

CHAPTER -V: OTHER NON-TAX RECEIPTS

5.1 Results of Audit

Test check of the records of the following receipts conducted in audit during the year 2002-2003, revealed under assessments and losses of rent, royalty, fee, losses/non-recovery of revenue etc. as indicated below:

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
Mineral concession, fees and royalties			
1.	Non-levy of penalty/fees	25	13.04
2.	Non-levy of stamp duty and registration fees	9	0.80
3.	Non-levy/short levy of auction money due to non-settlement/irregular settlement of sand ghats	8	0.92
4.	Non-levy of interest	8	0.03
5.	Non-initiation of certificate proceedings	8	1.42
6.	Other cases	55	5.01
Total		113	21.22
Water Rates			
1.	Loss of revenue due to non achievement of irrigation target	2	0.39
2.	Non fixation of Water rates in time	1	0.25
3.	Others	36	15.48
Total		39	16.12
Forest			
1.	Others irregularities	5	1.71
Total		5	1.71
Grand Total		157	39.05

A few illustrative cases involving tax effect of Rs 24.96 crore are discussed in the following paragraphs:

MINERAL CONCESSION, FEES AND ROYALTIES

5.2 Non/short levy of royalty/interest on minor minerals consumed in works of Railway Department

5.2.1 Under the Bihar Minor Mineral Concession (BMMC) Rules, 1972, works contractors are required to purchase minor minerals from lessees/permit holders and authorised dealers only. They are also required to furnish to works department an affidavit in form 'M' with particulars in form 'N' indicating therein the source of purchase of mineral, price paid and quantity procured alongwith the bill. The works department in turn shall forward the photocopy of forms to the Mining Officer concerned for verification of details. If the details furnished by contractor are found to be false, it shall be presumed that the mineral was obtained by illegal mining and the defaulter shall be liable to pay the price of mineral and Government may also recover rent, royalty or tax as the case may be.

Supply of stone ballast by illegal mining

Records of Danapur and Sonapur Railway Divisions revealed that six contractors had supplied 1,11,479 cubic metre of stone ballast during the period 1998-1999 and 2001-2002 but they did not furnish forms 'M' and 'N' to the works divisions alongwith their bills. Thus, the supply of 1,11,479 cubic metre of stone ballast was made by illegal extraction/removal of minor minerals and hence, the contractors were liable to pay a sum of Rs 2.92 crore in the shape of price of mineral and royalty.

On this being pointed out in audit, the D.M.O. Munger stated in June 2003 that matter had been taken up with the Railway Department for further necessary action. Further reply was awaited (August 2004).

Furnishing of incorrect particulars in declarations

As per the records of District Mining officer (DMO) Munger, it was noticed that two contractors had purchased 584 cubic metre of stone ballast during 2000-2001 from three lessees/permit holders. On cross verification of records with Danapur Railway Division, it was noticed that these contractors had supplied 7,255 cubic metre of stone ballast as per forms 'M' and 'N' furnished by them alongwith their bills. Thus, the supply of 6,671 cubic metre of stone ballast was made by illegal mining and as such the contractors were liable to pay Rs 20.41 lakh by way of royalty and price of the mineral.

On this being pointed out in audit, the DMO, Munger stated in June 2003 that matter had been taken up with the Railway department for further necessary action. Further reply was awaited (August 2004).

5.2.2 Under the BMMC Rules 1972, no person shall undertake any mining operation in an area except under and in accordance with the terms and conditions of a quarrying permit or as the case may be, a mining lease granted

under these rules. Whenever any person removes mineral without any valid lease/permit, he shall be presumed to be a party to the illegal removal of the minor mineral and shall be liable to pay the price thereof 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.

Unauthorised extraction/removal of mineral

Cross verification of records of DMO, Munger with the records of Railway Divisions, Sonapur and Danapur revealed that six lessees had supplied 80,748 cubic metre of stone ballast during the period 1998-1999 and 2001-2002 to the Railways after the date of expiry of lease period of the mines. Thus, the supply of stone ballast was made by unauthorised extraction/ removal of minor mineral and as such the lessees were liable to pay Rs 1.87 crore as price of mineral and royalty.

On this being pointed out in audit, the DMO, Munger stated that matter had been taken up with the Railway Department for further necessary action. Further reply was awaited (August 2004).

The matter was reported to the Government in September 2003, the reply has not been received (August 2004).

Non-levy of royalty due to suppression of despatches of materials

Cross verification of records of DMO, Munger with the records of works contractors of Sonapur and Danapur Divisions of East Central Railway revealed that five lessees had supplied 1,42,020 cubic metre of stone ballast during the period 1999-2000 and 2001-2002 to the Railway but had declared the supply of 3,922 cubic metre of stone ballast in their returns submitted to the DMO. Thus, the supply of 1,38,098 cubic metre of stone ballast was suppressed and hence, they were liable to pay royalty of Rs 34.52 lakhs.

On this being pointed out in audit, the DMO Munger stated in June 2003 that matter had been taken up with the Railway Department for further necessary action. Further reply was awaited (August 2004).

The matter was reported to the Government in September 2003, the reply has not been received (August 2004).

5.3 Non/ short levy of penalty for illegal mining of brick earth

Under the BMMC Rules, 1972 and notification issued there under in March 1992, every brick kiln owner/ brick earth remover shall pay amount of consolidated royalty in one instalment based on categories of brick kilns before issue of the permit. Further, if any person, removes minor mineral without valid lease/permit, he shall be liable to pay the price thereof and the Government may also recover from him 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 15 District Mining Offices¹, it was noticed that 4,418 brick kilns during 1997-1998 to 2001-2002 had been operating without obtaining any valid permit and payment of prescribed consolidated royalty. In no case, demand for recovery of price of mineral was raised against the defaulters. Taking the minimum price of mineral equivalent to royalty, there was non/short levy of penalty amounting to Rs 14.33 crore.

On this being pointed out four AMOs² stated between May and September 2002 that there was no provision to impose penalty under Rule 26(A) of BMMC Rules, 1972. The reply is not tenable as Rule 26(A) provides for stopping the operation of brick kiln in case the consolidated royalty is not paid. However, in these cases, the minor mineral was removed without any royalty for which penalty under rule 40 (8) was leviable. No reply was furnished in other cases (August 2004).

The cases were reported to the Government in June 2003; their reply has not been received (August 2004).

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

Under the BMMC Rules, 1972 settlement of sand ghats is done for one calendar year by the Collector of the district through public auction to the highest bidder and a deed of settlement is to be executed on payment of stamp duty as prescribed in the Indian Stamp Act, 1899.

In nine District Mining Offices³, 143 sand bearing areas were settled at Rs 15.99 crore for the years between 2000 and 2002 without executing proper deeds of settlement as required under the Indian Stamp Act, 1899. Thus, there was a loss of stamp duty of Rs 1.06 crore.

On this being pointed out, six AMOs⁴ stated between March and October 2002 that necessary action would be taken while AMOs Biharsharif, Hajipur and Rohtas stated in September 2002 that the registration was optional. The reply

¹ Begusarai, Bettiah, Bhagalpur, Biharsharif, Gaya, Gopalganj, Hajipur, Jamui, Motihari, Munger, Muzaffarpur, Patna, Rohtas, Sitamarhi and Siwan.

² Biharsharif, Jamui, Motihari and Muzaffarpur.

³ Bettiah, Bhagalpur, Biharsharif, Gaya, Hajipur, Jamui, Munger, Patna and Rohtas.

⁴ Munger, Bhagalpur, Gaya, Bettiah, Jamui and Patna.

is not tenable as only registration is optional but the levy of stamp duty on execution of deed in all such cases was mandatory. Further replies were not received (August 2004).

The cases were reported to the Government in June 2003; their reply has not been received (August 2004).

5.5 Short levy of royalty

Under Mines and Minerals (Regulation and Development) Act, 1957 the holder of a mining lease is liable to pay royalty in respect of any mineral removed or consumed from the leased area at the rates prescribed by the Government from time to time. By a notification issued in September 2000, the Government have revised the rate of royalty of lime stone from Rs 32 per MT to Rs 40 per MT.

In District Mining Office, Rohtas it was noticed that a lessee of limestone dispatched between September 2000 to June 2001 4,63,827.922 MT of lime stone from their three leased mines. The amount of royalty, though recoverable at the rate of Rs 40 per MT, was recovered at the rate of Rs 32 per MT, which resulted in short levy of royalty of Rs 37.11 lakh.

On this being pointed out, the AMO, Rohtas stated in May 2002 that the matter would be examined. Further reply has not been received (August 2004).

The case was reported to the Government in October 2003; their reply has not been received (August 2004).

5.6 Non-levy of penalty for belated submission of monthly returns

Under the BMMC Rules, 1972, every lessee or permit holder is required to submit every month a return in the prescribed form for extraction and removal of minor minerals by the fifteenth day of the following month to which it relates. In case a lessee or a permit holder fails to furnish the required return within the prescribed period, he shall be liable to pay as penalty a sum of Rs 20 for each day after the expiry of the prescribed date subject to maximum of Rs 2,500.

In District Mining Office Bhagalpur, it was noticed that four lessees in 240 cases did not furnish the return. Though the delay in submission of returns for various months falling between April 1996 and March 2002 ranged from 471 to 2,146 days, the Assessing Officer failed to levy penalty. This resulted in non-levy of penalty of Rs 6.00 lakh.

On this being pointed out the AMO stated in July 2002 that fresh certificate cases incorporating this amount would be instituted for realisation of dues. Further reply has not been received (August 2004).

The cases were reported to Government in June 2003; their reply has not been received (August 2004).

WATER RATES

5.7 Non-raising of demand due to non-preparation of *Khatiani*

Under the Bengal Irrigation Act, 1876 and Rules framed thereunder, as applicable to Bihar, various formalities such as preparation of statement of land irrigated (*sudkar*), preparation of detailed measurement cultivator-wise (*khesra*) and preparation of demand statements (*khatiani*) are required to be completed by 30 November in respect of *kharif* and 25 May for *rabi* crops by the Irrigation Department for the purpose of recovery of water rates from the beneficiaries to whom the water is supplied for irrigation purposes.

In two Irrigation Divisions viz. Dehri-on-Sone and Jamui and Canal Division Aurangabad, it was noticed that *khatianis* in respect of 5.56 lakh acres of land irrigated during the years 2000-2001 and 2001-2002 were not prepared and sent to revenue division for raising demands against beneficiaries for collection of revenue. This resulted in non-raising of demand of water rates amounting to Rs 3.75 crore.

On this being pointed out, the Department stated between August and November 2002 that the delay in preparation of *khatiani* was due to shortage of staff. The reply is not tenable as priority should have been given for preparation of *khatiani* in the interest of government revenue. Further reply has not been received (August 2004).

The case was reported to the Government in June 2003, their reply has not been received (August 2004).

FOREST RECEIPTS

5.8 Non- eviction of encroached forest land

Under Section 66 A of the Bihar Forest (Amendment) Act, 1990, encroachment of forest land shall be cognizable and non-bailable offence. If any forest officer, not below the rank of Divisional Forest Officer has reason to believe that encroachment of government forest land has been done, he may evict the encroachers and may use all the powers conferred on a Magistrate under the Bihar Public Land Encroachment Act, 1956. Royalty for damage of forest produce and compensation is also to be recovered from the encroachers.

In Forest Division, Munger it was noticed that in 13 cases 67.69 acres of forest land under the jurisdiction of Kharagpur and Malaypur ranges were encroached during the year 2001-2002. No action was taken to evict the encroachers and to recover royalty and compensation amounting to Rs 5.27 lakh from them.

On this being pointed out, the Divisional Forest Officer, Munger stated in October 2003 that eviction had been made from 30.20 acres of encroached forest land and action was being taken to evict encroachers from remaining areas. The position of recovery of royalty and compensation had not been intimated. Further reply was awaited (August 2004).

The case was reported to the Government in June 2003; their reply has not been received (August 2004).

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