

CHAPTER-VII

NON-TAX RECEIPTS

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7.1 Tax administration

At the Government level, the Principal Secretary, Mines and Petroleum, Jaipur and at the Department level, the Director, Mines and Geology (DMG), Udaipur are responsible for administration and implementation of the related Acts and Rules in the Department. The DMG is assisted by seven Additional Directors, Mines (ADM) and six Additional Directors, Geology (ADG) in administrative matters and by a Financial Advisor in financial matters. The ADMs exercise control through nine circles headed by Superintending Mining Engineer (SME).

There are 49 Mining Engineers (ME)/Assistant Mining Engineers (AME), who are responsible for assessment and collection of revenue and for prevention of illegal excavation and despatch of minerals from areas under their control. The Department has a separate vigilance wing headed by ADM (Vigilance) for prevention of illegal excavation and despatch of minerals.

7.2 Internal audit

Internal audit is an important mechanism to ensure that the Departmental operations are carried out in accordance with the applicable laws, regulations and approved procedures in an economical, efficient and effective manner and that subordinate offices are maintaining various records and registers properly and accurately besides taking adequate safeguards against non-collection, short collection or evasion of revenue.

Scrutiny of records of the DMG, Udaipur disclosed that audit of almost all the mining units was pending since 2004-05. In absence of internal audit, the Departmental authorities were not aware of the areas of the weakness in the system which resulted in evasion or leakage of revenue. The matter is being pointed out continuously in the Comptroller and Auditor General's Audit Reports since 2011-12. Not a single unit out of 129 units was audited during the year 2016-17.

7.3 Results of audit

Test check of the records of 53 units out of 127 units of the Department of Mines and Geology and Directorate of Petroleum, conducted during the year 2016-17, revealed non-recovery/short recovery of revenue amounting to ₹ 285.56 crore in 2,112 cases, which broadly fall under the following categories:

(₹ in crore)

Sl. no.	Category	Number of cases	Amount	
1	Paragraph on 'Levy and collection of royalty on minerals removed through permits'	1	49.68	
2	Non-recovery/short recovery of cost of unauthorised excavated minerals	419	126.68	
3	Non-recovery/short recovery of dead rent and royalty	440	61.10	
4	Non-levy of penalty/interest	251	3.87	
5	Non-forfeiture of security deposit	37	38.98	
6	Non-recovery/short recovery of Environment Management Fund	185	1.71	
7	Other irregularities	Revenue	753	3.22
		Expenditure	26	0.32
Total		2,112	285.56	

During the year 2016-17, the Department accepted short realisation of revenue of ₹ 28.60 crore in 2,653 cases, of which 533 cases involving ₹ 10.98 crore were pointed out in audit during the year 2016-17 and rest in earlier years. The Department recovered ₹ 9.60 crore in 1,806 cases, out of which 41 cases involving ₹ 0.43 crore were of current year and the rest were of earlier years.

On being pointed out by audit, the Department accepted and recovered the entire amount of ₹ 52.03 lakh in seven cases. These cases have not been discussed in the Report.

A paragraph on 'Levy and collection of royalty on minerals removed through permits' involving ₹ 49.68 crore and a few illustrative cases involving ₹ 1.88 crore are discussed in the succeeding paragraphs.

7.4 Levy and collection of royalty on minerals removed through permits

7.4.1 Introduction

The State Government, in exercise of the powers conferred by Section 15 of the Mines and Minerals (Development and Regulation) Act 1957, made the Rajasthan Minor Mineral Concession (RMMC) Rules, 1986 for regulating the grant of quarry licences, mining leases and other mineral concessions in respect of minor minerals. Minerals can be excavated and removed in addition to the mining leases through Short Term Permits (STPs) issued by the Department of Mines and Geology.

Short Term Permits: STPs are granted for excavation and removal of a specified quantity up to 500 Metric Ton (MT) within a specified period (up to four months) and for a specified area. For mineral like ordinary earth, masonry stone, sand, *murram*, gravel, ballast, *etc.* STPs can be granted under Rule 63 of the RMMC Rules, 1986.

STPs for more than 500 MT mineral and for period longer than four months can be granted to the work contractors working for State Government/Central Government /Autonomous Bodies /Government Undertakings on recommendations of concerned Work Department¹ for execution of works allotted by Work Department.

Brick Earth Permits (BEPs): The State Government on 10 June 1994 notified the procedure for grant of BEPs under Rule 65A of RMMC Rules, 1986. The excavation of brick earth and ordinary earth up to a depth of one and half metres from the adjoining ground level shall also be allowed under Rule 63-B but disposal of excavated mineral can only be done after obtaining a permission of ME/AME concerned.

7.4.2 Methodology for issue of STPs

The State Government prescribed the procedure for levy and collection of royalty on minerals to be used in execution of work by the contractors of Government Departments/Autonomous Bodies/Government undertakings. Concerned Work Department was required to submit a copy of each work order and 'G' Schedule² of the work along with details of minerals (cubic metres or MT) to be used in the allotted work to ME/AME having jurisdiction over the area.

Further, the contractor was required to submit one of the following options along with affidavit to the concerned ME/AME before execution of work:

- Deduction of royalty was to be made from the running bills by the concerned Work Department (Option 'A').
- Deposit royalty in advance with the concerned ME/AME office at the time of issue of STP (Option 'B').

¹ Work Department such as Public Works Department, Public Health and Engineering Department, Irrigation Department, Urban Improvement Trusts, Housing Board and Development Authorities, *etc.*

² It is a schedule of quantities and prices included in contract document.

- Purchase royalty paid minerals and submit records of the same to the concerned ME/AME office for assessment at the stage of first as well as on final bill (Option 'C').
- Jointly use option 'B' and 'C' *i.e.* excavate on his own a certain quantity of minerals after paying royalty in advance and purchase royalty paid minerals for the remaining required quantity (Option 'D').
- Use royalty paid minerals during execution of work. Further, an amount³ as royalty will also be deducted at the time of payment of final bill (Option 'E').

Source: circular dated 15 November 2011 and 9 January 2013.

7.4.3 Scope and objective of Audit

Test check of 'Levy and collection of royalty on minerals removed through permits' by the Department covering period from April 2013 to March 2016 was undertaken to examine whether the permits were issued in accordance with the rules, procedures, orders and circulars issued by the State Government or Department from time to time. The Department comprises 49 ME/AME offices. Of these, Audit selected seven ME offices⁴ for detailed check. In addition to this, deficiencies noticed during the year 2016-17 in the regular audit were also included.

Audit findings

7.4.4 Issue of short term permits

On scrutiny of records of STPs at 12 ME/AME offices⁵, the following shortcomings were noticed:

7.4.4.1 Maintenance of records

As per the circular dated 15 November 2011 issued by the State Government concerned Work Department was required to submit a copy of work order and 'G' Schedule of work containing details of minerals to be used (cubic metres or MT) for execution of work to the ME/AME having jurisdiction over the area. Further, the ME/AME concerned was required to ensure that the Work Department makes recovery of the royalty in accordance with the option submitted by the contractor. The Department had, however, not developed any system/mechanism to record/monitor the recovery of the royalty on the basis of options submitted by the contractors.

Scrutiny of records of selected ME offices, however, disclosed that four ME offices⁶ had maintained registers to record the options submitted by the contractors.

³ Three *per cent* of total cost of work in case of construction/widening of road, construction of building and one and half *per cent* in case of repairing and other work.

⁴ ME Offices: Ajmer, Bharatpur, Bhilwara, Jaipur, Jodhpur, Kota and Udaipur.

⁵ Seven selected ME Offices: Ajmer, Bharatpur, Bhilwara, Jaipur, Jodhpur, Kota, Udaipur and five regular Audit Offices: ME Alwar, Bikaner, Jaisalmer, Rajsamand-II and AME Jhalawar.

⁶ Ajmer, Bhilwara, Jodhpur and Kota.

The registers maintained by ME Jodhpur and Kota contained the details of 5,937 contractors who had applied for STP/submitted an option to the ME during April 2013 to March 2016. The register, however, had no details regarding actual date of work completion, details of mineral consumed, date of assessment and date of issue of 'no objection certificate'. In absence of these details, the MEs could not ensure correct assessment/ recovery of royalty.

At ME office Ajmer and Bhilwara details of contractors who had submitted option 'C' were not being entered in the register to monitor their receipts. The ME Bhilwara accepted the facts and assured (July 2017) to record all the necessary details in the register.

No register was maintained in the remaining three ME offices⁷. The details of contractors and option submitted by them were, therefore, not available with these offices to ensure that recovery of royalty from all liable contractors was made.

The matter was pointed out to the Department and reported to the Government (August 2017); their reply is awaited (November 2017).

7.4.4.2 Incomplete affidavits submitted by the contractors

Clause 2 of circular dated 15 November 2011 issued by the State Government stipulates that the work contractor was required to submit an option along with affidavit stating option under which he would pay royalty as per the procedure prescribed in circular *ibid*.

- Audit scrutiny of records at ME Udaipur disclosed that in 90 out of 96 cases the affidavits submitted by the work contractors were incomplete. The affidavits did not contain the name of work, work order number, *etc*.

In the remaining six cases the affidavits were found blank, even the signature of the contractors was not found but the concerned ME, Udaipur accepted them and considered these in option 'C' and intimated the Work Department accordingly.

- In addition to the above, audit scrutiny revealed that one contractor had applied (Between 26 December 2013 and 20 February 2014) for STPs for excavation of mineral ordinary earth at ME Bhilwara. But ME Bhilwara had not issued STP. These applications for issue of STPs were kept in the files without recording any reason. The quantity of the mineral applied for were 2.40 lakh MT of mineral ordinary earth. Non-issue of the permits resulted in loss of royalty of ₹ 6 lakh and permit fee of ₹ 1.20 lakh.

After this was pointed out the ME stated (July 2017) that permits were not issued as the firm got STPs issued for other places. The reply is not acceptable as the ME had to issue the STPs for the particular work for which the contractor had applied. Further, the ME had not enclosed documentary evidence in support of reply.

⁷ Bharatpur, Jaipur and Udaipur.

In 220 cases of two ME offices⁸ the affidavits were not found on record.

The above facts indicated that there is a need for prescribing a register that could contain all the necessary details relating to the issue of STPs and collection of royalty thereon.

The matter was pointed out to the Department and reported to the Government (August 2017); their reply is awaited (November 2017).

7.4.4.3 Lack of co-ordination between the departments

The circular dated 15 November 2011 stipulates that if the Work Department did not follow the procedure laid down in the circular or passed final bill of the work without 'no objection certificate' (NOC) of the Mines Department or the contractor had used illegally excavated minerals, then 10 times royalty of the used mineral would be recoverable and the concerned Work Department would be liable to deposit that amount.

It was noticed that there was lack of co-ordination between Work Departments and Mines Department to check the revenue leakage as discussed below:

- Scrutiny of agreement registers maintained in the office of the Executive Engineer, Public Works Department (PWD) District Division-II Udaipur, for the year 2013-14 to 2015-16 revealed that 46 contractors executed works amounting to ₹ 7.71 crore. These contractors, however, had not applied for STPs. These works were related to road renewals, patch repairs, construction of buildings, *etc.* which required use of minerals during execution of work. The contractors were, therefore, liable to pay royalty. The agreement registers revealed that in 35 cases, final bills had been paid to them without recovering royalty and without NOC of Mines Department. In remaining 11 cases, actual date of completion of work and payment of final bill was not recorded in the register.
- As per the circular dated 9 January 2013 contractors who were categorised under option 'E' were required to submit an affidavit to the Work Department. Further, a copy of the affidavit was to be endorsed to the Mines Department indicating that no illegally excavated mineral would be obtained by them for use in execution of work. According to this option the Work Department was required to deduct royalty (Three *per cent* of total cost of work in case of construction/widening of road, construction of building and one and half *per cent* in case of repairing and other work) from final bill of the work and deposit it with Mines Department.

Scrutiny of information provided by five offices⁹ revealed that 443 contractors who had executed works during April 2013 to March 2016 had submitted option 'E'. During cross verification of information with the records of concerned ME offices, it was noticed that endorsed copies of the affidavits of the contractors who were categorised under option 'E' had neither recorded the information nor information regarding recovery and deposit of royalty was received from concerned Divisions.

⁸ ME Kota-216 cases and ME Udaipur-4 cases.

⁹ Water Resources Division, Bharatpur; Water Resources Division-I, II, Bhilwara; PWD District Division-II, Udaipur and PWD City Division, Udaipur.

In absence of these records, it could not be ascertained whether royalty had been deducted in all these cases. The above facts indicated that there was lack of co-ordination between the concerned Work Departments and the Mines Department that needs to be strengthened in the interest of revenue.

The matter was pointed out to the Department and reported to the Government (August 2017); their reply is awaited (November 2017).

7.4.4.4 Pending assessments of minerals used in civil works

The procedure for recovery of royalty was prescribed in the circular dated 15 November 2011. According to the circular, the *rawanna*¹⁰ submitted by the contractor for assessment of royalty should be in his name only. Scrutiny of records of options submitted by the contractors for issue of STPs at nine ME/AME offices¹¹ disclosed the following shortcomings:

- As per the procedure prescribed vide circular *ibid*, in case of option 'C' and option 'D'¹², first running bill of the work could only be passed after assessment of minerals used up to that stage and final bill could be passed after obtaining NOC from the concerned ME/AME office.

During audit it was noticed that in 896 cases work had been completed between April 2013 and March 2016, as per the date of completion mentioned in their work order. In 811 cases, assessment of royalty was neither done at the stage of first running bill nor at the stage of passing the final bill by the concerned MEs/AMEs. In remaining 85 cases, minerals used up to first running bill stage were assessed but assessments of the minerals used up to final bill stage were pending (July 2017). It was also noticed that the MEs had not pursued the concerned Work Departments to ensure that the contractors produced NOC of Mines Department before payment of final bill.

- As per circular dated 15 November 2011 the contractor who had submitted option 'C' and 'D' was required to produce bill/*rawanna*/royalty receipt issued in the name of the contractor and if the contractor had used illegally excavated minerals, then 10 times royalty of the used mineral would be recoverable.

In 14 cases¹³, the work contractors had submitted *rawannas*/royalty receipts which were issued in the name of persons other than the contractors. The MEs accepted these *rawannas*/royalty receipts and assessed the royalty despite the fact that *rawannas*/royalty receipts were not issued in favour of contractors. The excavation, here should be treated as illegal and 10 times royalty of the used minerals should have been recovered. The cost of illegally consumed mineral worked out to ₹ 20.88 lakh.

ME Udaipur replied (May 2017) that in small works, contractors had purchased minerals from the stockist available in the market and the name

¹⁰ *Rawanna* means delivery challan for removal or despatch of mineral from mines.

¹¹ Seven selected ME offices: Ajmer, Bharatpur, Bhilwara, Jaipur, Jodhpur, Kota, Udaipur and two regular Audit offices: ME Jaisalmer and AME Jhalawar.

¹² In respect of royalty paid minerals obtained.

¹³ ME Offices: Bharatpur-2, Jodhpur-5 and Udaipur-7 cases.

of stockist appeared on the submitted *rawannas*/royalty receipts. The reply is not tenable as the purchase bills of minerals from stockiest were neither available in the records nor a mention of the same was made in the assessment orders.

The matter was pointed out to the Department and reported to the Government (August 2017); their reply is awaited (November 2017).

7.4.4.5 Use of mineral ‘ordinary earth’ by work contractors without STP

Mineral ‘ordinary earth’, used for filling or leveling purposes in construction of embankments, roads, railways, buildings, *etc.* was also notified as minor mineral by the Government of India vide notification dated 8 February 2000. As no mining lease of mineral ‘ordinary earth’ was granted by the State Government, mineral ‘ordinary earth’ can only be obtained under STP on payment of advance royalty. The contractors who had submitted option ‘C’ were required to purchase royalty paid minerals, thereafter, they were required to submit records to the concerned MEs/AMEs regarding payment of royalty for assessment at the stage of first or final bill as the case may be.

- On scrutiny of records of ME Bharatpur and Jaipur, it was noticed that as per ‘G’ schedule 2.46 lakh MT (1.76 lakh cubic metres) of mineral ‘ordinary earth’ was required in the execution of 16 works where contractors had submitted option ‘C’. It was found that the Work Departments submitted consumption certificates to the concerned MEs regarding use of minerals in the works. The consumption certificates did not mention the use of mineral ‘ordinary earth’. The ‘G’ schedule, however, contained details regarding the requirement of mineral ‘ordinary earth’ for execution of work. This indicated that utilisation of the mineral was not checked as per ‘G’ schedule by the MEs. The possibility that the contractors could have illegally excavated and used mineral ‘ordinary earth’ could not be ruled out.

The final bills of these works though called for by Audit were not provided by the Work Departments. In absence of the final bills, actual quantity of the mineral used in the works could not be ascertained to work out the cost of the mineral.

- During scrutiny of records of ME Bhilwara, it was found that Executive Engineer, PWD Division, Bhilwara awarded (August 2012) work of widening and strengthening of a road in favour of a contractor. The ME issued (November 2012) STP for 2.17 lakh MT mineral ‘ordinary earth’ to be used in execution of work without recovery of royalty. The contractor deposited the permit fee only but did not deposit royalty of ₹ 5.41 lakh. The ME, however, while issuing (May 2014) no dues certificate incorrectly recorded that royalty had been paid. The omission on the part of ME resulted in non-realisation of the royalty of ₹ 5.41 lakh¹⁴.

¹⁴ Ordinary earth 2,16,515 MT X ₹ 2.50 (Royalty rate).

The matter was pointed out to the Department and reported to the Government (August 2017); their reply is awaited (November 2017).

7.4.4.6 Issuance of STP in excess of quantity permitted in Consent to Operate

Rule 37T(1)(i) of RMMC Rules, 1986 prescribed that every holder of STP shall obtain Consent to Operate (CTO) from the Rajasthan State Pollution Control Board (RSPCB) prior to start of mining operations and implement the conditions of CTO strictly.

During audit of ME Jodhpur, it was noticed that a CTO was issued (23 December 2015) by RSPCB to a contractor for excavation of two lakh MT of mineral masonry stone for the period from 15 December 2015 to 30 November 2018 for execution of a work awarded by Chief Engineer, (NHDP-IVA) Ministry of Road Transport and Highways, New Delhi. Scrutiny of records revealed that ME Jodhpur issued STPs for 2.44 lakh MT of mineral masonry stone to the contractor instead of two lakh MT quantity permitted in CTO. The ME, therefore, issued STP for 0.44 lakh MT of mineral masonry stone in excess of quantity permitted in CTO which was irregular.

The matter was pointed out to the Department and reported to the Government (August 2017); their reply is awaited (November 2017).

7.4.4.7 Non-assessment and non-recovery of cost of mineral

Rule 48(1) of RMMC Rules, 1986 provided that no person shall undertake any mining operations except in accordance with the terms and conditions of the STP or any other permission granted under these Rules. Further, proviso to Rule 48(5) provided that where mineral so raised has already been despatched or consumed, the authorities may recover cost of the mineral which will be computed as 10 times the royalty payable at the prevalent rates.

During audit of records of ME Jaisalmer, it was noticed that State Directorate of Revenue Intelligence (SDRI), Jaipur informed Mines Department regarding unauthorised use of minerals during installation work of wind mills by three companies and proposed to recover cost of minerals of ₹ 28.28 crore.

In compliance with the proposal of the SDRI, the ME Jaisalmer issued (June 2016) notices to these companies to submit information of the installation work of wind mills executed by them along with details of source of minerals. It was mentioned therein that non-furnishing of desired information within 30 days would attract action for recovery of ₹ 25.61 crore. The executors did not furnish the desired information (March 2017). The ME, Jaisalmer neither took any action to calculate the quantities of minerals used by these companies nor recovered the cost of minerals as proposed by the SDRI.

Scrutiny of three applications submitted by two companies (other than the above mentioned companies) for issuance of STPs for execution of similar works at the office of ME Jaisalmer revealed that 1,120 MT of mineral 'murrum' was required for construction of 800 metre length of approach road for each wind mill. SDRI, however, calculated the required quantity of the minerals as 672 MT each of 'ordinary earth' and 'murrum' for the construction of 800 metre length of approach road for each wind mill as per

information available with them. SDRI, therefore, calculated the quantity of mineral *murram* less by 448 MT for construction of approach road of each wind mill. The amount of royalty of mineral '*murram*' assessed less by the SDRI worked out to ₹ 9.86 crore. Thus, inaction on the part of the Department resulted in non-recovery of ₹ 38.14 crore including ₹ 28.28 crore worked out by SDRI.

The matter was pointed out to the Department and reported to the Government (August 2017); their reply is awaited (November 2017).

7.4.4.8 Use of mineral by road work contractors

The circular dated 15 November 2011 issued by the State Government stipulated following provisions for work contractors including BOT¹⁵ contractors:

- After completion of work, the Work Department was required to provide the details of quantities of minerals actually utilised by the contractor to concerned ME/AME office.
- If the Work Department did not follow the procedure laid down in the circular or the contractor had used illegally excavated minerals, then 10 times royalty of the used mineral would be recoverable and the concerned Work Department would be liable to deposit that amount.

The State Government vide circular dated 18 October 2012 and 9 January 2013 instructed that 'Toll recovery authorisation' can only be issued to the BOT contractors after furnishing no dues certificate of Mines Department.

National Highway Authority of India (NHAI), Regional Office (Rajasthan), Jaipur vide their letter dated 23 June 2017 intimated that 33 road work projects of ₹ 16,957.52 crore were executed in Rajasthan during April 2013 to March 2017. Out of these four projects of ₹ 5,160.76 crore were executed within the jurisdiction of three selected ME offices¹⁶ on BOT basis. These four works were completed between July 2013 and December 2015 and toll was also levied on these roads. There was nothing on records to indicate that no dues certificates were issued or any assessment of the minerals used in the work was done by the Mines Department.

The matter was pointed out to the Department and reported to the Government (August 2017); their reply is awaited (November 2017).

7.4.5 Issue of Brick Earth Permits

State Government notified (10 June 1994) the procedure for issuance of BEPs for use of mineral brick earth by the brick kilns in the interest of mineral development under Rule 65A of RMMC Rules, 1986. Accordingly, permits could be granted for a minimum period of one year and maximum period for five years. During the permit period, the permit holder can excavate and use mineral brick earth up to the permitted quantity at the specific kiln.

¹⁵ BOT: Build, operate and transfer.

¹⁶ ME office: Ajmer, Jaipur and Udaipur.

Rule 63-B of RMMC Rules, 1986 provided that the excavation of brick earth, ordinary earth and ordinary clay up to a depth of one and half metres from the adjoining ground level shall be allowed but brick earth, ordinary earth and ordinary clay so excavated shall be disposed of or consumed only after obtaining a permission from the concerned ME/AME on payment of the royalty and fee.

On scrutiny of records of BEPs at selected ME offices, the following shortcomings were noticed:

7.4.5.1 Disposal of applications of BEPs

No register for recording details of the applications of BEPs or their operational status was prescribed by the Department.

ME Jaipur, had maintained a register regarding the applications received for BEPs. As per the details of the register, 178 applications were received during the years 2013-14 to 2015-16 out of which 149 were sanctioned and 28 were rejected. Status of one application was not available. Reasons for rejection of 28 applications were not recorded in the register.

The matter was pointed out to the Department and reported to the Government (August 2017); their reply is awaited (November 2017).

7.4.5.2 Non-recovery of Permit fee

According to Rule 63(4) of RMMC Rules, 1986 permit fee was required to be paid for a STP exceeding 500 MT of mineral at the rate of ₹ 200 and ₹ 50 for every additional 100 MT or part thereof.

During scrutiny of the records of three ME offices¹⁷, it was noticed that in 82 cases permission for excavation of brick earth was granted without recovery of permit fee of ₹ 4.15 lakh for excavation of 8.36 lakh MT of mineral brick earth. This resulted in loss of revenue of ₹ 4.15 lakh and granting of permissions were also irregular.

The matter was pointed out to the Department and reported to the Government (August 2017); their reply is awaited (November 2017).

7.4.5.3 Irregular issuance of Brick Earth Permits

Hon'ble Rajasthan High Court, Jodhpur in its order dated 2 August 2014 in DB Civil Writ Petition number 1536/2003 directed the State Government to restore the catchment areas to their original shape. Thus, no permission for excavation could be granted in these areas.

At ME Ajmer, it was noticed that no register was maintained to record details of the BEP applications and their operating status. Scrutiny of BEP files revealed that a BEP¹⁸ was sanctioned in the catchment area of 'Foy-Sagar' lake. The Area Foreman of the office had inspected the site before grant of the permit. However, he did not mention the fact regarding catchment area in his report¹⁹. The area was again inspected by the Foreman

¹⁷ ME Office: Ajmer, Bharatpur and Bhilwara.

¹⁸ BEP number 147/13.2.2014 (9,975 MT/ Year), *khasra* number 1960, 1957 of village Hathikheda, district Ajmer. Permit holder excavated 11,068 MT mineral during 13 February 2014 to 24 March 2015.

¹⁹ The area of BEP number 147/13.2.2014 was inspected on 12 February 2014.

on 2 December 2014 and it was found that area of the BEP fell in the catchment area of the lake. ME cancelled the permit on 20 March 2015 on the grounds of outstanding dues and took the possession of the area on 25 March 2015. The Executive Engineer, Water Resource Division-II, Ajmer intimated (November 2015) that area of BEP was in the catchment area of 'Foy-Sagar' lake. In the meantime the BEP holder had excavated 11,068 MT mineral which was contradictory to the directions of the Hon'ble High Court.

- During scrutiny of BEP records of ME Jaipur, it was noticed that a BEP (4/2009) was issued for excavation of 14,700 MT brick earth per annum for five years with effect from 5 March 2009. It was noticed that 73,500 MT mineral had been excavated from the area under the BEP during the period March 2009 to March 2014.

According to the Rule 63-B of RMMC Rules, 1986 total 87,364 MT²⁰ mineral brick earth could only be excavated up to a depth of one and half metres from the adjoining ground level from an area of 16-09 *bigha* out of total area of a *khasra* (Number 8 of village Heerawala) of 20-09 *bigha*²¹.

As a result, new permit for excavation of 13,864 MT (87,364 MT– 73,500 MT) of mineral could only be issued. Scrutiny further revealed that a BEP (23/2014) was issued (March 2015) on the same area to excavate 14,700 MT of mineral brick earth. Thus, permission for excavation of 836 MT mineral (14,700 MT– 13,864 MT) was irregular.

It is pertinent to mention that the permit holder again applied (March 2016) for excavation of mineral 'brick earth' from the same area and the permission was granted (April 2016) by ME for excavation of 14,700 MT mineral for a period of one year from 28 April 2016 under BEP (52/2016). The ME, therefore, irregularly allowed the permit holder to excavate 15,536 MT (836 MT and 14,700 MT) of 'brick earth' in violation of the Rule 63-B.

The ME, Jaipur replied (April 2017) that the permits issued earlier were on the basis of availability of mineral and no restriction regarding depth was applicable at that time. The reply is not acceptable as the restriction was applicable at the time of issuance of BEPs (23/2014 and 52/2016).

- Rule 37(I)(1) of RMMC Rules, 1986 stipulated that every holder of a STP shall carry out mining operations in accordance with the approved simplified mining scheme (SMS)²².

At ME Jaipur, it was noticed that a BEP (18/2013) holder, in its approved SMS, mentioned that 26,810 MT of mineral brick earth was available on a particular site from where he desired to excavate the mineral brick earth while BEP was issued (May 2013) for 73,500 MT²³ quantity of mineral brick earth. The ME did not specify the

²⁰ 16.45 *bigha* X 2,529 (Square metre in one *bigha*) X 1.5 (Depth of area in metre) X 1.4 (Conversion factor).

²¹ As reported (28 January 2015) by the Mines Foreman in four *bigha* out of 20-09 *bigha* brick kiln was constructed.

²² Simplified mining scheme means a scheme prepared for the development of minor mineral deposits in the area.

²³ 14,700 MT per year for a period of five years effective from 4 April 2013.

place/source from where the remaining quantity of 46,690 MT of mineral brick earth could be excavated by the permit holder. The permit holder excavated 43,979 MT of mineral up to 31 March 2016. The permit holder thus, excavated 17,169 MT of mineral brick earth in violation of the provisions of Rule *ibid*. The ME, therefore, irregularly allowed the permit holder to excavate mineral worth ₹ 42.92 lakh²⁴.

The above facts indicate that the Department needs to be vigilant while issuing BE permissions and ensure that the permits are issued after a thorough investigation by the Department after considering the capacity of kiln and the availability of mineral at site from where excavation was proposed to be made.

The matter was pointed out to the Department and reported to the Government (August 2017); their reply is awaited (November 2017).

7.4.5.4 Unauthorised excavation of mineral brick earth and ordinary earth

Brick making through the process of kiln is a continuous process and as per the procedure notified (10 June 1994) by the State Government, royalty is recoverable on the basis of annual consumption capacity of the kiln. In case the kiln is found running without permission, 10 times of royalty shall be recovered as per Rule 48 of RMMC Rules, 1986²⁵. Scrutiny of records related to illegal excavation and transportation of mineral brick earth and ordinary earth in seven ME offices²⁶ disclosed the following shortcomings:

- During audit of ME Rajsamand-II, it was intimated (March 2017) that no brick earth permit existed in office jurisdiction during 2015-16. The Collector and District Magistrate, Rajsamand, however, informed (March 2017) that in 263 cases (15-brick kilns and 248-‘Ava Kajawas²⁷’) bricks were being produced by the persons/firms. Loss of royalty to the State Government could not be calculated because the information provided by the Collector and District Magistrate, Rajsamand did not contain capacity of brick kilns/*bhatta*. This shows lack of monitoring by the Department where a huge quantity of mineral brick earth was being excavated illegally.
- In 48 cases, five ME offices²⁸ initiated recovery of cost of illegally excavated mineral brick earth on the basis of bricks/brick earth found on the spot at the time of inspections instead of annual consumption capacity of the brick kilns. This resulted in short raising of demand amounting to ₹ 10.05 crore. Further, in 29 cases the capacity of brick

²⁴ 17,169 MT X ₹ 25 per MT (Royalty rate) X 10.

²⁵ Rule 48 provided that no person shall undertake any mining operations except in accordance with the terms and conditions of the short term permit or any other permission granted under these rules. Further, sub-rule (5) and proviso provided that where mineral so raised has already been consumed or despatched, the authorities may recover cost of the mineral which will be computed as 10 times the royalty payable at the prevalent rates.

²⁶ Four selected offices: Bharatpur, Bhilwara, Jaipur and Udaipur and three regular Audit offices: Alwar, Bikaner and Rajsamand-II.

²⁷ Baking of bricks / kawelus in open non-continuous *bhattas* without using any form of chimney will be considered as baked through the process of *Ava and Kajawa*.

²⁸ Three selected offices: Bharatpur, Bhilwara and Jaipur and two regular Audit offices: Alwar and Bikaner.

kiln was not mentioned in the *panchnama* reports by two ME offices²⁹. In absence of the capacity of the brick kiln exact demand could not be calculated.

- At ME office Udaipur, out of 29 cases of illegal excavation and transportation of mineral brick earth and ordinary earth, in 17 cases penalty was recovered. In seven cases, FIRs were lodged with the Police Department. No further pursuance or follow-up of the FIRs, however, were found on records. Further, in five cases, neither recovery was initiated nor FIRs lodged.

When this was pointed out the Department raised a demand aggregating to ₹ 16.75 lakh in cases of Alwar and Bikaner, out of which, ₹ 2.08 lakh had been recovered. Final reply in the remaining cases has not been received (November 2017).

7.4.5.5 No action for recovery of royalty on bricks made through the process of 'Ava- Kajawa'

According to Rule 58(b) of RMMC Rules, 1986 excavation of clay used by the potters for making bricks and *kawelus* baked through the process of 'Ava-Kajawa' was exempted from payment of royalty. The Rule was amended (31 December 2012) and exemption was limited only to excavation of clay used by the potters for earthenware pots and *kawelus*. As a result of this amendment, royalty on excavation of clay used for making bricks through the process of 'Ava-Kajawa' was payable with effect from 1 January 2013. The Government by issue of an order (14 February 2013) stayed implementation of the amended rule. The Director Mines and Geology (DMG) was asked to intimate the royalty impact of the amendment. Rule, however, was again introduced with effect from 28 February 2017.

During scrutiny of records of ME Bhilwara, it was noticed that in 34 *bhattas* bricks were being made through the process of 'Ava-Kajawa' in 'Mandal' *tehsil* of district Bhilwara. No recovery of royalty could be done by the ME due to stay on the implementation on the amended rule. The ME did not intimate number of *bhattas* where bricks were being made through the process of 'Ava-Kajawa' in other *tehsils*. The royalty amount could not be worked out as the capacity of these *bhattas* were not available with the ME.

The matter was pointed out to the Department and reported to the Government (August 2017); their reply is awaited (November 2017).

7.4.5.6 Excavation of mineral without CTO/in excess of CTO

Rule 37T(1)(i) of RMMC Rules, 1986 provided that every holder of permit shall obtain CTO from the RSPCB prior to start of mining operations and implement the conditions of CTO strictly.

During scrutiny of records of ME Jaipur, it was noticed that in nine BEPs (during April 2013 and March 2016), CTOs were not found in records.

²⁹ Jaipur-12 cases and Udaipur-17 cases.

Further, in nine cases of three ME offices³⁰, the BEP holders had excavated 1.45 lakh MT of mineral brick earth over and above the quantity permitted in CTOs. The issue of permits over and above the quantity permitted in CTOs was incorrect and the Department needs to ensure that such practice is stopped.

The matter was pointed out to the Department and reported to the Government (August 2017); their reply is awaited (November 2017).

7.4.6 Non/short recovery of District Mineral Foundation Trust amount

Rule 13(1) (iii) of the District Mineral Foundation Trust (DMFT) Rules, 2016 prescribed that 10 *per cent* of royalty amount paid for Minor Minerals was required to be paid by the permit holder towards the DMFT. It was required to be deposited in the account of trust. The Rule was effective from 12 January 2015.

- Scrutiny of records of ME Jaipur revealed that royalty of ₹ 7.14 crore was recovered on mineral brick earth during February 2015 to March 2016 but DMFT amount of ₹ 14.97 lakh only was paid by the permit holders resulting short recovery of DMFT amount of ₹ 56.45 lakh.
- Scrutiny of records at ME Ajmer and Jaipur revealed that 94 STPs (ME Ajmer-14 cases and ME Jaipur-80 cases) for mineral 'ordinary earth' were granted during 20 January 2015 to 31 March 2016 and royalty of ₹ 1.20 crore was paid by the permit holders but DMFT amount of ₹ 11.96 lakh was neither paid by the permit holders nor was demanded by the Department.

On being pointed out, ME Jaipur replied (April 2017) that the due amount of DMFT would be recovered.

The matter was pointed out to the Department and reported to the Government (August 2017); their reply is awaited (November 2017).

7.4.7 Conclusions and Recommendations

The Department could not monitor recovery of royalty by the Work Departments due to non-maintenance of registers/absence of desired information in the registers maintained by MEs/AMEs. Lack of co-ordination between departments resulted in payment of final bills to contractors without no objection certificates of the Mines Department and, therefore, realisation of royalty of the minerals used in execution of works could not be ensured. The concerned ME offices did not pursue the Work Departments to follow the procedure which resulted in non-assessment of royalty in cases of short term permits (STPs). In absence of proper scrutiny of 'G' schedules of the works, the MEs could not ascertain the requirement of mineral ordinary earth and thereby could not check the unauthorised use of mineral, if any. Cases were noticed where applications for brick earth permits were rejected without

³⁰ Ajmer, Bharatpur and Jaipur.

recording reasons. MEs had issued permits for the quantities which were more than the quantities available in the areas/permitted in Consent to Operates. Inaction of the Department resulted in non-recovery of royalty on bricks made through 'Ava-Kajawa' for the period from February 2013 to February 2017. Amount for District Mineral Foundation Trust was short paid by the permit holders.

Minor Minerals like sand, gravel, brick earth, *etc.* can be excavated and removed through short term permits and brick earth permits vide Rajasthan Minor Mineral Concession Rules, 1986 and Rule 65A notification of 1994 extant. Audit observed that the Department of Mines and Geology and its field formations did not maintain essential records. The Department did not properly monitor excavation, removal and disposal of the minor minerals; and manage the collection of royalty efficiently. This led to non-realisation of royalty amounting to ₹ 38.47 crore in case of STP and ₹ 10.52 crore in respect of Brick Earth Permits during the period from April 2013 to March 2016.

It is recommended that Department may put in place effective controls using dashboards to monitor the performance of short term permits/brick earth permits and manage collection of the ensuing royalty efficiently.

7.5 Short recovery of revenue due to incorrect revision of contract amount

Rule 32(3) of the RMMC Rules, 1986 provided that the amount to be paid annually by the royalty collection contractor/excess royalty collection contractor³¹ (RCC/ERCC) to the Government shall be determined in auction/e-auction or by tender/e-tender. Provided that in case of enhancement or reduction in the rate of royalty or permit fee/other charges:

(i) the 'royalty collection contractor' shall be liable to pay an increased or reduced amount of contract money, security amount and guarantee amount in proportion to the enhancement or reduction for the remaining period of contract from the date of such enhancement or reduction;

(ii) the 'excess royalty collection contractor' shall be liable to pay an enhanced or reduced amount of contract money, security amount and guarantee amount calculated according to the prescribed formula *i.e.* Revised contract amount = {(existing contract amount + total existing dead rent) X new royalty rate /existing royalty rate – total existing dead rent}.

Further as per Rule 37(U)(11) in case of mining leases where excess royalty collection contract is given, the contributions for Environment Management Fund (EMF) shall be recovered along with royalty through contractor.

7.5.1 The State Government vide notification dated 5 August 2014 revised the rate of royalty of mineral *bajri* from ₹ 20 per MT to ₹ 30 per MT³², mineral *murram* from ₹ 18 per MT to ₹ 25 per MT and mineral lime *kanker* from ₹ 15 per MT to ₹ 20 per MT.

During scrutiny of the records of office of the ME, Bikaner it was noticed (January 2017) that a royalty collection cum excess royalty collection contract was sanctioned (February 2014) for the period from 1 April 2014 to 31 March 2016 to a contractor for ₹ 29.39 crore³³ per annum. The contract³⁴ was for collection of royalty and permit fee on mineral *bajri*, *murram* and *kanker* obtained from the overburden of the major mineral leases³⁵ and excess royalty on *bajri* from the minor mineral leases.

The royalty rates were revised on 5 August 2014 for mineral *bajri*, *murram* and *kanker*. Thus, the contract amount was required to be enhanced. The ME Bikaner revised the contract amount to ₹ 35.52 crore *vide* order dated 8 August 2014. Audit scrutiny revealed incorrect revision of the contract amount as discussed in the following paragraph:

The contract amount comprised of royalty, permit fee and Environment Management Fund (EMF). The permit fee was equivalent to 33 *per cent* of the contract amount. For arriving at revised contract amount the EMF³⁶ of ₹ 5.88 crore was required to be deducted first from total amount of the

³¹ Royalty collection contractor/excess royalty collection contractor is a contractor authorised to collect the royalty for a certain period on payment of a lump sum amount.

³² In respect of Bikaner.

³³ The contract amount included royalty/ excess royalty, permit fee of ₹ 23.51 crore and ₹ 5.88 crore towards Environment Management Fund (EMF) amount.

³⁴ The area of contract was the revenue area of Bikaner (except city limits), *tehsil* Nokha, Lunkaransar and Kolayat.

³⁵ Major mineral clay which was notified as minor mineral *vide* Government of India notification dated 10 February 2015.

³⁶ The rate of EMF remained unchanged.

contract. This was not done instead it was deducted after the deduction of permit fee. This resulted in short revision of contract amount of ₹ 1.37 crore for the period from 5 August 2014 to 31 March 2016 as detailed in **Appendix-I**.

The matter was pointed out to the Department and reported to the Government (May 2017). The Government replied (September 2017) that demand notice had been issued (June 2017) for recovery of the amount against which the contractor had filed a civil writ petition in Hon'ble Rajasthan High Court, Jodhpur.

7.5.2 The State Government vide notification dated 5 August 2014 revised the rate of royalty of mineral granite (block having any dimension more than 70 centimetre) from ₹ 175 per MT to ₹ 235 per MT and mineral granite (block having dimension not more than 70 centimetre *i.e. khanda*) from ₹ 65 per MT to ₹ 90 per MT. The enhanced rate of royalty of mineral granite (block having any dimension more than 70 centimetre) was reduced to ₹ 215 per MT on 26 August 2014. The rate of dead rent³⁷ of mineral granite was ₹ 40 per 10 square metre or part thereof as notified by the State Government on 9 March 2010.

During scrutiny of the records of office of the ME, Jaisalmer, it was noticed (March 2017) that an excess royalty collection contract was sanctioned (March 2014) for a period from 1 April 2014 to 31 March 2016 to a contractor for ₹ 4.59 crore per annum. The contract³⁸ was for collection of excess royalty on mineral granite.

The royalty rate was revised on 5 August 2014 for mineral granite and accordingly the contract amount was required to be enhanced. The ME Jaisalmer revised the contract amount to ₹ 6.30 crore per annum (with effect from 5 August 2014) and ₹ 5.74 crore per annum (with effect from 26 August 2014) vide order dated 13 August 2014 and 28 August 2014 respectively. It was found that the revision done in the contract amount by the ME on both the instances was incorrect. The ME had incorrectly added dead rent of ₹ 0.64 crore in the formula due to arithmetic mistake in calculating the dead rent. Whereas the actual dead rent was ₹ 1.26 crore. This resulted in incorrect revision of contract amount and thereby short recovery of ₹ 24.39 lakh.

The matter was pointed out to the Department and reported to the Government (May 2017). The Government accepted the audit observation and replied (June 2017) that notice had been issued (May 2017) to the contractor for depositing the amount along with interest. It was, further, stated (September 2017) that action was being taken under LR Act for recovery of the amount.

7.6 Non-raising of demand of interest

Rule 33 D (2) read with Rule 37(A) (xvii) of the RMMC Rules, 1986 provided that the monthly/quarterly instalment of annual contract amount shall be paid in advance before the due date. In case the monthly/ quarterly instalment is not

³⁷ Dead Rent means the minimum guaranteed amount payable for mining lease.

³⁸ The area of contract was the revenue area of district Jaisalmer and district Barmer (except *tehsil* Siwana).

deposited by the due date then interest shall be payable at the rate of 15 per cent per annum from the due date on unpaid amount.

Rule 37T (5) inserted in RMMC Rules, 1986 vide notification dated 19 June 2012 provided that every lessee/licensee shall deposit contribution in Environment Management Fund (EMF) on despatch of mineral. Further, as per Rule 37(U)(11) (January 2013) in case of mining leases where excess royalty collection contract is given, the contributions for EMF shall be recovered along with royalty through contractor.

During test check of the records³⁹ of the ME, Jaipur, it was noticed (August 2016) that in seven excess royalty collection contracts, EMF amounting to ₹ 2.16 crore was collected by contractors but was deposited with delays ranging between 40 days and 511 days. The ME, however, did not raise the demand of interest of ₹ 27.09 lakh on delayed payments of EMF by the contractors.

The matter was pointed out to the Department and reported to the Government (April 2017). The Government replied (September 2017) that an amount of ₹ 3.36 lakh had been recovered in two cases and demand notices for recovery of interest had been again issued (August 2017) in remaining five cases.


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JAIPUR
The 17 FEB 2018

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Comptroller and Auditor General of India

NEW DELHI
The 20 FEB 2018

³⁹ Demand registers of excess royalty collection contractors.

