

CHAPTER-VII : NON-TAX RECEIPTS

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 besides 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 conducted by the Department

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 was pointed out in the Comptroller and Auditor General's Audit Reports since 2011-12. However, only three out of 129 units were audited during the year 2014-15.

7.3 Results of audit

Test check of the records of 30 units out of 125 units of the Department of Mines and Geology and Directorate of Petroleum, conducted during the year 2015-16, revealed non-recovery/short recovery of revenue amounting to ₹ 283.48 crore in 3,966 cases, which broadly fall under the following categories:

(₹ in crore)

Sl. no.	Category	Number of cases	Amount
1	Paragraph on 'Allocation of Mines in Rajasthan'	1	-
2	Non/short recovery of dead rent and royalty	723	148.15
3	Non/short recovery of cost of unauthorised excavated minerals	511	124.39
4	Non/short recovery of Environment Management Fund	445	2.68
5	Non-levy of penalty/interest	196	2.58
6	Non-forfeiture of security deposit	226	1.00
7	Other irregularities	Revenue	1,773
		Expenditure	91
Total		3,966	283.48

During the year 2015-16, the Department accepted short realisation of revenue, *etc.* of ₹ 9.75 crore in 1,375 cases, of which 171 cases involving ₹ 0.63 crore were pointed out in audit during the year 2015-16 and rest in earlier years. The Department recovered ₹ 4.49 crore in 1,171 cases, out of which six cases involving ₹ 0.17 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 ₹ 84 lakh in one case. This paragraph has not been discussed in the Report.

A paragraph on 'Allocation of Mines in Rajasthan' and a few illustrative cases involving ₹ 23.14 crore are discussed in the succeeding paragraphs.

7.4 Allocation of Mines in Rajasthan

7.4.1 Introduction

Rajasthan has a wide spectrum of mineral deposits covering almost 79 different kinds of minerals out of which 57 minerals are commercially exploited. It is a major source of non-tax revenue and constitutes 34.61 *per cent* of non-tax revenue and 7.05 *per cent* of total revenue receipts of the State Government.

Minerals have been classified into two categories namely, Minor Minerals which includes building stones, gravel, ordinary clay, ordinary sand and other minerals as notified by the Government of India (GoI). The remaining minerals are termed as Major Minerals which are further classified as hydrocarbons or fuel minerals (such as coal, lignite, *etc.*), atomic minerals, metallic and non-metallic minerals.

Management of mineral resources is the responsibility of both the Central and State Government. The Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act) prescribes the legal framework for the regulation of mines and development of all minerals other than petroleum and natural gas. In case of major minerals listed in Schedule-I appended with the MMDR Act, the mineral concessions are granted by the State Governments only after the prior approval of the Central Government. The Government of Rajasthan (GoR) framed the Rajasthan Minor Mineral Concession (RMMC) Rules, 1986 in regard to concession of minor minerals.

The policy for obtaining Mining Leases on Government land under MMDR¹ Act and RMMC Rules² was based on 'first come first serve' basis. The State Government amended RMMC Rules vide Rajasthan Mineral Policy, 2011 (January 2011) wherein it changed its policy of allotment and specified that after delineation, 50 *per cent* area would be reserved for allotment to different categories by way of lottery and the remaining 50 *per cent* area would be allotted by auction. The GoI also shifted (12 January 2015) from the policy of 'first come first serve' to allotment through auction.

7.4.2 Organisational structure

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. DMG is engaged in two fold activities, namely (i) Mineral Survey, Prospecting and Exploration and (ii) Mineral Administration including collection of revenue, checking of illegal mining and supervision of mineral exploitation.

The overall control and supervision of these activities is exercised by DMG with one Financial Advisor, one Additional Director (Administration), seven

¹ Section 11 deals with preferential right of the persons. In cases where the State Government has not notified in the Official Gazette the area for grant of Mining Lease and two or more persons have applied for a ML in respect of any land in such area, the applicant whose application was received earlier shall have a preferential right to be considered for grant over the applicant whose application was received later.

² Rule 7 provides procedure for allotment of mining lease of minor mineral.

Additional Directors (Mines), six Additional Directors (Geology) and 49 Mining Engineers/Assistant Mining Engineers, 12 Superintending Geologists and 17 Senior Geologists at unit levels spread all over the State.

7.4.3 Why we chose the topic

The GoI issued (30 October 2014) revised guidelines superseding all previous guidelines to ensure that the State action is unbiased and without favouritism or nepotism. In the guidelines it was stressed that in the interest of principles of fairness, transparency and non-arbitrariness, the normal or default condition should always be of prior notification of all the areas [whether virgin under Section 11(2) of the Act or previously held under Section 11(4) of the Act] available for mineral concession. If State Governments do not notify such area due to strong and compelling reasons, then such reasons should be clearly recorded. Further, the GoI notified the Mines and Minerals (Development and Regulation) Amendment Act, 2015 (Amended Act) with effect from 12 January 2015 which provided (Section 10(A)) that all applications received prior to the date of commencement of the Amended Act shall become ineligible and that all the mines on Government land would be allotted on the basis of auction only.

However, the Department issued 'Letters of Intent' (LoIs) for 738 mines between 1 November 2014 and 12 January 2015 on preferential basis without any recorded reasons.

The allotments of these mines were of the period for which audit was to be conducted during 2015-16. Meanwhile, the State Government referred the matter to the *Lokayukt* and also constituted (5 October 2015) a separate High Level Committee to look into allotments made between 1 November 2014 and 12 January 2015. The Government, based on the recommendations (16 October 2015) of the committee, cancelled the LoIs issued for 601 mines allotted during the above period. 137 mines allotted on 12 January 2015 were also cancelled as the Amended Act had come into effect from 12 January 2015. In the above backdrop, it was decided to conduct the audit of mining allotments made by the Department during the last three years ending 31 March 2015.

7.4.4 Audit objectives

The objectives of the audit were to ascertain:

- whether the provisions of Act and Rules governing the allotment were adequate to ensure transparent allotment of Mining Leases;
- the degree of compliance made by the Department with reference to the provisions of the Act, Rules, notifications and circulars issued there under;
- whether internal control and monitoring mechanisms were in place and effective to ensure that allotments were made in a fair and transparent manner.

7.4.5 Audit criteria

The audit criteria to achieve the audit objectives were derived from:

- Mines and Minerals (Development and Regulation) Act, 1957;
- Mineral Concession Rules, 1960;
- Rajasthan Minor Mineral Concession Rules, 1986;
- National Mineral Policy, 2008;
- Rajasthan Mineral Policy, 2011;
- Granite Policy, 2002 and
- Marble Policy 2002, notifications and circulars issued by the State Government.

7.4.6 Audit scope and methodology

The audit was conducted during October 2015 to March 2016. There were 49 ME/AME offices, out of which eight offices did not grant any lease during April 2012 to March 2015. To ensure maximum coverage, 12 offices³ which had maximum number of granted leases were selected for audit. These 12 offices granted 1,275 mining leases (79.19 *per cent*) out of 1,610 mining leases granted by the Department during the period under review. Out of these 1,275 mining leases granted by the selected 12 offices, 382 mining leases were selected on risk based approach. Apart from the above in 31 cases the cancelled leases were restored and these were also scrutinised by audit.

In addition, audit scrutinised 958 applications (apart from 382 applications) out of 31,002 applications processed by selected offices to assess whether the applications were processed and disposed in a fair and transparent manner after following the prescribed rules and regulations. The records maintained at DMG office were also test checked. A few cases of mining leases, quarry licences and restoration of cancelled leases have also been commented upon whenever noticed.

7.4.7 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of the Mines and Geology Department in providing the necessary information and records for audit. The report has been finalised after considering the views of the Government/Department expressed during Exit Conference held on 26 September 2016 as well as reply received on 6 September 2016.

Audit Findings

7.4.8 Disposal of applications

Rule 22 read with Rule 63A of Mineral Concession Rules, 1960 stipulates that the State Government shall dispose of the application for grant of mining lease (ML) within twelve months from the date of receipt of the application for ML.

³ Ajmer, Amet, Beawar, Bhilwara, Bikaner, Gotan, Jaisalmer, Nagaur, Rajsamand-I, Rajsamand-II, Sojat city and Udaipur.

The Department had provided an online facility for receipt of applications for grant of MLs. The applicants were also required to submit hard-copy of the application within a period of 15 days.

It was noticed that though applications were received online by the Department, their further monitoring was done manually. The status of an application was manually fed into the IT system once the application had reached its logical end *i.e.* granted/rejected/withdrawal. Vital information like the date of rejection or withdrawal of application was not fed into the system. In absence of which, exact year-wise position of pending, rejected and withdrawn applications could not be ascertained. The information was also not furnished by the Department though requisitioned (October 2015) by audit.

The position of the applications as ascertained from the data received from the Department was as follows:

Number of units	49
Number of applications pending as on 31 March 2012	54,974
Number of applications received between 1 April 2012 and 31 March 2015	16,714
Number of mining leases granted between 1 April 2012 and 31 March 2015	1,610
Number of applications rejected between 1 April 2012 and 31 March 2015	55,238
Number of applications withdrawn between 1 April 2012 and 31 March 2015	863
Number of applications pending as on 12 January 2015	13,977

From the above table, it could be seen that only 1,610 MLs were granted out of total 71,688 applications processed. 13,977 outstanding applications were declared ineligible for further processing in terms of notification dated 12 January 2015.

The age-wise analysis of the 13,977 applications pending as on 11 January 2015 was as under:

Applications received prior to March 2005	114
Applications received between 1 April 2005 and 31 March 2010	1,635
Applications received between 1 April 2010 and 31 March 2012	3,398
Applications received between 1 April 2012 and 31 March 2014	4,443
Applications received between 1 April 2014 and 31 March 2015	4,387

It could be seen that 1,749 applications out of 13,977 applications declared ineligible were received prior to 1 April 2010 *i.e.* these were pending for more than five years as against 12 months prescribed in the rules. At ME Bhilwara, it was found that 878 applications for grant of ML/PL for 37 vacant areas were received. However, 242 applications out of these 878 applications were rejected and no action was taken on remaining 636 applications which became ineligible for allotment in view of the Section 10(A) of the Amended Act with effect from 12 January 2015. A review of files revealed that there were no recorded reasons for delay in processing at various stages.

Case Study 1**Mineral:** Steel grade lime stone**ML No.:** 2/2005**Area:** Jaisalmer**Applicant:** Rajasthan State Mines & Minerals Limited (A Government of Rajasthan Enterprise)**Submission of application:** March 2005**Processing of application:** AME, Jaisalmer and DMG took five years to examine application. The DMG directed Superintending Geologist, Jaisalmer in May 2010 to identify the already prospected area and prepare a proposal for de-reservation, which was not done till January 2015.**Status:** Application declared ineligible on 12 January 2015 due to notification of Amended Act.*(Similar delays were noticed in case of Cement grade limestone and Gypsum)*

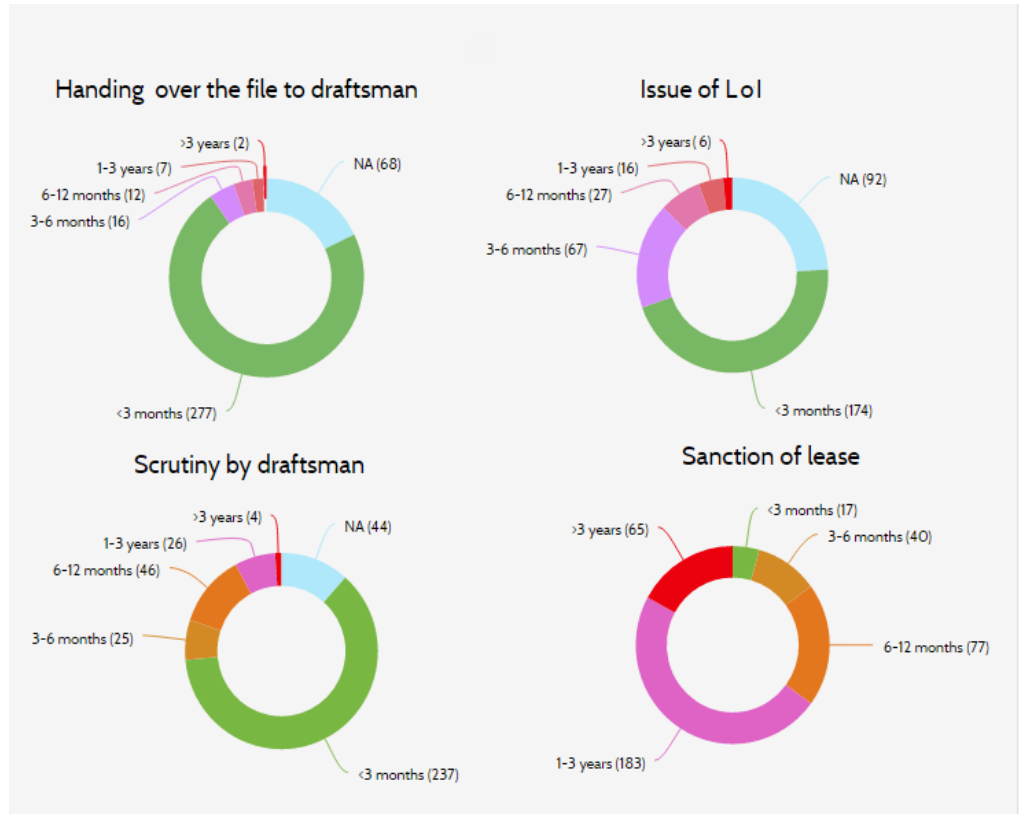
The Government replied (September 2016) that an enquiry committee had been constituted to enquire the reasons for pendency of applications and action against defaulting officers would be taken accordingly. However, during Exit Conference, DMG stated that due to shortage of staff, the applications could not be processed in time. It was further stated that the Department intended to shift to auction instead of the previous system of 'first come first serve' basis.

The reply was not tenable as the audit findings pertained to the system followed by the Department till 31 March 2015 and the Department was accountable and responsible for action taken during that period.

7.4.9 Time taken at various stages in sanction of leases

It was noticed that the Department had not prescribed any reports or returns for monitoring the processing of applications for grant of MLs. As such, the delay in processing of applications at each stage and sanction of leases could not be monitored by the Department.

7.4.9.1 An analysis of the time taken at various stages in handing over the file to draftsman, scrutiny by draftsman, issue of LoI and sanction of leases relating to selected 382 leases out of 1,610 leases granted by the Department during 2012-15 is shown in the donut chart.



7.4.9.2 Scrutiny of selected 382 files pertaining to MLs granted during 2012-15 disclosed that 17 applications⁴ were processed in a short period *i.e.* less than 3 months as against average time of 702 days taken in sanction of lease.

No recorded reasons were found in cases where extraordinary time was taken in processing of applications. Thus, there was arbitrariness in processing of applications besides giving preferential treatment to some applicants.

7.4.10 Non-maintenance of priority and lack of transparency

Section 11(2) of MMDR Act, 1957 provided that where the State Government has not notified in the Official Gazette the area for grant of ML and two or more persons had applied for grant of a ML in respect of any land in such area, the applicant whose application was received earlier shall have a preferential right to be considered for grant of mining lease over the applicant whose application was received later.

It was found that the disposal of the applications received by the concerned ME/AMEs was not in accordance with their date of receipts. A detailed analysis of 382 applications out of 1,610 leases granted disclosed the following position.

- In 315 cases, the applications were not finalised in accordance with their date of receipt *i.e.* 'first come first serve'. The applications that were received at a later date were finalised earlier. Out of these, in 114 cases,

⁴ ME, Beawar (ML no. 16/2013), ME, Bhilwara (ML no. 89/2012, 99/2012, 11/2013 & 38/2013), ME, Sojat city (ML no. 519/2012, 521/2012, 524/2012, 9/2013, 10/2013, 13/2013 & 14/2013), ME, Udaipur (ML no. 117/2014), ME, Bikaner (ML no. 28/2013, 31/2013 & 33/2013) and ME, Amet (ML no. 15/2013).

the priority was broken by the draftsman who was responsible for ascertaining the location and genuineness of the area applied. The delays at other levels could not be ascertained as no file tracking system existed in the Department.

- In four cases⁵, it was found that the experience in mining operations and financial resources on the basis of which leases were granted under Section 11(3) were either not found on record or did not match with the documents produced. In two cases, the experience was claimed to be 35 years and 15 years. In one case, the age of the applicant was 29 years only and in the other case, the experience certificate produced was for two years only. In another two cases, the proof of annual income and financial status was not supported with any document.

The Government replied (September 2016) that detailed reply would be submitted after getting report from the enquiry committee constituted to examine the audit findings. During the Exit Conference, the DMG stated that the cases pointed out by audit would be examined.

Case Study 2

Office: ME Rajsamand-I

Mineral: Quartz and Feldspar

Applicant 'A' (No. 38/2011): Applied in May 2011

Applicant 'B' (No. 74/2011): Applied in September 2011

Mining Lease Allotment: ML granted to Applicant 'B' on 6 December 2012 by ignoring Applicant 'A'.

Subsequently, application of Applicant 'A' was rejected (May 2013).

7.4.11 Non-monitoring of reply to the notices and non-furnishing of documents

7.4.11.1 Allowing indefinite period for attending shortcomings

Rule 26(3) of MCR, 1960 provided that in case of incomplete application, a notice should be served to the applicant which should be responded within 30 days failing which the application would be liable for rejection. It was found that in 277 cases, the applicants did not respond to the notices within the stipulated time. The delay in responding to notices ranged between 1 and 1,967 days. In spite of this, the leases were granted without specifying any reasons.

7.4.11.2 Processing of applications without proper documents

Rule 22 of the MCR, 1960 provided that an affidavit stating that no dues are outstanding shall suffice subject to the condition that the no dues certificate from concerned AME/ME shall be furnished within 90 days of the date of application and the application shall become invalid if the party fails to file the certificate within 90 days. The Rule further provides that an affidavit showing the particulars of mineral-wise areas in the State, which the applicant or any

⁵ ML No. 305/2005, 358/2005, 402/2005 and 482/2005 of ME Bhilwara office.

person jointly with him held should also be furnished along with the application.

It was observed that the ME, Udaipur accepted and processed nine applications⁶ for transfer/grant of leases belonging to one family even though these applications were not accompanied with requisite documents such as no-dues certificate from the Department and an affidavit showing the particulars of areas already held by the applicant or any person jointly with the applicant as required under Rule 22 of the MCR, 1960.

It was further observed that 38 applications at ME Rajsamand-II and one application at ME Bhilwara were not accompanied by identity proof/PAN Card and proof of address. The office issued notice to the applicants for furnishing the documents within 30 days. 15 applicants furnished attested copies of identity proof/PAN Card and proof of address. However, 13 applicants did not furnish identity proof/ PAN Card and proof of address and 11 applicants furnished unattested copies of PAN Card/identity proof. However, these applicants were granted leases without fulfilling the requirement of furnishing of mandatory documents.

The Government replied (September 2016) that Additional Director (Mines), Headquarters had been directed to examine the issues pointed out by audit, fix responsibility against the defaulting officers and submit a factual report. During Exit Conference, the DMG assured to examine the matter.

7.4.12 Improper vetting of the documents

At ME Rajsamand-II, scrutiny of 51 applications disclosed that scrutiny of the applications was not done properly. The Department processed the applications even though these were submitted by persons who were neither the applicants nor the holders of power of attorney. A few deficiencies noticed are mentioned in the following paragraphs.

- Scrutiny of 32 applications revealed that the signatures on application forms and affidavits did not match with the documents furnished such as PAN Cards, driving licenses, etc. In 29 cases, two persons (one person in 14 cases and another person in 15 cases) other than the applicants participated in the joint demarcation of the applied area without any 'power of attorney'.
- It was found that 38 notices were issued for furnishing the documents. Out of these, 31 notices were received by persons other than applicants and replies to 34 notices were given by persons other than the applicant without holding any 'power of attorney'.

Thus, the applications in the above cases were processed on the basis of deficient documents and without proper scrutiny. Even the persons participating on behalf of the applicants in the joint demarcation did not have any legal authority. *The Department may ensure that the entire process is conducted in accordance with rules and regulations.*

⁶ Rupal Associates (158/10), Minal Associates (159/10), Sushila Shyam Mines and Minerals (160/10), Manak Shyam Minerals (161/10), Laxmi Minerals (459/11), Mitra Mines and Minerals (24/11), Kamdhenu Mines and Minerals (184/10), Tanmay Mines and Minerals (20/94) and Shri Shishu Mitra Singhwi (3/06).

Case Study 3

Records of ML No. 77/2012 and 78/2012 disclosed that LoI/sanction letters issued by DMG could not be delivered on the address given by the applicants. DMG office forwarded letters to ME, Rajsamand-II for arranging delivery to the applicants. It was found that the documents were given to a person other than applicant.

Further, it was noticed that the applicant of ML No. 77/2012 had given 'power of attorney' to another person. The 'power of attorney' was given on two separate stamp papers (Under Rajasthan Stamp Act on 16 September 2013 and under West Bengal Stamp Act on 9 October 2013). However, the signature of the applicant on both the documents did not match. Further, the demarcation verification was done on 30 August 2013 wherein the same individual participated as applicant's representative before execution of 'power of attorney'.

The Government replied (September 2016) that the enquiry committee had been directed to conduct an in-depth review of the matter and to close the mines and lodge FIR, in case of irregularities. However, during Exit Conference, DMG agreed that at times documents were not properly scrutinised because of shortage of staff. He assured to examine the cases pointed out by audit.

7.4.13 Irregular allotment of minor mineral leases to select few in tribal areas

The State Government restricted (25 September 1999) grant of mining leases of minor minerals in tribal areas to non-tribal persons. The ban was withdrawn (5 February 2008) till it was re-imposed again *vide* notification dated 3 July 2009. It was noticed that 16 ML applications were received between 22 April 2009 and 1 May 2009 from non-tribal persons. However, no LoI was issued. The State Government directed (17 March 2011) that no new MLs of minor minerals would be sanctioned in tribal areas till a policy decision is taken. It also directed that MLs which had already been issued may not be cancelled and cases wherein LoIs had been issued can be processed with the condition that approval of Government will be sought by DMG before MLs are sanctioned.

It was found that ME, Banswara processed all the cases, LoIs against all the above 16 applicants (14 to a group of company) were issued in March 2012 and subsequently MLs were granted in November 2012. As per the Government directions, these 16 applications were not to be processed further as LoIs had not been issued by 3 July 2009. Thus, grant of MLs in these cases was incorrect and these needed to be declared as null and void.

The Government replied (September 2016) that the matter had been referred to the enquiry committee and based on its report, action would be taken. However, during Exit Conference, DMG stated that LoIs in the above cases had been issued before July 2009. The reply was not tenable as the Department had considered the internal instruction issued to the AME office as LoI which was incorrect. The LoIs were issued only in March 2012.

7.4.14 Transfer of mining lease

7.4.14.1 Irregular restoration and transfer of mining leases

Rule 43(1) of RMMC Rules, 1986 provides that any person aggrieved by any order of the SME, SME (Vigilance), ME (Vigilance), ME or AME shall have the right of appeal to the Director. Rule 43(2) further provides that any person aggrieved by any order passed in appeal under sub-rule (1) or any other order passed by the Director under these rules shall have the right of appeal to the Government.

On scrutiny of records of five MEs⁷, it was found that 31 leases had been cancelled between April 1992 and September 2011 due to non-compliance of notices issued to them or non-payment of Government dues. It was noticed that the erstwhile lessees did not file an appeal against the cancellation orders within the stipulated period of three months. The concerned MEs, however, did not delineate the leased area for further processing and auction of these lease areas.

The erstwhile lessees of these cancelled MLs belatedly appealed for restoration of these leases between 26 June 2006 and 9 March 2015 to the appellate authority. It was noticed that the appellants requested for condoning the delay beyond the three months period due to their poor medical condition (26 cases⁸) and non-service of notice (5 cases) to them, which was accepted by the appellate authority. The concerned AME/ME, however, did not exercise power to file an appeal to the Government against the decision of the appellate authority as provided in RMMC Rules, 1986.

It was also observed that in 14 cases, the original lessee after restoration of ML transferred it to other persons within a period of one month. Scrutiny of records of such cases also disclosed that all the formalities regarding filing of appeal, restoration of mining lease, extension of lease period and transfer of lease, *etc.* had been pursued by the transferee. The above restoration of leases has to be seen in reference to the GoR notification (28 January 2011) vide which the Government land could be granted for mining only through auction or lottery. By transfer of irregularly restored leases, the transferees avoided going through the process of auction or lottery which was required under GoR notification.

The Government stated (September 2016) that SME (Headquarters) had been directed to examine the matter and submit his comments. It was further stated that clarification had also been sought from the Additional Director (Mines).

During the Exit Conference, the DMG stated that the mines had been restored as per the decision of appellate authority.

The fact, however, remains that in these cases, delays much beyond the period of three months were condoned even to the extent of 23 years. The restoration of these leases and their transfers within a month resulted in bypassing the

⁷ Beawar, Bhilwara, Nagaur, Sojat city and Udaipur.

⁸ In 6 cases, it was noticed that same medical practitioner had given illness certificate (for period ranging between 4,704 to 7,550 days) though the MLs were of different erstwhile lessees. The registration number and address of the doctor were not given in the certificate.

prescribed procedure of auction/lottery. *The Government may consider re-examining the cases and cancelling the restoration of leases wherever deviation from rules is found.*

Case Study 4

Office: ME Udaipur

ML No.: 326/1991 of ME Udaipur

Date of cancellation: 16 June 1993

Power of Attorney: 4 December 2013

Date of filing appeal: 26 October 2012

Delay in filing appeal: 19 years and 1 month

Date of decision: 20 December 2013

Date of restoration of lease: 24 December 2013

Date of renewal: 24 December 2013

Date of transfer: 26 December 2013

Grounds of condonation: Illness of appellant.

During scrutiny of records, registration number and address of the doctor were not found mentioned on the illness certificate.

7.4.14.2 Irregular transfer of a Mining Lease to a non-tribal person in tribal area

The Department prohibited (December 2000) grant of new mining leases of major and minor minerals in tribal areas except grant of new mining lease and short term permit of masonry stone to persons belonging to scheduled tribe of that area. However, the Government issued (20 October 2011) an order *vide* which transfer of MLs sanctioned prior to 2000 was allowed.

During scrutiny of records of ME Udaipur, it was found that one ML (No. 59/2006) allotted in June 2007 to a person belonging to scheduled tribe was transferred (5 March 2014) to a person of general category. Scrutiny of file further disclosed that the original applicant had filled in the address of the transferee while applying for the ML and that all the correspondence had been done on that address only. The address proof of the original lessee was not found on record. The process of site inspection and demarcation was also got done by the transferee.

The Government replied (September 2016) that Deputy Legal Advisor had been directed to submit a report on the matter.

7.4.15 Non-cancellation of leases

The GoI *vide* notification dated 10 February 2015 notified 31 major minerals as minor minerals. It was noticed that as on that date, DMG had sanctioned 192 mining leases of major minerals whose execution of agreement was not done. In addition to that, 411 LoIs under major mineral for mineral quartz and feldspar were also pending for sanction.

Further, Rule 31 of the MCR, 1960 provides that the lease agreement should be executed within six months. Otherwise, the sanction may be revoked by the State Government. However, despite lapse of more than six months from the date of sanction or issue of LoIs and non-execution of the agreements in the above cases, the sanctions/ LoIs were not revoked.

The pending LoIs and sanctions as on 10 February 2015 should have been cancelled and processed as per RMMC Rules, 1986.

During Exit Conference, the DMG stated that LoIs issued prior to 12 January 2015 for major minerals were protected under the Amended Act.

The reply is not tenable as the period within which the agreement for these 192 sanctions had to be signed had lapsed under both *i.e.* MCR, 1960 (six months after receipt of sanction) and RMMC Rules, 1986 (three months after receipt of sanction). The 411 LoIs for which the sanction had not been issued were also required to be processed under RMMC Rules, 1986 which provided for auction of leases on Government land.

Case Study 5

During scrutiny of records of ME Ajmer, it was noticed that an applicant was sanctioned (8 September 2014) ML (301/2008) of mineral quartz and feldspar on Government land for an area of 4.0048 hectares.

As per the Rule, the lease deed was required to be executed before 7 March 2015. However, the applicant did not get the lease deed executed during the stipulated period. The Department did not revoke the sanction. Instead they issued (June 2015) a notice to the applicant calling for the Environmental Clearance. By issue of notice, the period for execution of the lease deed was indirectly extended. The applicant executed the lease deed on 19 August 2015.

7.4.16 Improper vetting of Mine Plan

During audit of ME, Beawar, it was noticed that a ML (No. 219/2013) was granted (May 2014) for quartz and feldspar on 4.0005 hectares of Government land. The ML was registered in July 2014. The lessee informed (May 2015) occurrence of granite (minor mineral) in the area and requested to add the mineral to its existing lease under Rule 18(16)⁹ of RMMC Rules, 1986. The same was included (August 2015) in the mining lease. Scrutiny of records disclosed that the Department ignored the availability of granite reserves while approving (March 2014) the mining plan for quartz and feldspar lease as in the mine plan it was clearly indicated that 'gneisses of granitic' was available. In the subsequent mine plan (August 2015), the quantity of granite reserves was shown as 15.36 lakh ton whereas the reserves of quartz and feldspar were shown as only 12,297 ton. Hence, within a period of 17 months, two mine plans were approved with the second one showing substantial quantities of granite. Inclusion of granite in the existing lease of quartz and feldspar obviated the procedure for allotment of minor mineral leases wherein the leases are either sanctioned through lottery or by auction.

⁹ Rule 18(16) of RMMC Rules, 1986 provides that if any minor mineral not specified in the lease is discovered in the leased area, the lessee shall not win and dispose of such mineral unless such mineral is included in the lease or a separate lease is obtained for such mineral.

The Government stated (September 2016) that the matter had been referred to the enquiry committee. It was also stated that Additional Director (Geology) had been directed to submit a report on the issue.

7.4.17 Irregular issuance of Mining Lease in catchment area

According to Rule 18 (26) of RMMC Rules, 1986, the lessee shall not work or carry on or allowed to be worked at any point within a distance of 45 metres from any reservoir, and distance of 45 metres shall be measured from the outer toe of the bank.

During scrutiny of records of ME, Rajsamand-I, it was found that a joint demarcation report (19 September 2011) of a ML¹⁰ had stated presence of an anicut¹¹ in the lease area. It was also noticed that the Executive Engineer, Irrigation Department, Rajsamand had informed (11 October 2011) the ME about the anicut made by the *gram panchayat*. However, the ME forwarded the ML application to Additional Director (Mines) who sanctioned (9 February 2012) the lease.

7.4.18 Area in which mineral proved but not allotted

During audit of ME, Nagaur, it was found (January 2016) that five blocks¹² having proved reserves of 671.52 million ton of lime stone were notified between April 2012 and February 2013 for allotment of MLs. However, the ME, Nagaur did not invite applications for allotment. Inaction on the part of ME, Nagaur has to be viewed in light of the fact that there was demand for allotment of lime stone mines as 86 applications were pending in the State as on 12 January 2015 which became ineligible due to Amended Act.

Similarly in ME, Bikaner, mineral *Bajri* was available in 946.98 hectares of Government land. However, the area was not delineated. It was also observed that applications had been received in the office for allotment of ML which indicated that there was ample demand of the mineral. The Department failed to delineate and auction the lease and left scope for illegal and unauthorised mining in the area.

7.4.19 Irregular allotment of strip of land to the quarry licence holders

According to Rule 22 (3) of RMMC Rules, 1986, the quarry licence on Government land shall be granted by auction/lottery after the area is delineated, plots suitably numbered and a notification inviting application is published in two daily newspapers. Out of the delineated plots, the committee constituted under sub-rule (3) of Rule 23A shall reserve 50 *per cent* of plots which shall be allotted only by tender and the remaining 50 *per cent* shall be allotted by way of lottery to the categories prescribed as per percentage mentioned against each category.

¹⁰ ML 45/2010 (Jhanjhar *tehsil*, District Rajsamand).

¹¹ Anicut means a small pond which is used to store rain-water.

¹² LS-6, LS-5, 3C, remaining area of 4D and remaining area of ML 3/2007.

Further, VIth proviso of Rule 25 provides that 30 metre wide strip of land shall be kept reserved around the existing boundaries or licences for allotment to adjoining quarry licensees to enhance quarry size for scientific and safe mining. GoI vide notification dated 9 September 2013 made Environmental Clearance (EC) mandatory for quarry licence holders prior to issue of sanctions of quarry licences.

During audit of ME, Bijoliya, it was noticed that the information regarding availability of additional strip of land was not widely circulated by the ME through publication in newspapers as stipulated. As a result, only 147 quarry licence holders (QLH) applied for allotment of strip of land during 15 February 2011 to 30 October 2013. On scrutiny of the files, it was found that:

- In case of 65 applications, no action was taken for allotment of additional strip of land and in two cases, only demarcation was done. In 63 cases (out of total 80 LoIs), LoIs for inclusion of areas in already existing licences were stated to have been issued on or before 9 September 2013.
- In 53 cases, sanctions were issued between 17 September 2013 and 18 October 2013 for additional strip to licence holders against the MoEF notification dated 9 September 2013 which was against the provisions.

During the Exit Conference, the DMG accepted the facts and stated that an enquiry was under process in this regard.

7.4.20 System lapses in allotment through lottery

In pursuance of Mining Policy 2011, Rule 7(1) was inserted (27 January 2011) in RMMC Rules, 1986 which stated that in Government land, the mining lease shall be granted after the area is first delineated, plots suitably numbered and a notification inviting application issued. Out of the delineated plots, the committee constituted under sub-rule (3) of Rule 23A shall reserve 50 *per cent* of plots which shall be allotted only by auction/tender and the remaining 50 *per cent* shall be allotted by way of lottery to defined categories of persons as per percentage mentioned against each category. In the meeting (18 August 2011) of Departmental officials chaired by the Minister of State (MoS) for Mines, a roster was decided for allotment of plots reserved for various categories.

It was noticed that:

A. The MoS in the meeting dated 18 August 2011 had directed the ME/AME offices to delineate and notify at least one block each in their areas by 15 September 2011. The Department identified and delineated 1,329 plots during 2012-15. However, the Department notified only 106 plots out of the 1,329 plots delineated. Despite notification of 106 plots, no plot could be allotted. There were no reasons on record for non-allotment of notified areas.

B. The format for submission of forms for lottery allotments was not prescribed by the DMG. As a result, certain applications were considered incomplete without any recorded reasons. For example, 221 applications for masonry stone/granite received at ME, Sojat city and 48 applications received at ME, Nagaur were rejected without any recorded reasons on the file.

C. The category wise percentage was changed (April 2013) *vide* amendment in Rule 7 of RMMC Rules, 1986. However, the Department did not change the roster. Further, at ME Nagaur, only three plots of masonry stone out of 16 plots to be allotted by way of lottery were reserved for the category of 'SC/ST/OBC/SBC' whereas the roster provided for reservation of four plots under this category. Similarly at ME Beawar, out of five plots of granite mineral available for allotment by lottery, three plots were to be allotted to SC and two plots were to be allotted to ST. However, only one plot was allotted to SC, three plots were allotted to ST and one plot was allotted to SBC.

D. There was no clarity as regards certain categories for allotment of leases through lottery. For example,

- There were no guidelines as to who was to be treated as 'Government servant' under the category 'Government servants who have been permanently disabled while on duty or the dependents of those who have died while in service'. That is, whether only employees/dependents of the State Government were to be considered or even employees/dependents of GoI.
- The category 'Societies of Unemployed youth of Rajasthan' was also not clarified. Scrutiny of five plots allotted under the category 'Societies of Unemployed youth of Rajasthan' revealed that two plots were allotted to the societies which had been constituted after publication of the advertisement. Further, three plots were allotted to the society whose objective was to provide employment to unemployed youth through placement agency.
- No format was prescribed for providing details of previous mining experience under category, 'Other Mines Workers' or 'Manual workers belonging to SC/ST/OBC/ SBC employed in mines'. It was noticed that the applicants under this category had enclosed affidavits or documents claiming to be ex-employees of some mines, the authenticity of which was not verified by the Department to ensure that the applicants had indeed previous mining experience.

E. Three ME offices¹³ accepted more than one application from the same applicants for the same plot. For instance, in ME Ajmer, 14 applicants had given two or more applications for single plot in seven cases. As a result, some applicants applied more than once to enhance their allotment chances through lottery. One applicant who had submitted two applications was even selected and allotted a mining lease.

The Government replied (September 2016) that the matter had been entrusted to the enquiry committee with directions to seek legal opinion wherever required.

¹³ ME Ajmer, Nagaur and Sojat city.

7.4.21 Conclusions and Recommendations

The Department had not issued any guidelines or specified the time period for each stage of processing of applications. As such, the delay in processing of applications at each stage could not be monitored. *To enhance transparency in allotment of mining leases, the Department may take steps for automation and institute better oversight and control to curb arbitrariness in processing of applications at each stage.*

The Department accepted documents without verifying their factual accuracy for grant of mining leases. They processed the applications without proper scrutiny. In some cases signatures on the application forms did not match with the supporting documents furnished by the applicant. *The Department must ensure receipt of the mandatory documents and their factual accuracy before processing the cases for grant of leases.*

The Department also allowed the participation of persons without any legal authority, other than the applicants, in the process for grant of leases which was irregular. *The allotment process needs to be conducted in accordance with the rules and regulations and should be transparent and reliable.*

There were changes in the ownership pattern of mining leases immediately after restoration of cancelled leases. In 31 cases, delays much beyond the stipulated period of three months were condoned and leases restored. Fourteen of such restored leases were transferred within a month. Thus, the prescribed procedure of auction/lottery was bypassed. *The Government may re-examine these cases and cancel the leases wherever deviation from rules is found.*

The format for submission of forms/documents for lottery allotments was not prescribed by the Department. As a result, certain applications were considered incomplete without any recorded reasons. Further, there was no clarity as regards certain categories for allotment of leases through lottery. *The Department needs to prescribe the format for submission of forms/documents for lottery allotments. It needs to bring in clarity as regards eligibility of certain categories for allotment of leases through lottery.*

7.5 Unauthorised excavation/despach of mineral

Rule 18 (9) (c) of Rajasthan Minor Mineral Concession (RMMC) Rules, 1986 envisages that the lessee or any other person shall not remove or despatch or utilise the minerals from the mines or quarry without *rawanna*¹⁴ duly issued by concerned AME/ME for particular mineral and area. As per item 3 of Schedule I appended to Rule 18 (1) (b) of RMMC Rules, the quantity of limestone¹⁵ excavated is to be calculated by applying conversion factor of 1.4 MT per cubic metre (cum). Further, Rule 48(5) of the RMMC Rules provides that whenever any person, without a lawful authority or in contravention of the terms and conditions of lease, raises and despatches any mineral, the cost of mineral along with royalty shall be recovered. The cost of mineral will be computed as 10 times of the royalty payable at the prevalent rates.

7.5.1 Undue benefit to lease holders by incorrect computation of the mineral excavated from leased areas

During scrutiny of records of the DMG, Udaipur, it was noticed that a Departmental Committee was formed (28 January 2014) by DMG to examine the misuse of *rawannas* by lease holders of Mining Leases (ML) 56/2000 and 178/2009 under the jurisdiction of ME Bikaner for despatch of mineral limestone which was unauthorisedly excavated from village Bhed, *tehsil* Khinwsar, district Nagaur.

The Committee based on its inspection (19 March 2014) reported that the *rawannas* were not misused by the said lease holders as in their returns they had shown despatch of 4.70 lakh MT mineral limestone which was near about the quantity of the mineral which could have been excavated¹⁶ from the mines.

On scrutiny of the Committee's report, it was found that the Committee had worked out the quantity of the excavated mineral by applying a conversion factor of 2.5 per cum instead of 1.4 per cum as provided in the RMMC Rules.

Sl. no.	Mining lease number	Quantity of mineral excavated as per Committee's report (MT)	Quantity of mineral excavated as per Rule (MT)	Quantity of mineral excavated as per assessment order upto 2013-14 (MT)	Mineral despatched by misusing of <i>rawannas</i> (MT) (5-4)
(1)	(2)	(3)	(4)	(5)	(6)
1	56/2000	1,71,293x2.5=4,28,232	1,71,293 x1.4=2,39,810	3,88,884	1,49,074
2	178/2009	44,372x2.5=1,10,930	44,372x1.4=62,121	81,150	19,029
Total		5,39,162	3,01,931	4,70,034	1,68,103

The Committee had, therefore, enhanced the quantity of mineral excavated from the leased areas and justified the use of *rawannas* by these lease holders by applying incorrect conversion factor. Therefore, misuse of *rawannas* for despatch of unauthorised excavated mineral of 1.68 lakh MT out of the leased

¹⁴ *Rawanna* means delivery challan for removal or despatch of mineral from mines.

¹⁵ Limestone means limestone suitable for lime making.

¹⁶ Quantity of mineral excavated was calculated by the committee on the basis of pit measurement.

areas involving cost of ₹ 10.93 crore¹⁷ could not be detected by the Committee.

The matter was pointed out to the Department and reported to the Government (June 2016). The Government replied (September 2016) that if mineral was found in solid form then bulk density factor of 2.5 was applicable and if the mineral was found after excavation, then conversion factor of 1.4 was applicable.

The reply was not tenable as the Rule clearly provides conversion factor of 1.4 for royalty collection and there was no provision in the Rules for application of bulk density factor of 2.5.

7.5.2 Non-raising of demand of cost of unauthorised excavated mineral

During the audit of records of the DMG, Vigilance Wing, it was noticed (February 2016) that three inspections¹⁸ of two quarries¹⁹ were conducted by the officers of the Department. As per the Inspection Reports submitted to DMG, the holder of quarry number 196(B) had unauthorisedly excavated 25,920 MT mineral sandstone (block) and masonry stone from gap strip²⁰ adjoining these two sanctioned quarries. However, the Department neither calculated the recoverable cost of the mineral nor initiated any action for recovery of the amount.

After this was pointed out (February 2016), the ME Jodhpur stated (May 2016) that the recoverable cost of mineral amounting to ₹ 1.14 crore had been worked out (April 2016) and proposal sent (May 2016) to SME Jodhpur for approval of demand.

The matter was pointed out to the Department and reported to the Government (June 2016); their reply is awaited (October 2016).

7.6 Short recovery of royalty

As per Section 9(2) of the Mines and Minerals (Development and Regulation) (MMDR) Act, 1957, the holder of a mining lease shall pay royalty in respect of any mineral removed or consumed by him from the leased area at the rate for the time being specified in the Second Schedule of the Act in respect of that mineral. There was no time limit prescribed for finalisation of assessment in the Act/Rules. However, the State Government issued (April 2000) order for calculating royalty on monthly basis, raising of demand and taking action for recovery of the same. In continuation of this, it was also ordered (March 2008) to recover the payable royalty and other payable fees by seventh of every month on a provisional basis²¹. Further, there was no provision in the Act or Rules framed thereunder to allow any deduction on account of moisture content for mineral rock phosphate.

On scrutiny of the records of ME Udaipur, it was noticed (January 2016) that a mining lease (ML no. 1/88), near village Jhamar Kotra, *tehsil* Girwa for

¹⁷ ₹ 10.93 crore (mineral 1,68,103 MT x rate of royalty ₹ 65 per MT x 10).

¹⁸ Date of inspections: 7 November 2013 (Senior Mines Foreman), 9 October 2014 (Senior Mines Foreman and AME) and 26 November 2014 (ME (Vigilance) and SME (Vigilance)).

¹⁹ Quarry number 227 (A) and 196 (B) falling under jurisdiction of ME Jodhpur.

²⁰ Gap area/strip means area adjoining two or more sanctioned leases/quarries.

²¹ Provisional royalty is calculated on the basis of previous month's despatch of mineral.

mineral rock phosphate was in-force since 1 April 1988 in favour of M/s Rajasthan State Mines and Minerals Limited (Company). The royalty was being paid by the Company on the quantity of mineral rock phosphate after deducting moisture content though there was no provision in Act/Rules for such deduction. The amount of royalty payable on the moisture content for the period from 2003-04 to 2012-13 was worked out to ₹ 8.67 crore²² except for the year 2005-06. Assessment of royalty was also not finalised for the period from 2003-04 to 2014-15.

Non-finalisation of assessment resulted in short recovery of royalty of ₹ 8.67 crore. With passage of such a long period, the chances of recovery of the amount will be bleak.

After this was pointed out, the ME issued (January 2016) letter to the lessee for depositing the amount short paid and further stated (January 2016) that assessment of the royalty for the period 2003 to 2015 would be made.

The matter was pointed out to the Department and reported to the Government (June 2016); their reply is awaited (October 2016).

7.7 Non-payment of royalty on associated minerals

As per Section 9(2) of the MMDR Act, the holder of a mining lease shall pay royalty in respect of any mineral removed or consumed by him from the leased area at the rate for the time being specified in the Second Schedule of the Act in respect of that mineral. Further, as per Rule 69 (iii) of Mineral Concession (MC) Rules, 1960, 'associated minerals' include lead, zinc, copper, gold, cadmium and silver, etc.

During audit of lease records of SME, Ajmer, it was noticed (October 2014 and January 2016) that a lease (ML no. 16/92) was sanctioned and executed in favour of a company (M/s Hindustan Zinc Limited) in an area of 480.45 hectares for 'lead, zinc and associated minerals' for a period of 20 years (28 February 1998 to 27 February 2018).

On scrutiny of assessment files, demand register and other relevant records, it was found (October 2014) that the company had neither disclosed the production of 'associated minerals' nor paid royalty thereof. After this was pointed out (October 2014), the company intimated (July 2015) the ME Ajmer that the royalty of mineral silver and cadmium was being paid. However, the company did not disclose the quantity of minerals despatched, amount of royalty paid thereof and the office to which the royalty was being paid.

It was further noticed (January 2016) that in the approved mining plan (May 2013), the percentage of mineable minerals in the leased area was: lead 1.82 per cent; zinc 11.76 per cent; copper 0.068 per cent; silver 6.37 (PPM) (associated minerals) and iron 7.64 per cent. As per mining plan parameters and ore produced from the leased area during the period September 2012 to March 2015, the estimated excavated quantity of minerals *i.e.* copper, silver

²² We could not calculate the payable royalty on the moisture content for the year 2005-06 since the Company deducted the moisture content from the quantity of mineral despatched but did not mention the quantity of moisture content separately in the returns.

and iron was worked out to 40,474.79 MT on which a royalty of ₹ 1.38 crore²³ was payable. The SME neither issued notice nor demanded royalty amounting to ₹ 1.38 crore on these associated minerals and iron.

The matter was pointed out to the Department and reported to the Government (June 2016). The Government replied (September 2016) that a notice had been issued to Company for depositing the amount and recovery would be intimated.

7.8 Incorrect computation of dead rent

As per Section 9A (1) of the MMDR Act, the holder of a mining lease shall pay to the State Government, every year, dead rent at such rate as may be specified for the time being in the Third Schedule of the Act for all the areas included in the instrument of lease. The Third Schedule was amended from time to time vide Central Government's notifications. As per these notifications issued on 14 October 2004, 13 August 2009 and 1 September 2014, in case of lease granted for precious metals, the rate of dead rent was four times the rate specified for low value minerals *i.e.* ₹ 1,600; ₹ 4,000; ₹ 8,000 per hectare respectively for a year.

During audit of lease records of SME, Ajmer, it was noticed (January 2016) that a lease was sanctioned and executed in favour of M/s Hindustan Zinc Limited (ML no. 16/92) in an area of 480.45 hectares for 'lead, zinc and associated minerals' for a period of 20 years (28 February 1998 to 27 February 2018).

On scrutiny of demand register and other relevant records of the lease, it was found that the dead rent was not revised as per the amendments made in the Third Schedule on 14 October 2004 and thereafter. This resulted in short raising of demand of dead rent amounting to ₹ 21.53 lakh as detailed below:

Sl no.	Period	Rates of dead rent per hectare per annum for precious metals as per Rules (in ₹)	Rates of dead rent per hectare per annum which was recovered (in ₹)	Size of lease area (in hectares)	Dead rent recovered (₹ in lakh)	Dead rent to be recovered as per Rules (₹ in lakh)	Short demand/recovery of dead rent (₹ in lakh)
1	14/10/2004 to 12/08/2009 (1,764 days)	1,600	1,200	480.45	27.84	37.14	9.30
2	13/08/2009 to 27/02/2010 (199 days)	4,000	3,000	480.45	7.86	10.48	2.62
3	28/02/2010 to 27/02/2012 (2 years)	4,000	3,000	480.45	28.83	38.44	9.61
Total					64.53	86.06	21.53

²³ Royalty on the minerals was worked out on the basis of monthly rates (February 2015) published by Indian Bureau of Mines and ₹ to Dollar exchange rate on 28 February 2015.

The matter was pointed out to the Department and reported to the Government (June 2016). The Government replied (September 2016) that a demand notice was issued after assessment.

7.9 Non-recovery/short recovery of Environment Management Fund

Rule 37T(5) inserted in RMMC Rules, 1986 by Government of Rajasthan through notification dated 19 June 2012 provides that every lessee/licensee of marble, granite and limestone (dimensional stone) of Kota and Jhalawar districts shall deposit a sum of ₹ 10 per ton and lessee/licensee/short term permit holder of other minerals shall deposit ₹ five per ton towards Environment Management Fund (EMF) for the mineral despatched. The EMF is required to be used for carrying out environment protection work as per Environment Management Plan. DMG issued (February 2013) a circular wherein the method²⁴ for calculation of EMF leviable was prescribed. However, these provisions were declared illegal, without jurisdiction and *ultra vires* on 9 April 2015 by the Hon'ble Rajasthan High Court, Jodhpur with directions that the amended rule shall not be implemented any further. However, if a contractor/lessee had collected EMF amount from consumer or lifter of mining material, he was not entitled to retain the said amount and had to deposit the amount in Government exchequer.

A few instances of non-raising/short raising of demand for EMF are mentioned in the following paragraphs:

7.9.1 According to Handbook of Mines and Geology Department, all demands of dead rent, royalty, penalty and other dues are required to be posted in a Demand and Collection Register (DCR) for monitoring the recovery.

On scrutiny of DCR related to brick earth licensees in the office of ME, Bhilwara, it was observed (March 2016) that the demand of EMF amount was not raised against 38 brick earth licensees for the period 19 June 2012 to 31 March 2015. The recoverable EMF worked out to ₹ 23.46 lakh against which only ₹ 3.34 lakh was recovered. EMF of ₹ 20.12 lakh was, therefore, short recovered.

The matter was pointed out to the Department and reported to the Government (June 2016). The Government replied (September 2016) that ₹ 3.13 lakh had been recovered in six cases and action was being taken in the remaining 32 cases.

7.9.2 During the audit of records of ME, Banswara, it was noticed (January 2016) that an excess royalty collection contract²⁵ for the period from 1 April 2012 to 31 March 2014 for an annual contract amount of ₹ 18.09 crore was sanctioned (16 March 2012) and executed (30 March 2012) in favour of M/s Prakash Associates. The contract was for collection of excess royalty²⁶ for mineral 'marble' excavated from leases falling in *tehsils* Banswara, Ghari of

²⁴ Leviable EMF amount: (Annual contract amount of excess royalty/royalty rate of mineral) x rate of EMF per MT.

²⁵ 'Excess Royalty Collection Contract' means a contract for specified mineral(s) and area given to collect royalty in excess of annual dead rent and also to collect other charges as may be specified in the contract, on behalf of the Government from the holder of mining lease(s) under the contract. The contractor shall pay a fixed amount annually to the Government as per terms of the contract.

²⁶ Excess royalty means royalty in excess of annual dead rent.

district Banswara and *tehsil* Aaspur of district Dungarpur. As per instructions issued by Directorate (February 2013), the ME added annual EMF amount of ₹ 93 lakh in the annual contract amount with effect from April 2013. The rate of royalty for mineral marble block and marble *khanda* was ₹ 195 and ₹ 65 per MT respectively.

Scrutiny of excess royalty collection contract files and demand registers revealed that the contractor collected excess royalty on 7.75 lakh MT of mineral marble (block and *khanda*) despatched up to January 2013. The proportion of marble block and marble *khanda* was 91.83 and 8.17 per cent respectively.

The ME while calculating the EMF amount applied royalty rate of ₹ 195 per MT for the whole contract amount instead of applying ₹ 65 per MT for marble *khanda* and ₹ 195 for marble block. This resulted in short calculation of quantity of 1,51,585 MT of mineral despatched and thereby short levy of EMF amounting to ₹ 15.16 lakh as detailed below:

Sl. no.	Type of mineral	Percentage of mineral despatched	Quantity of mineral despatched	Annual amount of EMF to be added (₹ in lakh)	Quantity of mineral calculated by the Department	Amount of EMF added by the Department (₹ in lakh)	Short levy of EMF (₹ in lakh) (7-5)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1	Block	91.83	8,51,900 MT ²⁷	85.19	9,27,692 MT	92.77	15.16
2	Khanda	8.17	2,27,377 MT ²⁸	22.74			
Total			10,79,277 MT	107.93	9,27,692 MT²⁹	92.77	15.16

The matter was pointed out to the Department and reported to the Government (June 2016). The Government replied (September 2016) that the contract was awarded for mineral marble and, therefore, EMF was calculated according to the rate of royalty for marble block. The reply was not acceptable as royalty rate for only marble block was considered ignoring the rate of marble *khanda*.

²⁷ Quantity of marble block 8,51,900 MT = ₹ 18,09,00,000 (contract value) X 91.83 per cent = ₹ 16,61,20,470/ ₹ 195 (Royalty rate).

²⁸ Quantity of marble *khanda* 2,27,377 MT = ₹ 18,09,00,000 (contract value) X 8.17 per cent = ₹ 1,47,79,530/ ₹ 65 (Royalty rate).

²⁹ Quantity of mineral marble 9,27,692 MT = contract value ₹ 18,09,00,000/ royalty rate ₹ 195 (Royalty rate of marble block).

7.10 Incorrect revision of contract amount

Rule 32(3) of the RMMC Rules provides that the amount to be paid annually by the excess royalty collection contractor³⁰ to the Government shall be determined in auction or e-auction. Provided that in case of enhancement or reduction in the rate of royalty given in the Schedule-I or permit fee/other charges, the royalty collection contractor shall be liable to pay as per the increased or reduced amount of contract money, security and guarantee amount in proportion to the enhancement or reduction of royalty, as the case may be. The revised contract amount shall be worked out in accordance with the formula³¹ given in the Rule *ibid*.

As per notification dated 5 August 2014, the rate of royalty of masonry stone and marble was enhanced from ₹ 17 per MT to ₹ 23 per MT and from ₹ 195 per MT to ₹ 260 per MT respectively. However, the enhanced rate of royalty of marble was reduced to ₹ 240 per MT on 26 August 2014.

During the scrutiny of files of two contracts for collection of excess royalty on mineral masonry stone, marble and serpentine³² despatched from sanctioned leased areas under the jurisdiction of ME, Udaipur, it was noticed (February 2016) that the revision of annual contract amount of both contracts on enhancement of royalty rates of the minerals was not done in consonance with the above provisions as detailed below:

(₹ in lakh)

Name of the contractors	Name of mineral and revised rate of royalty	Annual amount of excess royalty	Annual excess royalty amount revised by the Department	Amount to be revised as per Rule	Short revision of annual excess royalty (5-4)	Period of short demand	Short recovery of amount
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
M/s Chamunda Infra. Projects	Masonry stone / ₹ 23 per MT	352.36	476.73	487.06	10.33	5.8.2014 to 31.3.2015 (239 days)	6.76
Shri Nauratan Singh Rajpurohit	Marble and serpentine/ ₹ 260 per MT	263.87	351.82	408.25	56.43	5.8.2014 to 25.8.2014 (21 days)	3.25
	Marble and serpentine/ ₹ 240 per MT		324.76	363.83	39.07	26.8.2014 to 31.3.2015 (218 days)	23.33
Total		616.23	1,153.31	1,259.14	105.83		33.34

This resulted in short raising of demand of excess royalty of ₹ 33.34 lakh for the period from 5 August 2014 to 31 March 2015.

After this was pointed out, the ME, Udaipur, stated (February 2016) that the amount would be recovered and intimated to audit.

³⁰ Excess royalty collection contractor is a contractor authorised to collect the royalty for a certain period on payment of a lump sum amount.

³¹ Revised contract amount = {(existing contract amount (+) total existing dead rent) X new royalty rate / existing royalty rate – total existing dead rent}.

³² Serpentine: a type of marble.

The matter was pointed out to the Department and reported to the Government (June 2016); their reply is awaited (October 2016).

7.11 Short raising of demand of cost of brick earth

As per notification issued on 10 June 1994 under Rule 65A of the RMMC Rules, 1986, the kiln owner shall obtain permission for the brick earth to be used in making bricks. The permission shall be at least for one year and maximum for five years. The royalty on brick earth shall be recovered on the basis of annual metric ton quantity of earth used as per a given formula (150 days x 3.5 MT x number of *ghories*). Further, Rule 48(5) of the *ibid* Rules, 1986 provides that whenever any person raises, without lawful authority, any mineral, he shall be liable to pay cost of the mineral so excavated along with royalty.

During the audit of records of ME, Bharatpur, it was noticed (December 2015) that a brick kiln in *tehsil* Nagar, district Bharatpur was operated by M/s Aman Eent Udyog, Bidgaon. The owner of kiln obtained licence for excavation of 14,175 MT brick earth per year for a period of five years from 23 December 2008 to 22 December 2013. The owner applied (17 December 2013) for a new licence. However, ME Bharatpur took (22 December 2013) the possession of kiln. The application for new licence was turned down in May 2014 due to non-fulfilment of the requirement of application. Meanwhile, Rajasthan State Pollution Control Board (RSPCB) inspected (15 April 2014) the kiln and found that the kiln was in operation. RSPCB intimated (13 June 2014) the ME, Bharatpur to take action. The ME, Bharatpur also inspected (27 June 2014) the kiln and found it under operation. The ME recovered ₹ 1.26 lakh as cost of the brick earth on the basis of actual quantity of bricks found on the spot at the time of inspection.

The amount of recovery made by the ME was incorrect as the kiln was found in operation during two inspections (15 April 2014 and 27 June 2014) which meant that the kiln was in operation for a period of 187 days from 23 December 2013 to 27 June 2014. Hence, the cost amounting to ₹ 13.07 lakh for 7,262 MT³³ of mineral brick earth excavated unauthorisedly during the operating period of kiln was to be recovered. Thus, demand of ₹ 11.81 lakh was short raised.

³³ Proportionate quantity of brick earth (7,262 MT) used during 187 days was calculated on the basis of annual licence issued for 14,175 MT.

The matter was pointed out to the Department and reported to the Government (June 2016). The Government replied (September 2016) that action was being taken for recovery of the amount.



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(Economic & Revenue Sector Audit), Rajasthan

JAIPUR,
The 20 JAN 2017

Countersigned



(SHASHI KANT SHARMA)

Comptroller and Auditor General of India

NEW DELHI,
The 24 JAN 2017