
2014-15	3,169	697	2,472	78.01
2015-16	3,133	807	2,326	74.24

(Source: Information furnished by the District Geologists)

The percentage of shortfall in inspections ranged from 74.24 to 89.86. In absence of adequate inspection of leases, the Department was unable to control the mining activities of the lessees. During the course of audit, audit found that in six District Geologist offices, in 20 cases of illegal mining, recovery of ₹ 24.57 crore is outstanding due to inadequate action by the Department (**Annexure E**). An examination of the cases indicated that some of these could have been prevented with more concurrent inspections and also there was inadequate follow-up action for recovery of ₹ 24.57 crore.

The illegal mining activities mentioned at Annexure E which came to light during course of audit could have been prevented had timely inspections been conducted. In these cases, there was lack of follow-up action for recovery of dues raised by the Department on account of illegal mining.

<sup>30</sup> Ahmedabad, Banaskantha, Chhota Udepur, Jamnagar, Junagadh, Kachchh, Mehsana, Navsari, Porbandar and Surat. The information in respect of Kheda is awaited (September 2017).

The concerned Geologists/ Assistant Geologists stated (August 2016 to April 2017) that due to shortage of staff, inspections of mines could not be completed.

**The Government may consider putting up a system for monitoring the timely inspection of leases and for ensuring timely action on the deficiencies noticed during inspections. This may be in the form of periodic report/ return to be furnished by the Geologist to the higher authorities.**

#### **5.2.18 Illegal excavation after expiry of lease period**

Rule 17(4) of GMMCR, 2010 stipulates that application for renewal of quarry lease shall be presented at least 180 days before the expiry of the lease to the competent authority provided further that in no case, the application made after the expiry of the lease shall be entertained. Notification of March 2010 stipulates that no royalty passbooks/ Delivery Challan should be issued to any lessee in case of breach of any condition of lease deed.

In two District Geologist offices<sup>31</sup>, in case of five quarry leases of ordinary sand and Bentonite, the lease holders submitted renewal application after expiry of lease period. Therefore, the District Geologist did not entertain the applications of renewal. However, he did not lock the All Time Royalty Pass Accounts (ATR) of these lease holders immediately after the date of expiry of lease. These lease holders continued to generate royalty pass after payment of royalty and excavated 58,674 MT minerals even after expiry of leases. Thus, the mineral excavated by the lessee was unauthorized and cost of mineral amounting to ₹ 49.33 lakh was recoverable from the lessees. The District Geologist failed to initiate any action against the lessees for illegal excavation of mineral and recovery of cost of minerals.

When this was pointed out, the concerned Geologists accepted the audit observation and stated (October 2016 and April 2017) that the amount would be recovered.

#### **5.2.19 Role of flying squad**

Flying Squad working under the control of CGM has been entrusted with the work of detection of illegal excavation/ transportation of minerals in the State. The squad acts on the basis of grievances/complaints received by CGM. Similarly, the flying squad working under the control of District Geologist checks illegal excavation/ transportation and collects the cost of mineral with penalty. The number<sup>32</sup> of illegal cases detected by the Department had increased (103 *per cent*) from 3,760 (in 2011-12) to 7,622 in 2015-16. Out of 28,321 cases of illegal excavation/ transportation detected by the Department from 2011-2016, only 987 cases (3.5 *per cent*) were detected by the flying squad (**Annexure F**).

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<sup>31</sup> Banaskantha and Kachchh

<sup>32</sup> Annual review report furnished by the CGM

## **5.2.20 Mining Surveillance System (MSS)**

### **5.2.20.1 Surveillance for Major Minerals**

The Mining Surveillance System (MSS) launched (October 2016) by the Ministry of Mines, Government of India captures incidences of illegal mining of major minerals within 500 meter zone of mining leases in the form of triggers. The system detected 32 triggers in the State of Gujarat and the same was conveyed (October 2016) to the CGM for verification within 7 days. Out of 32 triggers, the Department verified and confirmed illegal mining in 12 triggers. These 12 triggers also included three triggers, where illegal mining were already detected by the Department.

However, the Department did not initiate any action against the offences committed (September 2017).

### **5.2.20.2 Surveillance for Minor Minerals**

As per Ministry of Mines, Government of India's directives (October 2016), the State Government was also required to implement the MSS for curbing illegal mining in case of minor minerals. The digitisation of all the details of minor mineral leases was to be done through the State Remote Sensing Centers by December 2016. Details of progress in this regard were not furnished by the Department (May 2017).

When this was pointed out, Department stated (September 2017) that MSS was being implemented in five districts as a pilot project.

**The Department may expedite the implementation of MSS for minor minerals for effective curbing of illegal mining.**

## **5.2.21 Check post and weighbridge**

Section 23C of the MMDRA, 1957 provides that the State Government may establish check posts and weighbridges for checking of minerals in transit and maintain registers and forms.

CGM created (January 2016) seven temporary check posts<sup>33</sup> in the State. As per instructions, three persons were required to be posted in each check post to work in shift basis in a day. Two policemen per shift should accompany the persons working in check post.

Test check of working of check posts under four District Geologists<sup>34</sup> revealed the following irregularities:

- (i) The check posts were working in makeshift structures with no provision for drinking water or electricity.

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<sup>33</sup> Bagodara (Ahmedabad), Chiloda (Gandhinagar), Dhamsiya (Chhota Udepur), Dwarka-Okha Road (Devbhumi Dwarka), Kim (Surat), Miyani (Devbhumi Dwarka) and Samkhiyali (Kachchh)

<sup>34</sup> Ahmedabad, Chhota Udepur, Kachchh and Surat

	
<p>Check Post, Samakhjali, Kachchh District</p>	<p>Check Post, Kim, Surat</p>
	
<p>Check Post, Dhamsia, Chota Udepur</p>	<p>Check Post, Bagodara Ahmedabad</p>

- (ii) Policemen did not accompany the officials of the Department except in Surat District.
- (iii) There were no adjoining weighbridges. It was stated that check post was left unmanned in case, an overload vehicle/ vehicle transporting minerals illegally was required to be taken to a distant weigh bridge
- (iv) Details of vehicles, royalty pass numbers, etc. were being entered manually and no computer system was provided. Royalty passes have bar codes and computer system along with a bar code reader would have been helpful in capturing the data of royalty passes for verification, analysis and review.
- (v) Check post officials enter the detail of illegal transportation/ overload of minerals in receipts and submit to District Geologist Office for levying penalty. Audit observed that the receipt books used by the check post were not serially numbered.

Absence of adequate infrastructure along with technical assistance hinders the effectiveness of the check posts in checking illegal mining.

When this was pointed out, Department stated (September 2017) that efforts are being made to develop the infrastructural facilities and use of computerized technique for checking of royalty pass and this would be completed by December 2017.

**The Government may expedite establishment of computerized check posts with adjoining weighbridges, manned by adequate number of persons for more effective curbing of illegal mining.**



## Environmental Issues

### 5.2.22 Protection of Environment

#### 5.2.22.1 Applications for Environmental clearance

Ministry of Environment and Forest (MOEF) *vide* Notification of September 2006 (amended in January and December 2009) had stipulated that mining projects with lease area of five hectares and above are required to obtain prior environmental clearance. In May 2012, MOEF directed<sup>35</sup> that all mining projects irrespective of their area were required to obtain prior environmental clearance. Leases with area up to 50 hectares would be considered by respective State Level Environment Impact Assessment Authority (SEIAA). Further, as per Notification dated 15 January 2016, all mining projects with lease area upto five hectares would be considered by respective District Level Environment Impact Assessment Authority (DEIAA).

As per the information furnished by 10<sup>36</sup> selected District Geologist offices, audit observed that out of total 3,448 applications received (between May 2014 and March 2017) for grant of environment clearance, 1,561 applications remain pending (45 *per cent*) for clearance by SEIAA/ DEIAA. The Department allowed the continuance of leases without the environment clearance.

When this was pointed out, Department stated (September 2017) that SEIAA and DEIAA are two independent entities; CGM shall not interfere in their jurisdiction. The reply indicates lack of co-ordination between the concerned authorities that led to permitting mining operations without environment clearance.

#### 5.2.22.2 Excavation of mineral even after rejection of environmental clearance

In District Geologist office, Kachchh, audit noticed that out of 40 proposals (pertaining to ordinary sand and black trap) for grant of Environmental Clearance Certificate (ECC); the SEIAA had rejected (January 2016) four proposals (three of ordinary sand and one of black trap). Thereafter, the Department locked (March and April 2016) their ATR Pass Accounts. These leases were required to be cancelled immediately after the rejection of ECC by the SEIAA. However, out of these four cases, in two cases of ordinary sand, ATR Pass Accounts were permitted to be re-opened (April and May 2016) by the Collector, Kachchh irregularly on the basis of statement of Gram Panchayat that there is no human settlement within 500 meters of lease area. Such arbitrary action by the Collector not only defeated the very purpose of formation of SEIAA but may also have an adverse impact on the environment. These leases need to be cancelled and value of mineral of

<sup>35</sup> After judgment of the Supreme Court of India in the case of *Deepak Kumar Vs. State of Haryana* (AIR 2012 SC 1386) dated 27 February 2012

<sup>36</sup> Banaskantha, Chhota Udepur, Jamnagar, Junagadh, Mehsana, Kachchh, Kheda, Navsari, Porbandar and Surat

₹ 48.03 lakh<sup>37</sup> dispatched after unlocking of ATR Pass Account recovered from the lessee by considering such excavation of mineral as illegal.

When this was pointed out, the District Geologist, Kachchh stated (April 2017) that necessary action would be taken after scrutiny of records.

### **5.2.23 Lack of co-ordination with other departments**

#### **Illegal mining - detected by Forest Department**

Audit noticed that co-ordination with other departments was not adequate for prevention of illegal/unauthorised mining. A few cases are mentioned below:

The Additional Chief Conservator of Forest, Gandhinagar detected 87 cases of illegal mining in nine districts<sup>38</sup> during the period 2011-12 to 2015-16. These comprise 23 cases of illegal excavation and 64 cases of illegal transportation. Audit observed that:

- Out of the above 87 cases, the Forest Department had not forwarded 66 cases to concerned District Geologist/ Collector for further necessary action.
- Out of 21 cases forwarded to the CGM/ Concerned District Collector, the Department had recovered penalty of ₹ 0.25 lakh in two cases only and remaining 19 cases were pending with the concerned District Geologists.

In cases of illegal transportation of minerals, penalty of ₹ 13.82 lakh was recoverable. In cases of illegal excavation, audit could not quantify the amount of penalty recoverable for want of details.

#### **No Objection Certificates (NOC) from Forest Department**

In case of three limestone mining leases at Jamnagar, the lease holders had initially obtained (December 2010) “No Objection Certificate (NOC)” from the Forest Department with validity of five years.

Audit observed that the lease holders did not renew their NOCs after their expiry in December 2015 but continued their mining operations. One of the lessees had excavated 30,000 MT limestone during January 2016 to March 2017. Excavation of minerals without valid NOC from the Forest Department was irregular and the Department was required to recover cost of minerals amounting to ₹ 79.20 lakh from the lease holder. Details of production of remaining two lessees were not made available by the Department. The Department also did not ensure submission of NOCs after expiry of validity.

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<sup>37</sup> calculated from 21 April 2016 to March 2017. The lease was in operation till date of Audit (April 2017)

<sup>38</sup> Amreli, Chhota Udepur, Dahod, Godhra, Junagadh, Kachchh, Mahisagar, Patan and Vadodara

### 5.2.24 Extraction of minerals in excess of limits prescribed by various authorities

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, a lessee is required to obtain ‘consent to establish’ from the Gujarat Pollution Control Board (GPCB), determining quantity of minerals that can be excavated during the prescribed period.

- In CGM office, in case of a lease<sup>39</sup> of limestone granted (September 2012) for 30 years, the lease holder had obtained (July 2013) consent to establish (NOC) from GPCB. Audit observed that the lease holder had excavated 18,493 MT mineral (valued at ₹ 48.82 lakh) in excess of the limit prescribed by GPCB during the period 2014-15. The Department had also issued royalty passes without considering the production limit fixed by GPCB, which was irregular.
- In District Geologist office, Kachchh, in case of a lease<sup>40</sup> of black trap, the lessee had obtained (March 2015) ECC from SEIAA for extraction of 3,000 MT mineral *per annum*. Audit observed that the lessee excavated 6,060 MT mineral (valued at ₹ 9.33 lakh) in excess of the permissible limit between November 2015 and March 2016. Thus, the Department could not ensure that the lessee restricts the quantity of excavation within the limit prescribed by GPCB/ SEIAA.

When this was pointed out, the District Geologist, Kachchh stated that necessary action would be taken after consultation with CGM office and GPCB.

### 5.2.25 Excavation of mineral within eco-sensitive zone of forest area

Gir wildlife sanctuary is the last abode of Asiatic lions. The Supreme Court order (October 2006) has banned mining in 10 km peripheral around the sanctuary pending clearance of final eco-sensitive zone (ESZ) proposal. Forest and Environment Department vide GR of 01 July 2015 decided that in 10 km peripheral around the sanctuary pending clearance of final eco-sensitive zone (ESZ) proposal, no grant or renewal of mining leases shall be made. However, the GR was silent about the leases which were granted/renewed before July 2015 and were operative in that area.

Audit observed that the Forest Department, with the help of GPS data, had detected 42 cases of excavation within the proposed ESZ and forwarded these to the Mining Department for necessary action. The Department took action in 20 cases involving money value of ₹ 11.29 crore<sup>41</sup> and action on 22 cases was

<sup>39</sup> On a land measuring 42,796 sq. mtr. of S.No.113 in Village Budhecha, Taluka Maliya Hatina

<sup>40</sup> On 49,000 sq. mtr. of land at S.No.155/p Village Sinugra, Taluka Anjar, District Kachchh

<sup>41</sup> Source: Times of India article of 16 March 2017

pending (May 2017). Reasons for non-finalization of cases were not furnished (September 2017).

## **5.2.26 Revenue Collection**

### **Assessment and levy of royalty, dead rent, etc.**

After grant of lease, the Department is required to recover royalty, dead rent, surface rent, etc. as per extent laws and rules. Audit findings in this regard in the test checked 11 districts are given below:

#### **5.2.26.1 Assessment of royalty on lignite**

Section 9 of the MMDRA, 1957 stipulates that holder of a mining lease is liable to pay royalty for any mineral removed or consumed by him.

Ministry of Coal, Government of India notified (August 2007) rate of royalty on lignite as ₹ 45 plus two *per cent* of basic pit head price of ROM (run-of-mine) of lignite as reflected in the invoice. These rates were revised in May 2012 as six *per cent ad-valorem* on transfer price of lignite. For calculating royalty on coal and lignite produced from captive mines, the price of coal and lignite shall mean the basic pit head price of ROM coal and lignite, as notified by the Coal India Ltd./ Singareni Collieries Company Ltd./ Neyveli Lignite Corporation, for similar Gross Calorific Value (GCV) of coal or lignite for the mines nearest to that captive mine.

In District Geologist office, Surat, GMDC and Gujarat Industries Power Company Limited (GIPCL), holding leases for mining lignite, pay a lump sum amount at different intervals of time into their account (online) in lieu of royalty. The online web portal was programmed to deduct the royalty at the prevailing rates on the quantity of mineral dispatched. Audit observed that the rate of royalty was not revised in the online web portal as per revised notification of May 2012. The yearly assessment of royalty was also not finalized and balances as per demand registers and virtual account were not reconciled.

An amount of ₹ 7.77 crore was shown to the credit of GMDC in online account instead of actual credit and of ₹ 6.02 crore as per demand and collection register. As a result, an amount of ₹ 1.75 crore remained to be credited to Government account.

Similarly, GIPCL obtained refund of ₹ 62.58 lakh as excess royalty had been deducted from online account by the system by adopting pre-revised rate of royalty instead of current rate.

#### **5.2.26.2 Levy of royalty on bricks manufacturing**

The Department fixed (January 2010) lumpsum rate of royalty on the manufacturing of bricks at the rate of ₹ 3,600 per one lakh bricks. The rates were revised (June 2012) from 'Nil' to ₹ 6,500 on the basis of manufacturing capacity.

In three District Geologist offices<sup>42</sup>, audit observed that royalty of ₹ 17.23 lakh was not paid by the 41 bricks manufactures. However, the District Geologists did not issue any demand notices for recovery of the dues. This resulted in non-realisation of revenue of ₹ 17.23 lakh.

When this was pointed out, the concerned Geologist/ Assistant Geologist stated (September 2016 to April 2017) that recovery would be made after scrutiny of cases.

#### **5.2.26.3 Levy of dead rent**

Section 9A of MMDRA, 1957 (in case of major minerals) and Rule 21 of GMMCR, 2010 (in case of minor minerals) stipulate that if lease holders do not extract any mineral during the year or royalty paid on removal/ consumption of mineral extracted is less than dead rent payable, they are liable to pay dead rent or difference between dead rent payable and royalty actually paid.

During test check of the Demand and Collection Registers of the offices of District Geologists audit observed in 327 cases of major and minor minerals, dead rent of ₹ 4.13 crore was not recovered or short recovered by the Department (**Annexure G**).

When this was pointed out, the Department recovered an amount of ₹ 19.67 lakh has been recovered in 27 cases. In remaining cases, the Department stated (September 2017) that recovery would be made after scrutiny of cases.

#### **5.2.26.4 Levy of surface rent**

Rule 22 of GMMCR, 2010 stipulates that the lessee shall pay surface rent at the rate of ₹ 100 per hectare or at the non-agricultural assessment rate, whichever is higher.

In two District Geologists offices<sup>43</sup> for the period 2011-12 to 2015-16, audit noticed that in 142 cases of leases of major/ minor minerals, though the lessees were liable to pay surface rent annually in respect of land occupied or used, the Department did not levy surface rent on area measuring 1.19 crore sq. mtr. This resulted in non-levy of surface rent of ₹ 12.39 lakh.

When this was pointed out, the concerned Geologist/ Assistant Geologist stated (September 2016 to April 2017) that after scrutiny of cases, recovery would be made.

#### **5.2.26.5 Levy of stamp duty**

Rule 10(2) of GMMCR, 2010 stipulates that where a quarry lease is granted under Sub-rule 1, the requisite lease deed shall be executed within three months of the date of order sanctioning the lease. As per Section 3 of the

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<sup>42</sup> Ahmedabad, Kheda and Mehsana

<sup>43</sup> Chhota Udepur and Kachchh

Gujarat Stamp Act, 1958, any document of lease shall be chargeable to stamp duty of the amount indicated in Article-30 of Schedule I to the Act depending on the term of the lease and average annual rent reserved.

In three District Geologist offices<sup>44</sup>, audit observed in 27 cases that while sanctioning mining leases for a period of 10 to 20 years, lease deeds were executed/ registered on the basis of the proposed production of first year in the application instead of average production as shown in the mining plan. Thus, stamp duty amounting to ₹ 1.36 crore was levied against the leviable amount of ₹ 2.84 crore. This resulted in short levy of stamp duty of ₹ 1.48 crore.

When this was pointed out, the concerned Geologist/ Assistant Geologist stated (September 2016 to April 2017) that the cases would be forwarded to the Dy. Collector (Stamp Duty Valuation Organisation) for levy of proper stamp duty.

#### **5.2.26.6 Levy of Non Agricultural Assessment (NAA)**

Section 48 of Gujarat Land Revenue (GLR) Code, 1879 provides for levy of non-agricultural assessment (NAA) on land used for non-agricultural purposes at the rate prescribed by the Government from time to time. Rule 27(d) of the MCR 1960 provides for levy of surface rent on the surface area used for the purposes of mining operations, at the rates not exceeding the land revenue assessable on land.

In two Districts Geologist Offices<sup>45</sup>, in case of five leaseholders<sup>46</sup>, out of total leased area of 25,629.89 hectares, surface rent had been recovered on the area of 11,352.40 hectares actually used for mining purposes in terms of provisions of MCR 1960 and Agricultural Assessment had been recovered on the remaining area of 14,277.49 hectares. Since, the entire Government land was leased for the purpose of mining operations and no portion of the land was used for agriculture purposes, NAA in terms of Section 48 of Gujarat Land Revenue Code on the land measuring 14,277.49 hectares was recoverable. This resulted in non-levy of NAA of ₹ 1.99 crore.

The District Geologist, Kachchh stated (April 2017) that NAA had been recovered at correct rates as per Rule 27 (d) of MCR, 1960 and under provisions of GMMCR, 2010 only for the surface area used for the mining operations. He further stated that as the matter pertains to policy issue, he would refer it to CGM for necessary action. The reply is not tenable because NAA was required to be recovered for the total area leased out for mining purposes (i.e. NA purpose) as per the provisions of GLR Code. The reply of the District Geologist, Porbandar has not been received (September 2017).

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<sup>44</sup> Banaskantha, Kachchh and Navsari

<sup>45</sup> Kachchh and Porbandar

<sup>46</sup> Gujarat Mineral Development Corporation, Sanghi Industries Ltd. and ABG Cement Ltd. in Kachchh and Saurashtra Cement Ltd. and Tata Chemicals Ltd. in Porbandar



### 5.2.27 Computerisation

CGM had appointed (June 2009) a service provider- M/s. (n)Code Solutions<sup>47</sup> for implementation of Integrated Lease Management System (ILMS). The Service Provider had developed an integrated Web Portal <http://www.geomining.gujarat.gov.in> called as Integrated Lease Management System (ILMS). The portal contained various application modules such as e-payment, all time royalty (ATR) pass, e-return and others for use by all the stakeholders viz. Department, CGM, District Geologists, Leaseholders and Stockists. The primary aim of the portal was to replace the traditional manual processes by a web-based application which is faster and more efficient than former.

Audit observed that computerisation was not fully implemented and various processes are still done manually. Audit test-checked the computerised records in six District Geologist offices<sup>48</sup> and noticed following discrepancies:

- (i) The portal had provision for maintenance of computerised Demand and Collection register, but in five District Geologists, Demand and Collection registers have been maintained manually.
- (ii) There was no provision for calculation of Dead Rent payable by the lessee. Further, there was no provision to compare the dead rent payable in a year with the total royalty paid in that year and levy the difference.
- (iii) There was no provision for calculation of Surface Rent. Although, e- payment module reflects surface rent wherever paid, the web portal has no system to determine the surface rent payable, paid and balance outstanding/ carried forward, if any.
- (iv) There was no provision for calculation of interest on the delayed payment of dead rent/ surface rent. Therefore, interest wherever payable was calculated manually.
- (v) There was no provision in the portal to link the mining operations of the lease holder with approved mining plan and subsequent changes therein. Thus, it was not possible to compare the planned quantity of production with the actual production.
- (vi) In cases of payment of royalty on Lignite at District Geologist, Surat, two lease holders<sup>49</sup> had paid lumpsum amount in lieu of royalty. But, there was no provision for auto adjustment of deductions of royalty based on changes in rates of royalty. The rates of royalty of major minerals were not revised in the portal simultaneously with Notification of 10 May 2012.

<sup>47</sup> a division of Gujarat Narmada Valley Fertilizers and Chemicals Limited (GNFC)– a Joint Sector Enterprise promoted by the Government of Gujarat

<sup>48</sup> Ahmedabad, Chhota Udepur, Kachchh, Mehsana, Navsari and Surat

<sup>49</sup> Gujarat Mineral Development Corporation (GMDC) and Gujarat Industries Power Company Ltd (GIPCL)

- (vii) In District Geologist, Surat, the portal erroneously showed the quantity of minerals dispatched double the actual quantity dispatched as per periodical returns submitted by the leaseholders during the period from November 2015 to December 2016. This discrepancy needs to be rectified immediately.
- (viii) Rates of royalty of minor minerals were revised from 18 June 2016. But, the system adopted the revised rates from 1 June 2016 for calculation of royalty.
- (ix) The e-Governance system of the CGM envisaged the above portal for all stake holders of the Geology and Mining. Since, the Department intends to replace the manual process with web-based applications, full time access of the portal to the IA&AD was essential for audit purpose. However, no such access was provided to audit.
- (x) Of the two modules available for e-payment of royalty (e-pay and Cyber Treasury), TCS<sup>50</sup> from online payments is not deducted in “Cyber Treasury” module.

CGM stated (September 2017) that automation process was being done in a phased manner. Remaining automation of the processes was under development and will be completed soon. He further stated that he has requested IMD and Finance Department for implementation of “SBI e-pay payment gateway” in place of “Cyber Treasury” module. Reply indicates that computerisation processes undertaken since 2009 was done at a very slow pace.

### **5.2.28 Internal Audit**

An independent and effective internal audit/ internal inspection under the direct control of the Head of the Department (Commissioner of Geology and Mining in this case) is essential for ensuring compliance of the provisions of the Acts/ Rules and the Government instructions regarding assessment of revenue, prompt raising of demands, collection and accounting thereof and for overall functioning of the administration effectively, efficiently and economically.

As per the manual of CGM, Internal Audit is required to be conducted annually. Accordingly, for five years, the internal audit of 11 offices should have been conducted at 55 times. However, it was done only 35 occasions for different periods between 2011-12 and 2015-16. Further, out of 671 objections raised during internal audit, 110 objections were pending for settlement (May 2017). Moreover, no internal audit was conducted in three districts *viz.* Chhota Udepur, Mehsana and Navsari during the period covered under audit. Thus, the internal audit conducted by the Department and its follow-up was inadequate.

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<sup>50</sup> As per Section 206C(1C) of the Income Tax Act 1961, the Department is required to deduct Tax collected at Source (TCS) on the amount of royalty collected.

Inadequate internal audit may result in Department remaining unaware of the areas requiring attention and taking steps for improvement. Thus, the Department needs to strengthen its internal audit wing so that all the units are covered and the observations raised by it are settled immediately.

Department stated (September 2017) that internal audit of the remaining districts would be conducted at the earliest.

### **5.2.29 Conclusions and Recommendations**

The PA on “Grant, Levy and Collection of Receipts from Mining Leases” disclosed a number of control deficiencies which had an adverse impact on the management of revenue.

- Gujarat Mineral Policy was framed in 2003. This has not been revised despite the circulation of draft “Model State Mineral Policy, 2010” by the Government of India in 2010. Absence of a revised policy resulted in a number of discrepancies in working out the estimated reserves of the minerals, etc.

**The Government/ Department may consider the need for framing a comprehensive mineral policy commensurate to the present requirements for better administration and exploitation of the mineral in a scientific manner.**

- The Department had not made any attempt to put minor minerals other than ordinary sand in public domain. No register was prescribed to record the minerals put to auction and record the receipts therefrom. As per the annual review report, 4,749 applications were pending for grant of lease as on 31 March 2016. Out of these, 3,543 applications were pending for want of technical opinion.

**The Government may direct the Department to put all the minor minerals in public domain, prescribe a register for monitoring the same and ensure disposal of pending lease applications in a time-bound manner.**

- The percentage of yearly inspections was very low. In absence of adequate inspection of leases, the Department was unable to ascertain whether the mining activities were done in accordance with the approved mining plan. Besides, the Department did not have a network to detect illegal mining of minor minerals through surveillance as implemented by Central Government for major minerals.

**The Government may consider putting up a system for monitoring the timely inspection of leases and for ensuring timely action on the deficiencies noticed during inspections. This may be in the form of periodic report/ return to be furnished by the Geologist to the higher authorities. In addition, the Department should take prompt steps for implementation of Mining Surveillance System for curbing illegal mining of minor minerals and speedy action on triggers received.**

· The Department had not evolved a system of co-ordination with other departments for plugging leakage of revenue, prevention of unauthorized mining, protection of environment/ forests, etc. Besides, the internal audit conducted by the Department was inadequate. Inadequate internal audit may result in Department remaining unaware of the areas requiring attention and taking steps for improvement.

**The Department should establish a mechanism for regular co-ordination with other departments. Thus, the Department needs to strengthen its internal audit wing so that all the units are covered and the observations raised by it are settled immediately.**

· Out of ₹ 155.28 crore arrears of mining revenue pending as on 31 March 2016, ₹ 51.17 crore and ₹ 22.26 crore were pending for more than 10 years and 20 years respectively.

**The State Government may direct the Department to take steps for recovery of these arrears, particularly those that have been outstanding for longer time as with the passage of time, the chances of their collection become remote.**

## Transport Department

### 5.3 Non-realisation of motor vehicles tax on transport vehicles

The Gujarat Motor Vehicles Tax (GMVT) Act, 1958 prescribes that owner of contract carriage and goods carriage vehicles are required to pay assessed tax on monthly/half yearly/ yearly basis respectively except for the period where the vehicles are not in use. In case of delay in payment, interest at the rate of one and half *per cent* per month is leviable. If the delay exceeds one month, a penalty at the rate of two *per cent* per month subject to a maximum of 25 *per cent* of tax is also chargeable. Section 12 of the Act, *ibid*, authorises the Department to recover unpaid tax as arrears of land revenue. Section 12B empowers the Department to detain and keep in custody the vehicles of those owners who defaulted in payment of Government dues.

During test check of the Demand and Collection Registers and VAHAN system of eight taxation authorities<sup>51</sup> between January 2014 and October 2016, audit noticed that operators of 297 omnibuses<sup>52</sup>/ maxi cabs<sup>53</sup>, who kept their vehicles for use exclusively as contract carriage and 303 vehicles used for transport of goods had neither paid tax nor filed non-use declarations for various periods between 2010-11 and 2015-16. There was no proper monitoring system to trace such vehicles in default. The Regional Transport Authorities failed to issue demand notices and take recovery action prescribed in the Act which shows weak internal control system in the Department. The Department neither invoked provisions of Section 12 nor took action under

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<sup>51</sup> Ahmedabad, Himatnagar, Junagadh, Nadiad, Navsari, Rajkot, Surat and Vadodara

<sup>52</sup> any motor vehicle constructed or adapted to carry more than six persons excluding the driver

<sup>53</sup> any motor vehicle constructed or adapted to carry more than six persons, but not more than 12 passengers excluding the driver, for hire or reward

Section 12B. This resulted in non-realisation of motor vehicles tax amounting to ₹ 2.32 crore. Besides, interest and penalty was also leviable at the rates prescribed in the Act.

Audit pointed out these case to the Department and Government in March 2017. The Department stated (May 2017) that an amount of ₹ 50.64 lakh has been recovered in 59 cases of contract carriages and an amount of ₹ 9.79 lakh has been recovered in 66 cases of goods vehicles. In remaining cases, details of recovery are awaited (September 2017).



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**Ahmedabad**  
**The 5 March 2018**

**(Economic & Revenue Sector Audit) Gujarat**

**Countersigned**



**New Delhi**  
**The 9 March 2018**

**(RAJIV MEHRISHI)**  
**Comptroller and Auditor General of India**

