

CHAPTER-VI

MINING RECEIPTS

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6.1 Results of audit

During 2016-17, Audit test checked the records of 27¹ out of 51 auditable units (53 *per cent*) of the Mines and Geology Department. The Department collected ₹ 4,384.43 crore receipts during 2015-16 of which the audited units collected ₹ 4,239.26 crore (97 *per cent*). Audit noticed irregularities amounting to ₹ 381.79 crore in 322 cases due to various deficiencies (of which ₹ 339.22 crore involving 14 lessees and nine exporters relates to three mining offices²) as detailed in **Table-6.1**.

Table-6.1

Sl. No.	Categories	No. of cases	Amount (₹ in crore)	Share in <i>per cent</i> to the total objected amount
1	“Mining Receipts in Jharkhand State”- A Performance Audit	01	366.54	96.01
2	Non/ short levy of royalty	28	6.94	1.82
3	Non/ short levy of dead rent	22	5.44	1.42
4	Non-levy of penalty	56	1.42	0.37
5	Other cases	215	1.45	0.38
Total		322	381.79	

The Department accepted under assessment and other deficiencies of ₹ 311.95 crore in 95 cases pointed out by Audit.

This chapter discusses 40 cases worth ₹ 367.53 crore including a Performance Audit (PA) on “Mining Receipts in Jharkhand State” having financial implication of ₹ 366.54 crore. Out of these some irregularities have been repeatedly reported during the last five years as detailed in **Table – 6.2**.

Table – 6.2

Nature of observations	(₹ in crore)											
	2011-12		2012-13		2013-14		2014-15		2015-16		Total	
	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount
Short levy of royalty due to application of incorrect rate	62	20.43	28	32.22	40	18.77	34	338.59	8	143.52	172	553.53
Short levy of royalty due to under valuation of basic sale value of washed coal	-	-	-	-	-	-	-	-	1	446.21	1	446.21
Suppression of dispatch	-	-	1	1.18	-	-	-	-	2	1.02	3	2.20
Non/ short levy of dead rent	20	0.37	-	-	-	-	38	0.20	37	2.42	95	2.99
Non/ delayed submission of monthly returns	17	0.02	-	-	-	-	28	0.07	19	0.12	64	0.21

Recommendation:

The Department may initiate systemic measures to ensure that the persisting irregularities that are routinely found during audit do not recur.

¹ Additional Director, Assistant Director, Geology, Ranchi; Deputy Director, Drilling, Geology/ Engineering Cell, Geology/ Ground water Cell, Ranchi; Director of Mines, Ranchi; District Mining Offices, Bokaro, Chatra, Chaibasa, Palamu, Deoghar, Dhanbad, Dumka, Garhwa, Godda, Gumla, Hazaribag, Jamshedpur, Jamtara, Koderma, Latehar, Pakur, Ramgarh, Ranchi, Sahibganj, Simdega, and Secretary, Mines & Geology, Ranchi.

² District mining offices, Chatra, Koderma and Ramgarh (included in PA).

6.2 Mining Receipts in Jharkhand State

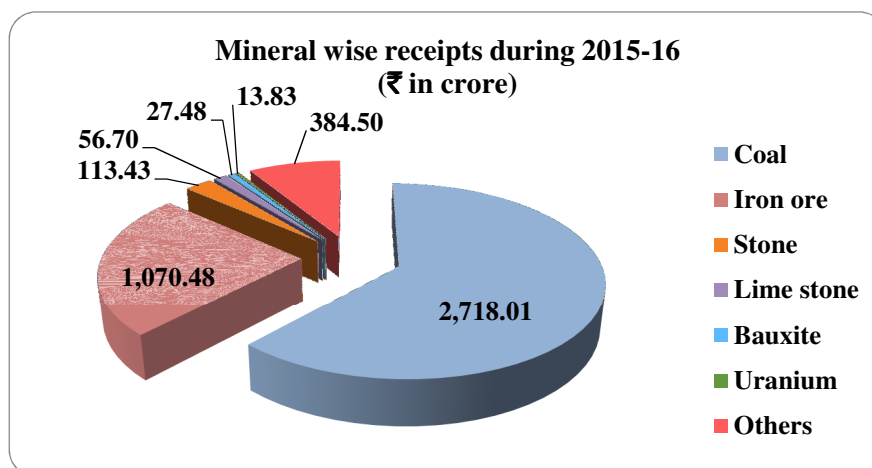
6.2.1 Introduction

Management of mineral resources is the responsibility of both the Central and State Government³. Minerals are divided into two categories, *viz.*, major and minor minerals. Minor minerals include building stone, gravel, ordinary clay, ordinary sand and any other minerals notified by the Government of India. All other minerals such as coal, bauxite, iron ore etc., are termed as major minerals.

More than 30 minerals including coal, iron ore, bauxite, copper, lime stone, kyanite, quartz, mica, graphite, building stone etc., are found in Jharkhand constituting 40 *per cent* of India's total mineral resources. Mining receipts are the second largest receipt of the State and it contributed between 24 and 27 *per cent* of the total receipts during the last five years.

Mineral wise share of the receipts against the total mining receipts of ₹ 4,384.43 crore⁴ during the year 2015-16, of Mines and Geology Department, is shown in **Chart-6.1**.

Chart-6.1



The Government earns major share of its mining receipts from coal, iron ore and stone i.e., 61.99, 24.42 and 2.59 *per cent* respectively, whereas other minerals together contributes only 11 *per cent*.

6.2.2 Organisational set up

At the Government level, the Secretary, Industry, Mines and Geology Department and at Department level, the Director of Mines is responsible for the administration of the Act and Rules⁵. The Director of Mines is assisted by an Additional Director of Mines (ADM) and two Deputy Directors of Mines at

³ Entry 54 of the Union List (List I) and entry 23 of the State List (List-II) of the Seventh Schedule of the Constitution of India.

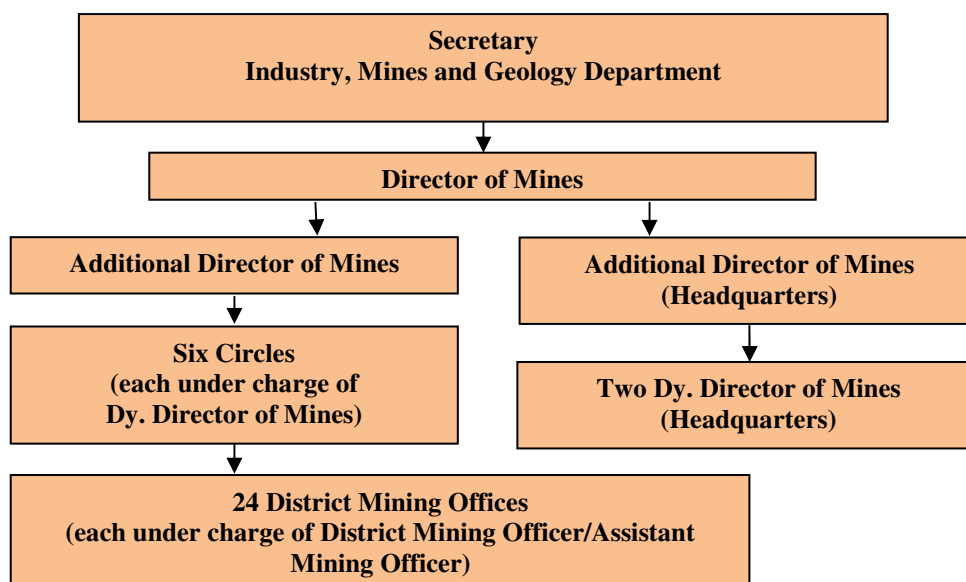
⁴ Information furnished by the Mines and Geology Department.

⁵ Mines and Minerals (Development and Regulations) Act, 1957 Mineral Concession Rules, 1960, Mineral Conservation and Development Rules, 1988, Jharkhand Minor Mineral Concession Rules, 2004, Jharkhand Minerals Dealer's Rules, 2007 and Jharkhand Mineral Transit Challan Regulations, 2005.

headquarter. At the field level, he is assisted by an ADM who is in turn assisted by six Deputy Directors of Mines (DDM). The State is divided into six circles⁶, each under the charge of a DDM who supervises the work of District Mining Officers (DMO)/ Assistant Mining Officers (AMO) of their jurisdiction. The circles are further divided into 24 district mining offices (mining offices)⁷, each under the charge of a DMO/ AMO. The DMOs/ AMOs are responsible for levy and collection of royalty⁸ and other mining receipts, implementation of penal provisions and monitoring of compliance of orders and instructions issued by other departments of Central/ State Governments e.g., Indian Bureau of Mines, Ministry of Environment and Forests (MoEF), State Pollution Control Board etc. They are assisted by Mining Inspectors (MIs). The DMOs/ AMOs and MIs are authorised to inspect the mining lease areas, review production and check despatch of minerals.

The organisational set-up is depicted in the following **Chart-6.2**.

Chart-6.2



6.2.3 Audit objectives

The Performance Audit was conducted to ascertain whether:

- the provisions of Act, Rules and departmental instructions were adequate and enforced properly to safeguard the revenue of the State;
- the internal control mechanism in the Department was adequate and effective to check the leakage of revenue;
- there exists a mechanism for inter-departmental cross-verification of data/ information with returns of the lessees;

⁶ Chaibasa, Dhanbad, Dumka, Hazaribag, Palamu and Ranchi.

⁷ Bokaro, Chaibasa, Chatra, Deoghar, Dhanbad, Dumka, Garhwa, Giridih, Godda, Gumla, Hazaribag, Jamshedpur, Jamtara, Khunti, Koderma, Latehar, Lohardaga, Pakur, Palamu, Ramgarh, Ranchi, Sahibganj, Saraikela – Kharsawan and Simdega.

⁸ Royalty is paid to the State for permitting extraction and removal of minerals granted under a lease agreement.

- action taken in cases of illegal/ unauthorised extraction of minerals was effective; and,
- there is a system for ensuring that environmental concerns are being addressed properly and preventive measures are useful and effective.

6.2.4 Audit criteria

The audit criteria for the Performance Audit was derived from the following sources:

- Mines and Minerals (Development and Regulations) Act, 1957;
- Mineral Concession Rules, 1960;
- Mineral Conservation and Development Rules, 1988;
- Jharkhand Minor Mineral Concession Rules, 2004;
- Jharkhand Minerals Dealer's Rules, 2007;
- Jharkhand Mineral Transit Challan Regulations, 2005;
- Bihar and Orissa Public Demands Recovery Act, 1914, as adopted by Jharkhand;
- Executive and departmental orders issued from time to time; and
- Files of the Department.

6.2.5 Scope of audit

The Performance Audit on “**Mining Receipts in Jharkhand State**” for the period 2011-12 to 2015-16 was conducted during November 2016 to July 2017. District mining offices were stratified as high, medium and low risk on the basis of revenue collected⁹ (**Appendix-I**). All five mining offices¹⁰ of high risk and eight mining offices¹¹ from medium and low risk strata were selected through random sampling method without replacement¹². Further, three DDM offices¹³ and Directorate office at apex level were also selected for the Performance Audit. Similar audit observations noticed during compliance audit of other than selected units¹⁴ have been included in the respective paragraphs.

6.2.6 Audit methodology

An Entry conference was held on 18 January 2017 with the Secretary to the Government, in which the audit objective, scope and methodology were discussed. Records of leaseholders, permit holders, licensee etc., had been test checked to detect non/ short levy of royalty, unauthorised extraction of minerals and non-compliance of environment norms in the selected mining

⁹ More than ₹ 250 crore per year; less than ₹ 250 crore and upto ₹ 40 crore per year; and less than ₹ 40 crore per year respectively.

¹⁰ Bokaro, Chaibasa, Chatra, Dhanbad and Ramgarh.

¹¹ Deoghar, Garhwa, Gumla, Hazaribag, Koderma, Lohardaga, Pakur and Sahibganj.

¹² Random Sampling without replacement is a method where samples are identified randomly from the universe without repetition of samples.

¹³ Dhanbad, Dumka and Hazaribag.

¹⁴ Jamshedpur, Jamtara and Latehar.

offices. Besides, data/ information from Indian Bureau of Mines, Directorate of System, Central Excise and Customs and Commercial Taxes Department, Government of Jharkhand had been collected and compared with the records¹⁵ maintained in the respective mining offices.

An Exit conference was held on 6 October 2017 with the Secretary to the Government, to discuss the outcomes of the Performance Audit. The response of the Government/ Department has been suitably incorporated in the Report.

6.2.7 Acknowledgement

The co-operation of the Mines and Geology Department in providing necessary information and records for audit is acknowledged.

6.2.8 Trend of revenue

Receipts under the Major Head 0853–Non-ferrous Mining and Metallurgical Industries mainly consist of royalty. Other receipts under this head includes application fee, license fee¹⁶, permit fee¹⁷, dead rent¹⁸, surface rent¹⁹, penalties for illegal mining and interest for delayed/ belated payment of dues etc.

According to the provisions of the Bihar Financial Rules, Vol. I (adopted by the Government of Jharkhand) the responsibility for preparation of budget estimates of revenue receipts is vested in the Finance Department. However, the material for the budget estimates is obtained from the concerned Administrative Department. The Secretary, Mines and Geology is responsible for compilation of the correct estimates and sending it to the Finance Department. In case of fluctuating revenue, the estimates should be based on a comparison of the last three years' receipts.

Actual receipts under the Major Head 0853–Non-ferrous Mining and Metallurgical Industries (Mining Receipts) against the budget estimates (BEs) during the period 2012-13 to 2016-17 along with the total non-tax revenue and total revenue during the same period is in **Table-6.3**.

Table-6.3

Year	Budget estimates (₹ in crore)	Actual mining receipts (₹ in crore)	Total non-tax revenue (₹ in crore)	Total revenue of the State (₹ in crore)	Percentage of variation (col. 2 to 3)	Percentage contribution by the mining sector to total non-tax revenue of the State (col. 3 to 4)	Percentage contribution by the mining sector to total revenue of the State (col. 3 to 5)
1	2	3	4	5	6	7	8
2012-13	3,209.92	3,142.47	3,535.63	11,759.30	(-) 2.10	88.88	26.72
2013-14	3,500.00	3,230.22	3,752.71	13,132.50	(-) 7.71	86.08	24.60

¹⁵ Monthly returns, Raising and Dispatch (RD) register and Demand, Collection and Balance (DCB) register.

¹⁶ Licence fee is a fee collected from the person, who intends to ascertain feasibility of mining operation in a defined area under the terms and condition of a prospecting licence.

¹⁷ Permit fee is levied in advance for extraction of a fixed quantity of minor mineral within a specified period in lieu of royalty.

¹⁸ Deterrent against the tendency of leaseholders in cornering the mining lease and keeping the mineral resource idle.

¹⁹ Surface rent is payable by a lessee for the surface area used by him for mining operations and it shall not exceed the land revenue.

Table-6.3

Year	Budget estimates (₹ in crore)	Actual mining receipts (₹ in crore)	Total non-tax revenue (₹ in crore)	Total revenue of the State (₹ in crore)	Percentage of variation (col. 2 to 3)	Percentage contribution by the mining sector to total non-tax revenue of the State (col. 3 to 4)	Percentage contribution by the mining sector to total revenue of the State (col. 3 to 5)
2014-15	4,699.47	3,472.99	4,335.06	14,684.87	(-) 26.10	80.11	23.65
2015-16	5,500.00	4,384.43	5,853.01	17,331.96	(-) 20.28	74.91	25.30
2016-17	7,050.00	4,094.25	5,351.41	18,650.66	(-) 41.93	76.51	21.95

Source: Finance Account of the Government of Jharkhand and the revised estimates as per the Statement of Revenue and Receipts of Government of Jharkhand.

Audit examined the files relating to preparation of budget estimates in the department and Finance Department to ascertain the reasons for variation in budget estimates and fluctuation in revenue collection. It was observed that estimates communicated by the Department were enhanced by the Finance Department without assigning reasons in contravention to the Rules. Wide variation and volatility in collection of revenue indicates that the BEs were prepared without considering actual receipts.

6.2.9 Cost of collection

The gross collections from mining receipts, expenditure incurred on the collection and the percentage of such collection to gross expenditure during 2012-13 to 2016-17 are mentioned in **Table-6.4**.

Table-6.4

Year	Total mining receipts (₹ in crore)	Total expenditure on collection of revenue (₹ in crore)	Percentage of expenditure on collection in neighbouring States				Percentage of expenditure on collection in Jharkhand
			Bihar	Chhattisgarh	Odisha	West Bengal	
2012-13	3,142.47	10.02	2.40	0.71	0.32	14.58	0.32
2013-14	3,230.22	9.44	2.45	0.82	0.66	10.38	0.29
2014-15	3,472.99	10.68	1.53	0.86	0.88	9.63	0.31
2015-16	4,384.43	12.94	1.28	0.88	0.63	1.47	0.30
2016-17	4,094.25	13.10	1.22	0.81	0.66	1.27	0.32

Source: Finance Account of the Government of Jharkhand and the revised estimates as per the Statement of Revenue and Receipts of Government of Jharkhand.

The cost of collection of mining receipts in Jharkhand is more efficient than the neighbouring States.

Audit findings

Test check of 549 out of 2,268 leases in selected mining offices revealed major irregularities in 141 cases having financial implication of ₹ 366.54 crore pertaining to the period 2011-12 to 2015-16. Mineral wise number of leases and revenue collected thereon versus number of leases test checked and audit findings during the period is depicted in **Table-6.5**.

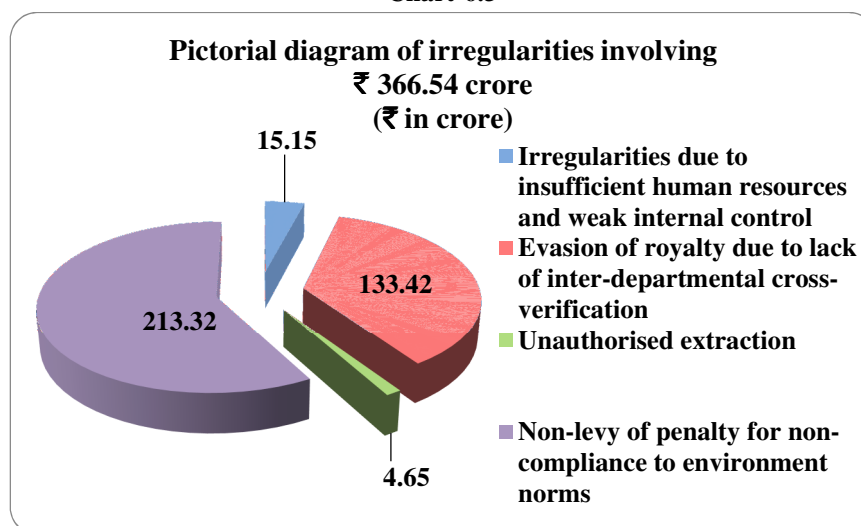
Table-6.5

Names of minerals	Total no. of leases in selected units	No. of leases test checked	Percentage of leases test checked	(₹ in crore)	
				Total collection in selected units during 2011-12 to 2015-16	Financial impact of audit observations noticed during PA
Coal	169	89	52.66	10,020.82	286.80
Iron ore	50	32	64	3,661.78	7.16
Bauxite	46	46	100	116.41	6.13
Mica	3	0*	0	0.17	56.14
Stone	1,470	305	20.75	294.17	4.48
Lime Stone	34	33	97.06	96.87	0.37
Others	496	44	8.87	52.20	5.46
Total	2,268	549	24.21	14,242.42	366.54

* the observation is based on trading of mica without lease or dealer licence.

A pictorial diagram depicting nature of irregularities observed in audit is depicted in the Chart-6.3.

Chart-6.3



These irregularities as well as similar audit observations noticed in compliance audit involving ₹ 98.94 lakh are discussed in the succeeding paragraphs.

6.2.10 Non-formulation of State Mineral Policy

The State Government is yet to finalise a State Mineral Policy, seven years after the Government of India circulated a model policy. Consequently, the mineral resources of the State continued to be exploited on *ad hoc* basis.

Government of India (GoI) framed the National Mineral Policy, 2008 for optimal utilisation of mineral resources and sustainable development of the mineral sector. A Model State Mineral Policy, 2010 was circulated to all States requiring them to develop suitable mineral policies for their States within the ambit of the National Mineral Policy, keeping in view local requirements.

The Audit Report for the year 2011-12 had highlighted the failure of the State Government to frame a State Mineral Policy. During review of the status for the present Report, Audit found no improvement, since no proposal for a State

Mineral Policy had yet been finalised even more than seven years after the circulation of the Model State Mineral Policy. Consequently, the extraction of mineral resources in Jharkhand continues on *ad hoc* basis, implying inefficient use of mineral resources of the State.

Replying to the audit observation, the Department informed that the National Mineral Policy was under consideration of GoI. Further progress in this regard will be awaited in audit.

6.2.11 Human resources and internal control mechanism in the Department

DMOs/ AMOs are responsible for administration of Act and Rules as well as inspection of mines, to check output register and compare monthly returns of lessees. Mining Inspectors (MI) are primarily responsible for inspections/ sectional measurement of mines, verification of grade of mineral shown in laboratory analysis reports and field visits. Shortage of officers and staff adversely affects the work of assessment of records, levy of dead rent/ royalty, penalty, prevention of illegal extraction of minerals etc.

The Audit Report for the year 2011-12 had reported shortages of manpower. Audit evaluated the present position of Department's man power and found no improvement in this regard. The position of officers and staff in the district mining offices of the State is shown in **Table-6.6**.

Table-6.6

Names of post	Sanctioned strength	Men-in-position	Shortage	Shortage in percentage
DMO	24	07	17	70.83
AMO	15	09 ²⁰	06	40.00
Mining Inspector (MI)	50	26 ²¹	24	48.00
Head Clerk	24	02	22	91.67
Clerk	63	34 ²²	29	46.03
Stenographer	16	02	14	87.50
Driver	17	05	12	70.59
Orderly	39	25	14	35.90
Chainman	37	13	24	64.86
Night Guard	12	03	09	75.00
Process Server	14	03	11	78.57
Total	311	129	182	

Source: Information furnished by the Directorate.

The shortage of manpower in various posts had increased to 36 and 92 *per cent* as compared to zero and 55 *per cent* previously reported in Audit Report for 2011-12. Regular recruitment had not been conducted in any cadre since the creation of the State (15 November 2000) till 2016-17 though there was huge vacancy in all cadres. The Department also did not maintain any records to show the annual position of vacancies against sanctioned posts. It was, however, noticed that Directorate had initiated recruitment proceedings in July 2013 and requisitioned for 26 clerks and 31 Mining Inspectors (MIs) in 2015 but recruitment was not made till March 2017. Thus, the Department has

²⁰ Three AMOs are under the charge of DMOs.

²¹ One MI is under the charge of DMO and 10 MIs are under the charge of AMOs.

²² Three clerks are under the charge of head clerks.

failed to evolve a mechanism for systematic recruitment to remove vacancies across different cadres.

The Department/ Government replied (October 2017) that 11 AMOs, five DMOs and 11 Mining Inspectors have been recruited in 2017-18 to bridge the gap between sanctioned strength and men-in-position. However, even after these recruitments there was huge shortage of officers and staff which adversely affected the work of the Department.

Recommendation:

The Department may take steps to fill up vacancies in critical cadres.

Inadequate inspection by departmental officers

As per departmental instructions (June 1970), the Director and Deputy Director of Mines are required to inspect the mining offices once a year.

The Audit Report for the year 2011-12 had reported inadequate inspection by the departmental officers. Audit examined the progress of inspection since the previous Audit Report and found that inspections were conducted by the DDM/ADM only on four occasions in three mining offices²³ during the period 2011-12 to 2015-16. Audit observed that the Department had not even prepared annual inspection plans, in the absence of which, the Department could not enforce and monitor adequate inspections. Lack of inspections by superior officers resulted in continuance of procedural lapses that remained undetected as mentioned in the succeeding paragraphs.

The Department accepted (October 2017) the audit observation and assured that efforts would be made to increase the frequency of departmental inspections. Action taken by the Department to evolve a mechanism to ensure adequate inspections would be checked during future audits.

Internal audit

The Department has no internal audit wing of its own. The Finance Department which acts as the internal auditor, is required to conduct *cent per cent* audit of all returns submitted, demand notices issued, accounting of royalty collection, up-to-date verification of amount deposited with the treasury records and their credit to the Consolidated Fund of the State.

The Audit Report for the year 2011-12 reported that internal audit was inadequate. When Audit verified the position of internal audit for the present Report, it found that the situation has worsened. Against the finding that internal audit had been conducted in 10 out of 12 selected mining offices during 2006-07 to 2010-11, Audit found that during the period 2011-12 to 2015-16, the Finance Department had conducted internal audit in only one out of 13 selected mining offices.

The Finance Department, which is responsible for internal audit did not furnish a reply to the audit observation. The Mining Department however informed (October 2017) that efforts would be made to enhance internal audit. The reply is not acceptable, since it is the responsibility of the Finance

²³ Bokaro, Chatra and Dhanbad.

Department, and not the Mining Department to perform internal audit. Absence/ shortfall in the internal audit is one of the reasons why systemic errors repeatedly pointed out in previous Audit Reports and in this Report, do not get redressed.

Recommendation:

The Finance Department should initiate a mechanism for more and comprehensive internal audit.

Irregularities due to insufficient human resources and weak internal control mechanisms

Audit noticed non-compliance to the Act and Rules due to deficient human resources and internal control mechanisms involving Government revenue of ₹ 15.15 crore in 142 cases out of 549 cases test checked as mentioned in succeeding paragraphs. Some of the irregularities have been reported in previous Audit Reports and in spite of assurances provided by the Department the irregularities persist.

6.2.11.1 Sectional measurement

The Department failed to conduct sectional measurements against prescribed norms. Consequently, the authenticity of the quantity of mineral raised and despatched by the lessees could not be verified and concealment thereof cannot be ruled out.

The Department notified (July 1986) that field offices should conduct at least 20 *per cent* sectional measurement of leases each year to verify the actual quantity of raising and despatch of minerals. The DMO should verify 10 *per cent* of sectional measurement conducted for correctness of data.

The Audit Report for the year 2011-12 had reported failures to conduct sectional measurements in terms of notification. Audit evaluated the Department's assurance that this would be ensured in future and found that sectional measurements of one to ten leases were conducted during 2011-12 to 2015-16 which was only 0.08 to 0.86 *per cent* against the prescribed norms of 20 *per cent* of the total leases of minor minerals. This shortfall can be attributed to the acute shortage in the cadre of Mining Inspector who are responsible for conducting sectional measurement. In test checked offices, against the sanctioned strength of 32 posts, only five Mining Inspectors were posted. In the absence of adequate sectional measurements, authenticity of the quantity of minerals raised and despatched by the lessees could not be verified and concealment thereof cannot be ruled out.

The Department accepted (October 2017) the audit observation, but assured that at least 10 *per cent* of the sectional measurement would be conducted annually.

6.2.11.2 Assessment of records of minor minerals

Due to failure to fill up vacancies in critical cadres, the Department failed to perform the annual assessment of lessee records as required under the Rules, with many assessments becoming time barred.

The JMMC Rules, 2004 require the assessing authority to assess the royalty and pass a written assessment order annually for each lease of minor minerals on the basis of scrutiny of lessee's books and accounts. Further, the Rules prohibit the assessing authority from issuing any notice after the expiry of five years from which the date of assessments became due.

The Audit Report for the year 2011-12 had reported inadequate assessment of records of minor minerals. However, Audit scrutiny of demand files in selected units²⁴ revealed that only 42 out of 6,359 records due for assessment for the period 2011-12 to 2015-16 were assessed. Further, assessment of 1,350 out of 1,358 records pertaining to the period 2011-12 became time barred as five years had elapsed from the date when assessments became due, with the result that the Department lost the opportunity to raise any additional demands. The shortfall in assessments is attributable to acute shortages²⁵ in the cadres of DMO/ AMO, Mining Inspector and other staff responsible for assessment/ assisting in assessment through scrutiny of relevant books and accounts of the lessees. Non-assessment of records was a violation of the Rules, which may lead to loss of Government revenue as illustrated in paragraphs 6.2.11.3 (2nd bullet) and 6.2.11.5 of this Report.

The Department accepted (October 2017) the audit observation, confirmed that shortage of manpower resulted in non-assessment of records, but stated that all the data are now being captured in Jharkhand Integrated Mines and Minerals Management System (JIMMS) which would facilitate the assessment. The reply was not convincing as JIMMS would only facilitate in fetching the data; the responsibility to verify and co-relate these data with the primary books of account of lessee and to pass an assessment order lies with DMOs/ AMOs. Failure of the Department to recruit sufficient manpower during the last five years led to non-compliance of the Rules.

6.2.11.3 Short levy of royalty due to application of incorrect rate

Failure of departmental officers to verify the current price notified by Coal India Limited and Indian Bureau of Mines on coal and iron ore respectively, and the JMMC Rules on royalty on stone, resulted in loss of revenue.

The Mines and Minerals (Development and Regulation) Act (MMDR Act), 1957 and the Mineral Concession (MC) Rules, 1960, require holders of mining leases to pay royalty on removal or consumption of coal from the leased areas

²⁴ Bokaro, Chaibasa, Chatra, Deoghar, Dhanbad, Garhwa, Gumla, Hazaribag, Koderma, Lohardaga, Pakur, Ramgarh and Sahibganj.

²⁵ In these offices, against the sanctioned strength of 185 officers and staff only 75 were posted.

at the rate of 14 *per cent* on the basic pithead price of run of mines²⁶ (ROM) coal notified by the Coal India Ltd. (CIL) and at the rate of 15 *per cent* on grade wise monthly average price of iron ore, published by the Indian Bureau of Mines (IBM). Similarly, the Jharkhand Minor Mineral Concession (JMMC) Rules, 2004 provide that royalty on stone should be payable at the rate of ₹ 105 per m³.

The Audit Report for the year 2011-12 to 2015-16 had reported persistent loss of Government revenue amounting to ₹ 553.53 crore due to application of incorrect rate of royalty by 172 lessees. Further, audit test check of selected units²⁷ revealed that application of incorrect rate of royalty persisted due to shortage of Mining Inspectors and other staff and weak internal controls. This resulted in short levy of royalty of ₹ 6.65 crore detailed in the paragraph.

- In three mining offices²⁸, Audit found that in four out of 19 leases of coal test checked, the lessees had despatched 2.84 lakh MT of coal during the period 2015-16. The mining officers levied royalty of ₹ 5.02 crore instead of ₹ 8.70 crore to be levied on basic pithead price of run of mine coal notified by CIL. This resulted in short levy of royalty of ₹ 3.68 crore as mentioned in **Table-6.7**.

Table-6.7

(₹ in lakh)

Sl. No.	Names of the office No. of leases	Mineral	Nature of observations	Quantity (MT)	Royalty leviable levied	Short levy
1	<u>Chatra</u> 1	Coal	Royalty was not levied on basic pithead price of ROM as notified by the CIL though, this information was available on the CIL website.	52,973.31	<u>97.15</u> 86.32	10.83
2	<u>Hazaribag</u> 2	Coal	Royalty was not levied on basic pithead price as notified by the CIL for the colliery nearest to the captive mine.	1,57,163.91	<u>349.95</u> 258.90	91.05
3	<u>Ramgarh</u> 1 (captive mine)	Coal (clean coal)		73,988.90	<u>422.62</u> 157.00	265.62
Total	4			2,84,126.12	<u>869.72</u> 502.22	367.50

- In District Mining Office, Sahibganj, three out of 26 lessees of stone test checked had despatched 6.79 lakh MT of stone during November 2015 to December 2016 on which royalty of ₹ 2.46 crore was paid at the rate of ₹ 36.20 per MT. The DMO accepted the lower royalty instead of the royalty of ₹ 5.05 crore actually leviable at the prescribed rate of ₹ 105 per m³ or ₹ 74.36 per MT²⁹. This resulted in short levy of royalty amounting to ₹ 2.59 crore.

- In District Mining Office, Chaibasa, one out of ten lessees test checked had despatched 1.33 lakh MT of iron ore in March 2016. The DMO, however, levied royalty of ₹ 192.33 lakh instead of ₹ 231 lakh leviable on grade wise monthly average price of iron ore published by IBM. This resulted in short levy of royalty of ₹ 38.67 lakh as mentioned in **Table-6.8**.

²⁶ Run of mines (ROM) ores refers to ore that comes directly from a mine in its natural form i.e., prior to treatment/ processing of any sort.

²⁷ Bokaro, Chaibasa, Chatra, Deoghar, Dhanbad, Garhwa, Gumla, Hazaribag, Koderma, Lohardaga, Pakur, Ramgarh and Sahibganj.

²⁸ Chatra, Hazaribag and Ramgarh.

²⁹ Standard conversion - 1 m³ = 1.412 MT.

Table-6.8

Month	Category grade	Quantity despatched (MT)	Rate of royalty leviable levied (Amount in ₹)	Royalty leviable levied (₹ in lakh)	Short levy (₹ in lakh)
March 2016	Lump 55-58%	2,354.61	<u>198.90</u> 172.80	<u>4.68</u> 4.07	0.61
	Lump 58-60%	83,045.72	<u>198.90</u> 181.20	<u>165.18</u> 150.48	14.70
	Fine 55-58%	48,063.87	<u>127.20</u> 78.60	<u>61.14</u> 37.78	23.36
Total		1,33,464.20		<u>231.00</u> 192.33	38.67

The Department accepted (October 2017) the audit observation.

Recommendation:

The Department may initiate measures to ensure that departmental officers verify the current prices notified by Coal India Limited and Indian Bureau of Mines on coal and iron ore respectively, and the JMMC Rules on royalty on stone.

6.2.11.4 Short levy of royalty due to downgrading of mineral

Failure of DMOs/ AMOs to cross verify monthly returns with the relevant laboratory analysis reports resulted in short levy of royalty of ₹ 5.78 crore.

The MMDR Act, 1957 stipulates that rate of royalty on bauxite for use in alumina and aluminium metal extraction is based on the aluminium metal content at the price of aluminium metal on the London Metal Exchange (LME). As per the Jharkhand Mineral Transit Challan Regulations, 2005, the DMO/ AMO is required to issue challans for removal of minerals after obtaining laboratory analysis report from the lessee and getting it verified by the Mining Inspector (MI).

Audit noticed from the scrutiny of demand files of 15 leases of M/s Hindalco in District Mining Offices, Gumla and Lohardaga that, the lessee had despatched 76.66 lakh MT of bauxite and paid royalty of ₹ 95.70 crore during the period 2011-12 to 2015-16. Audit compared the percentage of alumina content mentioned in the laboratory analysis report of the bauxite sample collected from the mines of the lessee for the same period, with the percentage of alumina content shown by the lessee in the monthly returns. It was found that the lessee had depicted a lower percentage of alumina content in the monthly returns. It was noticed that the post of MI was vacant in these districts during 2011-12 to 2015-16. Audit observed, however, that despite the inability to get the laboratory analysis report verified by MIs, due to shortage in the cadre, it was still possible for the DMO/ AMO to have obtained and cross verified the laboratory analysis report with the figures depicted by the lessee in the monthly returns, and detect the discrepancy leading to loss of revenue as Audit had done. Further, inspection by departmental higher authorities was also not conducted in these mining offices during 2011-12 to 2015-16, to monitor their functioning. Thus, the failure of the DMO/ AMO to perform cross-verification of records, and non-inspection of mining offices by the

Department, as required, resulted in short levy of royalty amounting to ₹ 5.78 crore as shown in **Table-6.9**.

Table-6.9

(₹ in lakh)					
Sl. No.	Names of office No. of leases	Period	Quantity (in lakh MT)	Royalty leviable levied	Short levy
1	Gumla 8	2011-12 to 2015-16	57.25	<u>7,641.61</u> 7,206.95	434.66
2	Lohardaga 7	2011-12 to 2015-16	19.41	<u>2,506.07</u> 2,362.68	143.39
Total	15		76.66	<u>10,147.68</u> 9,569.63	578.05

The Department accepted (October 2017) the audit observation.

Recommendation:

The Department should initiate measures to fill up the vacancies in the cadre of Mining Inspector, ensure periodical inspection of mining offices, and direct DMOs/ AMOs to cross verify relevant mining returns with laboratory analysis reports.

6.2.11.5 Short levy of royalty due to concealment of despatch

Irregular maintenance of RD register led to non-detection of concealment of despatch of 1.34 lakh m³ of stone by lessees resulting in short levy of royalty of ₹ 86.81 lakh and interest of ₹ 75.79 lakh thereon.

The Department instructed (June 1970) DMOs/ AMOs to check monthly returns periodically and compare them with the entries in the Raising and Despatch (RD) register of minerals and railway figures. Further, in terms of the JMMC Rules, 24 per cent per annum simple interest is chargeable on delayed payment of mining dues.

Audit noticed in DMOs, Pakur and Sahibganj that seven out of 92 lessees test checked had filed returns for despatch of 1.07 lakh m³ of stone between June 2011 and November 2016. However, as per other records available with the DMOs the lessees had actually despatched 2.41 lakh m³ stone. Thus, failure of the DMOs to compare monthly returns periodically with the entries in RD registers led to concealment of despatch of 1.34 lakh m³ stone. The failure to cross-verify relevant records could be attributed to shortage of staff and MIS who were responsible for scrutiny of relevant returns and other records of the lessees. In these offices, against the sanctioned strength of 37 officers and staff only 15 were posted. Neither internal audit nor inspection by higher departmental authorities was conducted in these mining offices during 2011-12 to 2015-16. As such, the Department remained unaware of these lapses, which resulted in short levy of royalty of ₹ 86.81 lakh, beside, interest of ₹ 75.89 lakh was also leviable as shown in **Table-6.10**.

Table-6.10

(₹ in lakh)

Sl. No.	Names of office No. of lessees	Period	Nature of observations	Despatch as per monthly returns Other records (in thousand m ³)	Quantity concealed	Short levy	Interest (upto March 2016)
1	<u>Pakur</u> 5	May 2013 to August 2015	Opening balance in monthly returns was 7,200.97 m ³ while closing balance of previous month was 36,254.01 m ³ .	<u>7.20</u> 36.25	29.05	18.54	15.28
2	<u>Sahibganj</u> 1	June 2011 to February 2012	The lessee had declared despatch of 99,714 m ³ in the monthly returns, whereas, Divisional Railway Manager, Sonepur had sought royalty clearance certificate for 1,99,928 m ³ of stone supplied by the lessee as disclosed in Forms 'O' and 'P' ³⁰ .	<u>99.71</u> 199.92	100.21	63.13	60.61
3	<u>Sahibganj</u> 1	November 2016	The lessee had declared nil despatch in the monthly return while for the same month lessee had generated online transporting challans for despatch of 4,894 m ³ stone.	<u>0.00</u> 4.89	4.89	5.14	0.00
Total	7			<u>106.91</u> 241.06	134.15	86.81	75.89

The Department accepted (October 2017) the audit observation.

Recommendation:

The Department should initiate measures to fill up the vacancies in the cadre of Mining Inspector and other supporting staff to ensure proper maintenance of RD register, and direct DMOs/ AMOs to compare monthly returns periodically with the entries in RD register.

6.2.11.6 Non/ short levy of dead rent/ royalty

Failure to maintain relevant registers, shortage of officers and staff, and failure to conduct regular inspection, resulted in non/ short levy of dead rent/ royalty.

As per departmental instructions (June 1970), DMOs/ AMOs are required to check monthly returns periodically and compare them with the Demand, Collection and Balance (DCB) register. The MMDR Act, 1957 and the JMMC Rules, 2004, provide that lessees shall either pay royalty for the mineral removed at the rate specified in the second schedule or pay dead rent³¹ every

³⁰ Form 'O'- Affidavit submitted by works contractor for supply and/ or consumption of minerals under works contract and Form 'P' - Details of source of minerals procured.

³¹ Rate of dead rent for major mineral- ₹ 1,000 per hectare per annum upto 31.08.2014 and thereafter, ₹ 2,000 per hectare.

year at the rate specified in the third schedule³² for the area included in the instrument of lease, whichever is higher.

- The Audit Reports for the years 2011-12, 2014-15 and 2015-16 had reported persistent loss of Government revenue amounting to ₹ 2.99 crore due to non/ short levy of dead rent in nine districts. To evaluate the corrective measures adopted by the Department to ensure levy of dead rent, Audit test checked the records of six mining offices³³ and noticed from scrutiny of monthly returns, demand files and DCB registers that out of 111 leases test checked, 37 leases covering an area of 2,335.45 hectares, the lessees had not extracted minerals during 2013-14 to 2015-16, and were liable to pay dead rent of ₹ 88.93 lakh. However, a partial demand of ₹ 20.33 lakh only was raised in respect of four leases. Though, the responsibility for maintenance of RD (Raising and Despatch) and DCB (Demand, Collection and Balance) registers lies with the district mining officers concerned, there was acute shortage of staff responsible for updating the registers, since against the sanctioned strength of 60 posts only 21 officers and staff were posted in these districts. Consequently, the DMOs/ AMOs also did not periodically verify the DCB registers, as required, to ascertain the demand. The Department also failed to conduct periodic inspection of these mining offices during 2011-12 to 2015-16 to evaluate their functioning. Consequently, the Department remained unaware of the reasons for persistent lapses, which resulted in non/ short levy of dead rent of ₹ 68.60 lakh.

Similar irregularities were noticed in three mining offices³⁴, where minerals were not extracted in 23 leases covering an area of 1,442.49 hectares during the period 2013-14 to 2014-15. Though, dead rent of ₹ 52.65 lakh was leviable the DMOs/ AMOs only levied ₹ 0.26 lakh in one lease alone, resulting in non/ short levy of dead rent of ₹ 52.39 lakh.

- Audit observed from scrutiny of monthly returns, demand files and DCB registers in four mining offices³⁵ that royalty of ₹ 1.69 lakh was levied instead of ₹ 24.57 lakh on one lessee of coal, three lessees of stone and four lessees of lime stone out of 10, 76 and 10 lessees test checked respectively. Though, the responsibility for maintenance of RD (Raising and Despatch) and DCB (Demand, Collection and Balance) registers lies with district mining officers concerned, there was no system in place for periodic submission of these registers as control/ check mechanism. Consequently, the DMOs/ AMOs did not exercise periodical check of monthly return and compare with the DCB registers before raising of demand. It was further observed that there was irregular maintenance of registers due to shortage of officers and staff responsible for updating the registers. In these offices, against the sanctioned strength of 55, only 25 officers and staff were posted. Inspections conducted by higher departmental authorities in two offices (once in each office) also could not detect the lapses. As such, the Department remained unaware of the lapses, which resulted in short levy of royalty of ₹ 22.88 lakh as mentioned in **Table-6.11**.

³² Schedule of rates of dead rent.

³³ Deoghar, Garhwa, Gumla, Hazaribag, Lohardaga and Sahibganj.

³⁴ Jamshedpur, Jamtara and Latehar.

³⁵ Bokaro, Chatra, Pakur and Ramgarh.

Table-6.11

(Amount in ₹)

Sl. No.	Districts No. of lessees	Minerals	Period/ month	Nature of observations	Royalty leviable levied	Short levy
1	<u>Bokaro</u> 1	Coal	October 2015	In the monthly return the actual despatch of coal was 4,026.32 MT but royalty was paid on 584.43 MT of coal only.	<u>6,31,327</u> 91,639	5,39,688
2	<u>Chatra</u> 1	Stone	June 2014	While calculating demand for quarter ending June 2014 in DCB register, outstanding dues of ₹ 1.74 lakh of the previous quarter was not accounted for. Consequently demand of ₹ 3,726 only for current quarter was computed instead of ₹ 1,77,894.	<u>1,77,894</u> 3,726	1,74,168
3	<u>Pakur</u> 2	Stone	2013-14 to 2014-15	As per monthly returns, the lessee had despatched 4,15,800 cft stone but in the DCB register royalty was computed on despatch of only 41,440 cft.	<u>7,41,371</u> 73,745	6,67,626
4	<u>Ramgarh</u> 4	Lime Stone	2014-15 to 2015-16	Demand was not raised.	<u>9,06,023</u> 0.00	9,06,023
Total	8				<u>24,56,615</u> <u>1,69,110</u>	22,87,505

The Department accepted (October 2017) the audit observation.

Recommendation:

The Department is required to initiate comprehensive measure to ensure that royalty and dead rent is assessed and levied correctly and fully.

6.2.11.7 Non/ delayed submission of monthly returns

Failure to maintain mining registers, shortage of staff, and failure of the Department to inspect mining offices, resulted in non-levy of penalty on lessees for delays in submission of monthly returns.

The JMMC Rules, 2004 prescribes penalty for each day of delay in submitting monthly returns up to 15th of the following month. As per departmental instruction of June 1970, DMO/ AMO is required to check monthly returns periodically.

The Audit Report for the years 2011-12, 2014-15 and 2015-16 had reported persistent loss of Government revenue due to non/ delayed submission of monthly returns by lessees and permit holders. To evaluate the corrective measures adopted by the Department to ensure timely submission of returns, Audit test checked the records of four mining offices³⁶ and found that 28 out of 170 lessees test checked had not submitted monthly returns and eight lessees had submitted returns with a delay ranging from 12 days to more than 125 days during the period between January 2012 and November 2016. Since, the DMOs/ AMOs did not exercise periodical check of monthly returns and compare them with the RD and DCB registers, they remained unaware of non-

³⁶ Deoghar, Garhwa, Koderma and Pakur.

submission of monthly returns. In these offices, against the sanctioned strength of 53, only 24 officers and staff were posted. Shortage of manpower against sanctioned strength accounted for improper maintenance of records to monitor timely submission of monthly returns. The Department also failed to inspect these offices during 2011-12 to 2015-16 to evaluate their functioning and adequacy of internal controls. This resulted in non-levy of penalty of ₹ 17.53 lakh for non/ delayed submission of monthly returns.

The Department accepted (October 2017) the audit observation.

Recommendation:

The Department may initiate measures to fill up the vacancies to ensure proper maintenance of RD register, and direct DMOs/ AMOs to compare monthly returns periodically with the entries in RD register.

6.2.11.8 Termination of lease

Failure to terminate leases where there had been no mining activity for more than one year.

In terms of the standard lease agreement entered into by the Department, the lease may be terminated if a lessee has not conducted mining work for a continuous period of one year, without prior permission of competent authority or commissioner.

The Audit Report for the year 2011-12 reported non-termination of 20 leases in two districts. To evaluate the corrective measures adopted by the Department to ensure termination of the non-operational lease, Audit test checked records in the District Mining Offices, Pakur and Sahibganj and found that though 27 out of 92 lessees test checked discontinued extraction/ despatch of minerals for periods ranging from three to six years (between 2011-12 and 2015-16), without permission, the DMOs/AMOs failed to terminate the leases. One reason for this failure was shortage of staff (15 men in position against the sanctioned strength of 37) in these offices, and failure to verify the DCB registers.

The reply of the Department is awaited (March 2018).

Recommendation:

The Department may review and identify leases under which no operation have occurred for more than a year, and initiate action to cancel and reallocate these leases to other applicants.

6.2.12 Evasion of royalty due to lack of inter-departmental cross-verification

The Audit Report for the years 2011-12 and 2015-16 had reported persistent loss of Government revenue amounting to ₹ 563.81 crore by 57 lessees due to concealment of despatch and under valuation of basic sale value of washed coal. To evaluate the corrective measures adopted by the Department, Audit obtained data/ information from Central and State Government departments and compared them with the records of mining offices. Audit noticed persistent irregularities of non/ short levy of royalty/ penalty of ₹ 133.42 crore in 21 cases, which are discussed in the subsequent paragraphs.

Recommendation:

The Department may ensure that departmental units invariably cross verify mining records available with them, with information of other Central and State Government departments.

6.2.12.1 Short levy of royalty due to under valuation of basic sale value of washed coal

Failure of DMO to cross verify monthly returns filed by the lessee with data/ information of the Commercial Taxes Department resulted in undervaluation of basic sale value of by-products of washed coal and short levy of royalty of ₹ 56.85 crore and interest thereon of ₹ 13.64 crore.

The MC Rules, 1960 stipulates that when processing of ROM ores is carried out within the leased area, then the royalty shall be charged on the processed mineral removed from the leased area. Further, simple interest at the rate of 24 *per cent* per annum is leviable on mining dues from the sixtieth day after due date.

The Audit Report for the year 2015-16 had reported short levy of royalty in respect of by-products of washed coal amounting to ₹ 446.21 crore. To evaluate the corrective measures adopted by the Department to ensure detection of undervaluation of actual price of coal, Audit scrutinised (March 2017) records of the District Mining Office, Ramgarh and found that a lessee had paid royalty of ₹ 36.38 crore on despatch of 23.68 lakh MT of by-products of washed coal (middling and tailing) during 2015-16. From the information contained in JVAT 409³⁷ submitted by the lessee to the Commercial Taxes Department, Audit derived the basic sales value of these by-products amounting to ₹ 665.97 crore and computed the royalty leviable as ₹ 93.23 crore. Thus, there was short levy of royalty amounting to ₹ 56.85 crore and interest thereon of ₹ 13.64 crore.

Following audit requisition (between July and November 2016) from the District Mining Office (DMO), Dhanbad, of details of washery and processed coal which are not available on record, the DMO collected the information from the lessee and raised additional demand (November 2016) amounting to ₹ 131.73 crore on processed mineral at the instance of Audit, the amount was not realised till date (March 2018).

Impact of Audit

DMO, Ramgarh intimated (March 2018) recovery of ₹ 448.41 crore against audit observation based on undervaluation of sale value noticed through cross-verification of returns of a lessee of coal with the data of Commercial Taxes Department as reported in paragraph 6.4 of the Audit Report 2015-16.

³⁷ JVAT-409 is mandatory annual audited account, duly audited by a chartered accountant or a tax practitioner to be furnished by a registered dealer in the Commercial Taxes Department. It includes all financial details of the business like sales and purchase.

Recommendation:

The Department should ensure that district mining officers invariably cross verify the data/ information of other departments/ organisations with the data/ information available in the Mining Department to detect such cases of leakage of revenue.

6.2.12.2 Non-levy of penalty on unregistered dealers/ exporters of mica

The Department failed to detect mining and export of 26,586.67 MT of mica valued at ₹ 56.15 crore without valid lease.

The MMDR Act, 1957, states that the price of mineral may be recovered from person who extracts any mineral without a valid lease or dealer license, and has disposed of the mineral. Further, the Bihar Mica Act, 1947 and the Jharkhand Mineral Dealer's Rules, 2007 prohibits possession and trading of mica without miner's license, dealer's license, proprietor's certificate or digger's permit.

Audit cross verified the records of District Mining Office, Koderma with the records of the Department of Central Excise and Customs, New Delhi relating to export of mica from Jharkhand. It was noticed that nine exporters had exported 26,586.67 MT of mica amounting to ₹ 56.15 crore without valid mining lease or dealer licence. This resulted in non-levy of penalty, equivalent to the price of minerals, amounting to ₹ 56.15 crore.

The Department quoted the reply of the mica exporters that the entire exported mica was scrap mica i.e., "*dhibra*"³⁸ which was an exempted item under the provisions of Bihar Mica Act, 1947 and stated (October 2017) that applicability of the provisions of the Act would be examined before arriving at any conclusion for levying penalty. The reply was not in order as the Department has not provided evidence to substantiate the fact that the exported mica had been processed from scrap mica.

Recommendation:

The Department may ensure that minerals are not extracted, despatched/ sold/ transported out of the State without valid license.

6.2.12.3 Concealment of despatch

Cross-verification of information obtained from IBM with mining returns indicated concealment of despatch of 2.77 lakh MT of minerals on which royalty of ₹ 3.96 crore and interest of ₹ 2.81 crore thereon was not levied.

The MMDR Act, 1957, prescribes payment of royalty on removal or consumption of mineral from the leased area.

The Audit Report for the year 2011-12 had reported due concealment of despatch amounting to ₹ 117.60 crore by 56 lessees. To evaluate corrective

³⁸ Scrap mica locally known as "*dhibra*" from which the largest rectangular area of sound mica that can be obtained is less than six square inches.

measures adopted by the Department, Audit compared the data of production and despatch of iron ore and bauxite received from the Indian Bureau of Mines (IBM) with the monthly returns in the mining offices concerned. It was noticed (March 2017) in District Mining Offices, Chaibasa and Gumla that seven lessees of iron ore and four lessees of bauxite had shown despatch of 58.81 lakh MT of minerals in their monthly returns for the period from 2011-12 to 2014-15, whereas, as per IBM records they had despatched 61.58 lakh MT of minerals. Thus, the department failed to levy royalty amounting to ₹ 3.96 crore on concealed despatch of 2.77 lakh MT of minerals, beside, interest of ₹ 2.81 crore as shown in the **Table-6.12**.

Table-6.12

Sl. No.	Names of the office No. of lessees	Minerals	Period	Despatch as per records of IBM Despatch shown in mining returns (in thousand MT)	Differential quantity (in thousand MT)	Royalty leviable (₹ in lakh)	Interest (@ 24% per annum) (₹ in lakh)
1	Chaibasa 7	Iron ore	2011-12 to 2014-15	<u>6,104.58</u> 5,828.20	276.38	396.23	281.35
2	Gumla 4	Bauxite	2011-12 to 2012-13	<u>52.99</u> 52.66	0.33	0.15	0.14
Total	11			<u>6,157.57</u> 5,880.86	276.71	396.38	281.49

The Department accepted (October 2017) the audit observation.

Recommendation:

The Department may evolve a mechanism to ensure that DMOs cross verify returns submitted by dealers/ lessees to different departments of the State and Central Governments to ensure there is no leakage of revenue.

6.2.13 Unauthorised extraction

Details of evasion of revenue due to unauthorised extraction of minerals are discussed in the succeeding paragraphs.

6.2.13.1 Non-levy of penalty for illegal operation of brick kiln

The State Government failed to prescribe the price of brick earth, and mining offices failed to levy penalty on operation of brick kilns without permit.

The JMMC Rules provides for every brick kiln owner to obtain a permit each year to extract brick earth for manufacturing brick on payment of consolidated amount³⁹ of royalty per kiln. Further, if a brick kiln owner fails to pay consolidated amount of royalty in full, he shall not be permitted to operate the brick kiln. If a person extracts minor mineral without valid lease/ permit, then he shall be a party to illegal extraction of minor minerals and liable to pay the price of minerals and taxes as the case may be.

³⁹ An amount leviable for manufacture of a fixed numbers of bricks, as notified by the State Government in the second schedule of the JMMC Rules.

Audit noticed that seven mining offices⁴⁰ had detected during field inspections in 2013-14 to 2015-16 that 150 out of 320 brick kilns were running without permit and issued (between February 2014 and August 2016) demand notices for payment of consolidated amount of royalty amounting to ₹ 70.38 lakh. Audit observed however, that none of the operators had paid the consolidated amount. Further, since the price of brick earth was neither notified by the Department nor prescribed in the schedule of rates of the State's Public Works Department, the penalty of ₹ 4.65 crore calculated by Audit was *ad hoc* and on the basis of penalty⁴¹ levied by the DMO of other districts in some cases.

Similar irregularity was also noticed in the records of District Mining Office, Latehar, where Audit found that 16 out of 28 brick kilns were running without permit during 2014-15 to 2015-16, but the penalty of ₹ 46.55 lakh was not levied.

The Department accepted (October 2017) the audit observation.

Recommendation:

- 1. The State Government should prescribe the price of brick earth so that, the penalty for unauthorised extraction can be levied.**
- 2. The Department may ensure that penalty is levied and collected on unauthorised extraction of brick earth for manufacturing brick.**

6.2.13.2 Non-levy of penalty against works contractor

Without enquiring about the source of procurement of minerals, the Mining Department accepted an amount of ₹ 777.69 crore, transferred by the Works divisions. This amount represented twice the royalty deducted from the bills of contractors who had not submitted Forms 'O' and 'P'.

Rule 55 of the JMMC Rules prescribes mandatory submission of Forms 'O'⁴² and 'P'⁴³ by work contractors along with bill of minerals consumed in the works contract. In case of non-submission, the Works divisions shall not accept the bill. The Works divisions shall send the submitted Forms 'O' and 'P' to the mining office concerned for verification of authenticity of source of minerals and withhold an amount equal to double the amount of royalty till the receipt of verification report. Further, Rule 54(8) states that the price of mineral may be recovered from persons who extracts/ sells any minor mineral without valid lease or dealer license.

Audit noticed in selected mining offices⁴⁴ that Works divisions, in spite of mandatory provisions, accepted the bills of contractors without Forms 'O' and 'P'. Further, the Works divisions applied the provisions for withholding the

⁴⁰ Bokaro, Chatra, Dhanbad, Deoghar, Garhwa, Gumla and Lohardaga.

⁴¹ ₹ 500 per thousands of brick (9.30 crore bricks x ₹ 500/ 1,000 bricks = ₹ 4.65 crore).

⁴² Form 'O' is an affidavit submitted by contractors that they have procured the minerals from a valid lessee, permit holder and dealer licensee.

⁴³ Form 'P' contains the name of lessee, permit holder or licensee; name and quantity of minerals; details of challans used for transportation of minerals etc.

⁴⁴ Bokaro, Chaibasa, Chatra, Deoghar, Dhanbad, Garhwa, Gumla, Hazaribag, Koderma, Lohardaga, Pakur, Ramgarh and Sahibganj.

amount equal to double the amount of royalty prescribed in case of submission of these Forms, and transferred the withheld amount to the Mining Department. The Department as well as DMOs/ AMOs concerned also accepted double the amount of royalty without enquiring about the source of procurement of minerals consumed in works contracts. Further, scrutiny of the report furnished by the office of Director of Mines, revealed that during 2011-12 to 2015-16, the Department had received ₹ 777.69 crore from Works divisions as double the amount of royalty as depicted in **Table-6.13**.

Table-6.13

Names of minor minerals	Royalty collected (₹ in lakh)					
	2011-12	2012-13	2013-14	2014-15	2015-16	Total
Stone	6,795.10	8,224.39	8,947.72	8,139.03	11,343.30	43,449.54
Moorum	495.44	559.15	35.03	65.25	54.23	1,209.10
Brick earth	391.86	397.80	423.55	362.90	408.77	1,984.88
Sand	350.15	175.87	418.43	71.33	3,208.29	4,224.07
Total	8,032.55	9,357.21	9,824.73	8,638.51	15,014.59	50,867.59
Double the amount of royalty received from the Works departments for consumption of minerals from undeclared source.	9,246.50	11,228.60	14,216.50	17,551.80	25,525.60	77,769.00

Procurement of minerals from undeclared source is indicative of procurement through illegal mining and attracts penalty under the provisions of Rule 54(8) of the Rules. Thus, both the Departments failed to enforce the Rules.

The Mining Department replied (October 2017) that in cases where Forms 'O' and 'P' is not submitted, Deputy Commissioner concerned has to impose appropriate penalty as per the provisions of Rule 55 (4). Double the cost of minerals as per Rule 54 (5) can only be imposed after enquiry if the contractors are found to be involved in illegal mining or transportation. The reply is not in order as the Department accepted double the amount of royalty without verifying the authenticity of source of mineral.

Recommendation:

The Mining Department may coordinate with the Works Department to ensure submission of Forms 'O' and 'P' so that minerals are not procured by works contractors through illegal sources.

6.2.14 Non-levy of penalty for non-compliance of environment norms

DMOs failed to detect extraction of 29.97 lakh MT of coal valued at ₹ 212.57 crore in excess of quantity of environment clearance (EC), and extraction of 92,112 MT of sand valued at ₹ 74.82 lakh without clearance of the Pollution Control Board.

Under the provisions of the Air (Prevention and Control of Pollution) Act, 1981 read with the Water (Prevention and Control of Pollution) Act, 1974 every industry is required to obtain No Objection Certificate (NOC) and Consent to Operate (CTO) from the State Pollution Control Board. As per the Jharkhand State Pollution Control Board's (JSPCB) directives (September 2012), AMOs/ DMOs are responsible for restricting the extraction of minerals

by the lessees within the limits prescribed in the Environmental Clearance (EC)/ CTO. The MMDR Act, 1957, and the JMMC Rules, 2004 provide for recovery of the price of mineral from any person extracting and disposing of any mineral without lawful authority. It has been judicially⁴⁵ held that violating any aspect of environment and forest law would amount to illegal mining and attract penalty under the MMDR Act.

6.2.14.1 The Audit Report for the year 2011-12 had reported production of coal by a lessee over the limit prescribed in the Environmental Clearance (EC) issued by the Ministry of Environment and Forests (MoEF). To evaluate the corrective measures by the Department in this regard, Audit compared actual production in selected mining offices with the production limit prescribed in EC. Audit noticed in District Mining Office, Chatra that a colliery had extracted 359.97 lakh MT of coal during the periods 2011-12, 2013-14 and 2014-15 against the capacity of 330 lakh MT granted in EC. The AMO/ DMO concerned did not monitor the extraction of minerals and failed to restrict extraction within the capacity granted in EC. It was further observed that the Department had not evolved a system to monitor extraction of minerals in accordance with the limits granted in EC. This resulted in unauthorised extraction of 29.97 lakh MT of coal, and non-levy of penalty of ₹ 212.57 crore, equal to value of coal, leviable on such unauthorised extraction.

The Department accepted (October 2017) the audit observation, but did not address the issue of instituting measures to guard against recurrence of similar irregularities in future.

6.2.14.2 The Audit Report for the year 2011-12 had reported extraction of minerals in four mining offices by six lessees and 23 licensees without NOC from JSPCB. To evaluate the corrective measures by the Department in this regard, Audit test checked the monthly returns and other relevant records in District Mining Office, Bokaro and observed that 16 out of 38 settlement holders of sand ghats had extracted and despatched 92,112 MT of sand between September 2015 and March 2016 without obtaining consent to operate (CTO) from the JSPCB. As such, extraction and despatch of sand without obtaining CTO was unlawful and penalty equivalent to price of mineral amounting to ₹ 74.82 lakh was to be recovered. It was further observed that the Department had not evolved a system to monitor extraction of minerals in compliance with the stipulations of JSPCB. This resulted in unauthorised extraction and despatch of 92,112 MT of sand and non-levy of penalty of ₹ 74.82 lakh.

The Department accepted (October 2017) the audit observation but did not address the issue of instituting measures to guard against recurrence of similar irregularities in future.

Recommendation:


The Department should ensure that no mineral is extracted in excess of limits prescribed by EC and no mineral is extracted without NOC and CTO from JSPCB.

⁴⁵ Prafulla Samantra and Anr. Vs. Union of India and Ors. WP (Civil) No. 114 of 2014.

6.2.15 Conclusions

The Performance Audit on “Mining Receipts in Jharkhand State” revealed a number of deficiencies in assessment and collection of mining receipts with persistent non-compliance to rules and regulations leading to leakage of revenue due to shortage of manpower and inadequate internal control mechanisms (in terms of inadequate internal audit and inadequate inspections by the departmental officers). The State Government is yet to formulate a State Mineral Policy. No system existed for cross-verification of the information available with other departments of the Central/ State Governments and with the Indian Bureau of Mines to check evasion of royalty. There was substantial leakage of revenue due to non/ short levy of royalty, application of incorrect rates, non/ short levy of dead rent etc. Shortage of human resources in the Department coupled with absence of monitoring and strategic planning affected the collection of mining receipts by the Mines and Geology Department. Audit issues raised in the past continue to recur, indicating poor follow up and control mechanisms.

Ranchi
The 26 June 2018


(C. Nedunchezian)
Accountant General (Audit)
Jharkhand

Countersigned

New Delhi
The 2 July 2018


(Rajiv Mehrishi)
Comptroller and Auditor General of India

