

## CHAPTER-IV: MINING RECEIPTS

### 4.1 Tax administration

The levy and collection of receipts from mining activities in the State is governed by the Mines and Minerals (Development and Regulation) (MMDR) Act, 1957, the Mineral Concession Rules, 1960 and the Uttar Pradesh Minor Mineral Concession (UPMMC) Rules, 1963. The Principal Secretary, Geology and Mining, Uttar Pradesh is the administrative head of the Department at the Government level. The overall control and direction of the Geology and Mining Department (Department) is vested with the Director, Geology and Mining, Uttar Pradesh, Lucknow. At Headquarters, the Director, Geology and Mining is assisted by two Joint Directors who are further assisted by Chief Mining Officer. At district level, the District Mines Officer (DMO) is responsible for determining royalty, dead rent, and permit fee, etc., due and payable. Additional District Magistrate (Finance & Revenue) is in charge of collection and accounting of mining receipts under the overall administrative control of the District Collector.

### 4.2 Results of audit

During the year 2022-23, test-check of records of 33 Units out of 80 of Geology and Mining, Uttar Pradesh, revealed instances of royalty short/not realised and other irregularities involving ₹ 249.41 crore in 6,188 cases as detailed in **Table-4.1**.

**Table-4.1**

Sl. No.	Categories	Number of cases	Amount (₹ in crore)
1	Royalty not realised	1,825	63.53
2	Price of minerals not recovered	176	6.75
3	Short levy of stamp duty on lease deeds	42	8.65
4	Penalty not imposed	105	20.50
5	Other irregularities <sup>1</sup>	4,040	149.98
<b>Total</b>		<b>6,188</b>	<b>249.41</b>

<sup>1</sup> Loss of revenue due to non-verification of M.M.-11 forms by the working agencies from the Geology and Mining Department, contribution to District Mineral Foundation Trust (DMFT) from licensees/ lessees, loss of revenue due to non-levy of interest and non-recovery of amount from defaulters.

### 4.3 Short levy of stamp duty and registration fees on mining lease deeds

**Contribution payable to the District Mineral Foundation Trust (DMFT) and/or total amount of royalty was not included in the consideration of four mining lease deeds which resulted in short levy of stamp duty of ₹ 95.09 lakh and registration fees of ₹ 31.95 lakh.**

Royalty and contribution payable to DMFT (an amount equivalent to 10 *per cent* of royalty) are consideration paid by lessees for grant of mining leases. Stamp duty and registration fees<sup>2</sup> are leviable on mining lease deeds.

Article 35 (b) (i) of Schedule I-B of the Indian Stamp Act, 1899 (IS Act) stipulates that where lease for a term not exceeding thirty years has been granted for a fine or premium, or for money advanced and where no rent is reserved, the stamp duty chargeable should be the same as a conveyance for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease. Stamp duty on such lease deeds was chargeable at the rate of two/four<sup>3</sup> *per cent* of the consideration. In addition, Explanation (I) of Article 35 states that when a lessee undertakes to pay recurring charge, such as the Government revenue, the landlord's share of cess or the owner's share of municipal rates or taxes, which by law, is recoverable from the lessor, the amount so agreed to be paid by the lessee shall be deemed to be part of the rent.

Audit noticed (May 2022) in four mining lease deeds executed between June 2018 and November 2021 for a period of five years in DMO, Ghaziabad that contribution payable to the DMFT was not included in consideration for charging the stamp duty and registration fee. It was further observed that in two out of these four cases, only partial amount of royalty was included in the consideration. Stamp duty and registration fee of ₹ 4.35 crore was charged on the consideration of ₹ 122.57 crore in these lease deeds against stamp duty and registration fee of ₹ 5.62 crore chargeable on the consideration of ₹ 174.99 crore. Thus, the Government was deprived of revenue due to short levy of stamp duty of ₹ 95.09 lakh and registration fee of ₹ 31.95 lakh (Appendix-XVII).

The matter was reported to the Government (November 2022). Their reply is awaited (January 2024).

---

<sup>2</sup> Registration fee of ₹ 20,000 was payable upto 12.02.2020. From 13.02.2020, registration fee at the rate of one *per cent* of consideration amount was payable.

<sup>3</sup> In the case of an immovable property situated within a development area.

#### 4.4 Contribution to District Mineral Foundation Trust not deposited by lease holders

**Contribution of ₹ 2.27 crore payable to the District Mineral Foundation Trust (DMFT) was not deposited by two lease holders.**

Government of Uttar Pradesh notified<sup>4</sup> (May 2017) Uttar Pradesh District Mineral Foundation Trust Rules, 2017 which was deemed to be applicable from 12 January 2015. As per Rule 10(2) of Uttar Pradesh District Mineral Foundation Trust Rules, 2017, in case of minor mineral the holder of every mineral concession/ permit shall in addition to the royalty, pay to the Trust of the District in which the mining operations are carried on, an amount which is equivalent to 10 *per cent* of royalty or as may be prescribed by the State Government from time to time. The notification further provisions that concerned mining officer shall be responsible for collection of trust fund and shall deposit the same in Trust account opened in any scheduled bank as decided by the Trust.

Audit test-checked (May and December 2022) the records<sup>5</sup> of all five mining lease deeds in DMO, Ghaziabad and noticed that two out five lease holders had not deposited an amount of ₹ 2.27 crore in the DMFT account due since start of the lease deeds (October 2020/November 2021) till December 2022, as detailed in **Appendix-XVIII**.

The matter was reported to the Department (March 2023). The Department in its reply (May 2023) accepted the audit observation and stated that notices have been issued to both lease holders for recovery of DFMT amount. No further response has been received from the Department (January 2024).

<sup>4</sup> Vide notification no. 866/86-2017-132/2016 dated 15.05.2017.

<sup>5</sup> Lease deed files and challans.