

CHAPTER- 8: Mineral Concessions, Fees and Royalties

8.01 Results of Audit

Test check of the records of mining offices conducted in audit during the year 2000-2001 revealed under assessments and losses of rent, royalty, fee, etc. amounting to Rs. 14.58 crore in 52 cases, which broadly fall under the following categories:-

(Rupees in crore)

Sl. No.	Category	No. of cases	Amount
1.	Non/short levy of royalties and cesses	8	0.17
2.	Non-levy of interest	10	0.06
3.	Non-levy of penalty/fine	15	5.13
4.	Non-levy of stamp duty and registration fees	7	0.99
5.	Non/ short levy of auction money due to non-settlement/irregular settlement of sand ghat	3	0.02
6.	Non-initiation of certificate proceedings	3	7.27
7.	Other irregularities	6	0.94
	Total	52	14.58

During the year 2000-2001, the concerned department accepted under assessment etc. of Rs. 7.66 crore involved in 6 cases pointed out in audit during 2000-2001. A few illustrative cases involving Rs. 9.57 crore are given in the following paragraphs: -

MINOR MINERALS

8.02 Non/short levy of penalty

Under the Bihar Minor Mineral Concession Rules (Rules), 1972 and notification of Government dated 27 March 1992 issued thereunder, every brick kiln owner / brick earth remover shall pay amount of the prescribed consolidated royalty based on categories of the brick-kilns before issue of permit. Further, under Rule 40(8), whoever removes minor mineral without valid lease/permit shall be liable to pay the price thereof as penalty and the Government may also recover from such person rent, royalty or taxes, as the case may be, for the period during which the land was occupied by such person without any lawful authority.

In 14 District Mining Offices, it was noticed (between May 1997 and September 2000) that 4005 brick kilns were operated (brick season 1994-95 to 1999-2000) without payment of prescribed consolidated royalties and without

obtaining any valid permit. Out of these, in 3425 cases, no demand for recovery of price of mineral (brick earth) was raised while in 580 cases relating to 7 District Mining Offices¹ demands for penalty ranging from Rs.2,000 to Rs.22,000 were raised without reference to price of mineral. Taking the minimum price of mineral equivalent to royalty and deducting the amount of penalty already levied therefrom, there was non/short levy of penalty amounting to Rs. 883.21 lakh as shown in the Annexure.

On these being pointed out (between May 1997 and September 2000), District Mining Officer, Chapra stated (September 2000) that there was no provision for levy of penalty. The reply was not tenable as operation of brick-kilns without permits attracted levy of penalty under Rule 40(8) of the BMMC Rules, 1972. However, DMO Gaya stated (August 2000) that penalty would be imposed. Further reply has not been received (March 2003).

The cases were reported to the Government (May 2000 and May 2001); their reply has not been received (March 2003).

8.03 Loss of revenue due to non-execution of deeds of settlement

Under the Rules, settlement of sand is done for one calendar year by the Collector of the district by public auction and a deed of settlement is executed on payment of stamp duty as prescribed in the Indian Stamp Act, 1899.

In 5 District Mining Offices², 161 sand bearing areas were settled at Rs.11.79 crore for the years 1999 and 2000 without executing proper deeds of settlement as required under the Rules. Thus, there was loss of stamp duty of Rs.74.16 lakh.

On these being pointed out (between April and September 2000), DMO, Munger stated (April 2000) that the matter would be referred to the Government and the other DMOs contended (May and September 2000) that stamp duty was not payable on account of such deeds being optional. The contention was not tenable since as per Rule 11, a deed is required to be executed in all such cases.

The cases were reported to the Government (May 2001); their reply has not been received (March 2003).

¹ Biharsharif, Chapra, Gaya, Madhubani, Patna, Rohtas and Sitamarhi.

² Gaya, Patna, Munger, Jamui and Rohtas.