

## **CHAPTER-V: OTHER TAX/NON TAX RECEIPTS**

### **5.1 Results of audit**

Test check of records relating to industries, land revenue, co-operation and general administration departments conducted during the year 2006-07, revealed non realisation of royalty/dead rent, incorrect determination of market value of property/exemption on housing loan, non/short levy of stamp duty and registration fee, redemption of Government share capital etc. and other irregularities amounting to Rs. 55.71 crore in 229 cases, which broadly fall under the following categories:

(Rupees in crore)			
Sr. No.	Particulars	Number of cases	Amount
1.	Non realisation of royalty/ dead rent etc.	23	19.81
2.	Incorrect determination of market value of property/exemption on housing loan	139	4.82
3.	Non/short levy of stamp duty and registration fee	18	0.25
4.	Non/short redemption of Government share capital	05	1.03
5.	Non recovery of damages from unauthorised occupants	01	0.11
6.	Other irregularities	42	22.52
7.	Review on “ <b>Mineral Receipts in Himachal Pradesh</b> ”	01	7.17
<b>Total</b>		<b>229</b>	<b>55.71</b>

During 2006-07, the departments accepted under assessments of Rs. 2.07 crore involved in 39 cases which had been pointed out in audit in earlier years.

After issue of draft paragraph relating to non deposit of electricity duty due in October 2006, the department intimated (May 2007) that Rs. 30.27 crore had been deposited in April 2007.

A few illustrative cases highlighting important observations involving financial effect of Rs. 3.61 crore and a review on **Mineral Receipts in Himachal Pradesh** involving money value of Rs.7.17 crore are given in the following paragraphs.

**A INDUSTRIES DEPARTMENT (Geological Wing)**

**5.2 Review: “Mineral Receipts in Himachal Pradesh”**

**5.2.1 Highlights**

- Delay in acquisition/transfer of surface rights, in favour of a lessee, resulted in postponement of commissioning of the project and consequently depriving the State exchequer of anticipated revenue of Rs. 51.47 crore during April 2001 to March 2006.

**(Paragraph 5.2.10)**

- Non obtaining of financial assurances for mine closure plans resulted in undue financial aid amounting to Rs. 1.13 crore to the lessees.

**(Paragraph 5.2.14)**

- Delay in demarcation of *khud* on interstate boundary and illegal extraction of minerals resulted in loss of revenue of about Rs. 8.40 crore during April 2003 to March 2006.

**(Paragraph 5.2.16)**

- Non revision of royalty rates of minor minerals resulted in deprivation of Government revenue of Rs. 3.98 crore.

**(Paragraph 5.2.17)**

- Non implementation of the feasibility reports of working in river beds/*khud* of Hamirpur district resulted in shortfall in revenue to the extent of Rs. 6.43 crore during April 2004 to March 2006.

**(Paragraph 5.2.20)**

- Non auctioning of 86 mineable sites resulted in non exploitation of sites and consequently loss of revenue of Rs. 78 lakh during April 2001 to August 2003.

**(Paragraph 5.2.21)**

### **5.2.2 Introduction**

Receipts from mines and minerals consist of mainly royalty, dead rent, surface rent, fees and fines. The principal major minerals found in Himachal Pradesh are limestone, dolomite stone, rock salt, silica, sand, shale etc. Minor minerals like quartzite, roofing slates, stones, sand and *bajri* etc. are also available in the State.

Extraction of major minerals is governed by the Mines and Minerals (Development and Regulation) Act (MMDR Act) 1957 and Mineral Concession Rules, (MCR) 1960. Under the said Act, State Government is empowered to make rules to regulate the grant of mining lease in respect of minor minerals. Accordingly, Himachal Pradesh Minor Minerals (Concession) Revised Rules, (HPMMCRR) 1971 were framed. Government of India (GOI) promulgated National Mineral Policy (NMP), 1993 which interalia laid stress on survey and exploration, productivity norms etc. for extraction of minerals. Mining operations in respect of minor minerals were undertaken by grant of contracts, short term permits, auctions and leases. Under Himachal Pradesh Land Revenue Act, 1953 mineral rights throughout the state are vested with State Government. However, in Damtal and Khaniara areas of Kangra district, mineral rights were acquired by State Government under the Himachal Pradesh Mineral (Vesting of Rights) Act, 1983.

### **5.2.3 Organisational set up**

Principal Secretary (Industries) to Government of Himachal Pradesh is the administrative head while Director of Industries, is the head of the department assisted by the state geologist and 11 mining officers (MOs) who are responsible for collection of mineral receipts.

### **5.2.4 Scope of audit**

Test check of records of all 11 MOs for the period 2001-02 to 2005-06 was conducted between May 2006 and March 2007. Besides, records of the Director of Industries relating to mineral receipts were also checked.

### **5.2.5 Audit objectives**

The audit was conducted with a view to critically examine:

- explorations, proving and exploitation of mineral deposits, protection and development of mining sites;
- assessment of the implementation of various provisions of the Acts/Rules on mines and minerals ; and
- ascertain effectiveness of internal control mechanism of mineral receipts.

**5.2.6 Trend of revenue**

As per Himachal Pradesh Budget Manual, the actuals of previous years and the revised estimates ordinarily afford the best guide in framing the budget estimates; and a continuance of any growth or decline in income may, in the absence of definite reasons to the contrary, properly be assumed in all cases in which the proportionate estimates can be usefully employed. But special attention should be paid to new sources of revenue of which account has not been taken in previous years. Besides, under the manual *ibid*, it is the duty of the Finance Department to prepare the budget and for its preparation, it has the power to require heads of departments (HODs) and other authorities to furnish materials on which to base its estimates. The HODs in turn depend for the material on district and other officers who collect the revenue.

A comparison between budget estimates and actual receipts of royalty and other dues of the department during the years 2001-02 to 2005-06 revealed as under:

**(Rupees in crore)**

<b>Year</b>	<b>Budget estimates</b>	<b>Actual receipts</b>	<b>Variations excess/shortfall</b>	<b>%age variation</b>
2001-02	26.02	32.97	6.95	27
2002-03	30.00	35.46	5.46	18
2003-04	30.04	36.84	6.80	23
2004-05	30.04	38.42	8.38	28
2005-06	36.04	42.90	6.86	19

It would be seen from the above that there was huge variation between budget estimates and actuals and it ranged between 18 to 28 *per cent*. In all these years budget estimates were kept less than actual collection of previous years. There was nothing on record to indicate that budget estimates were based on any realistic data or information. The department did not collect information from the field units involved in collection of revenue and as such the provisions of manual were not followed in the case of preparation of budget estimates.

After this was pointed out, the department intimated in July 2007 that actual receipt increased due to excess consumption of minerals, increase in the developmental activities and hydro electric projects and receipts which could not be foreseen at the time of preparation of estimates. It was further stated that in future necessary data would be obtained from field units and budget estimates will be framed accordingly.

**5.2.7 Arrears position**

Yearwise position of arrears for the period 2001-02 to 2005-06 as on 31 March 2006 was as under:

**(Rupees in lakh)**

Sr. No.	Year	Opening balance as on 1st April	Addition	Total	Recovery during the year	Outstanding at the end of year	% increase (+) / decrease (-) in the arrear over the previous year
1.	2001-02	262.07	8.40	270.47	9.75	260.72	(-) 0.51
2.	2002-03	260.72	10.94	271.66	13.77	257.89	(-) 1.08
3.	2003-04	257.89	2.43	260.32	25.87	234.45	(-) 9.08
4.	2004-05	234.45	2.87	237.32	13.39	223.93	(-) 4.48
5.	2005-06	223.93	50.18	274.11	5.20	268.91	(+) 20.08

Of Rs.2.69 crore pending as on 31 March 2006, Rs.2 crore was pending collection as royalty from M/s Cement Corporation of India, Rajban since 1992 to 1999. The firm was declared sick in 1996 and was referred to the BIFR<sup>#</sup>. The board in May 2006 approved a rehabilitation scheme/package in favour of the firm in which the firm was to pay arrears of royalty in three equal instalments commencing from the financial year 2007-08.

Agewise analysis of the remaining amount of Rs.68.91 lakh was as under:

**(Rupees in lakh)**

	More than 10 years		More than 5 years but less than 10 years		Less than 5 years		Total	
	Case	Amount	Case	Amount	Case	Amount	Case	Amount
Dues pending recovery as arrear of land revenue	26	5.68	--	--	24	47.48	50	53.16
Pending in Courts	--	--	--	--	--	--	--	--
Pending for write off	01	0.05	--	--	--	--	01	0.05
Pending at departmental level	89	2.54	3	3.90	21	9.26	113	15.70
<b>Total</b>	<b>116</b>	<b>8.27</b>	<b>3</b>	<b>3.90</b>	<b>45</b>	<b>56.74</b>	<b>164</b>	<b>68.91</b>

After this was pointed out in June 2006, the department stated that out of 89 cases pending at departmental level for more than 10 years as on 31 March 2006, recoveries involving Rs.0.47 lakh were made in 43 cases and remaining 46 cases involving Rs.2.07 lakh were still pending for collection.

An examination of records of directorate office revealed that in addition to the above, an amount of Rs. 28 lakh on account of geo technical studies conducted between April 2001 and March 2006 by the department in 36 cases of PWD was pending collection. Of these, in 16 cases involving Rs. 23 lakh, demand was raised

<sup>#</sup> Board of Industrial and Financial Reconstruction

after a delay ranging from one to six months. This outstanding amount of Rs.28 lakh had not been included in the arrears.

After this was pointed out, the department intimated in July 2007 that the amount had now been included in the arrears statement for the year 2006-07 and that an amount of Rs. 0.08 lakh in two cases had been recovered.

**5.2.8 Non finalisation of long terms state mineral policy**

As per NMP, the Director of Industries, Himachal Pradesh was to frame a long term mineral policy by conducting detailed survey and exploration of available minerals in the State. However, it has not been framed so far. No targets in this regard were also fixed.

Details of different activity conducted during 2001-02 to 2005-06 with regard to exploration of minerals as intimated by the department was as under:

Item	2001-02	2002-03	2003-04	2004-05	2005-06
Survey completed/ done	0.96 sq.km. (Investigation of limestone)	0.805 sq.km. (Investigation of limestone)	0.98 sq. km. (0.48 sq. km. for limestone and 0.5 sq. km. for sand deposit)	2.05 sq. km. (for proving minor mineral deposit in the river beds)	1.31 sq. km. (for proving minor mineral deposits in the river beds)
Mapping done	--do--	--do--	--do--	--do--	--do--
Drilling work done	1,358.2 mtrs.	1,096.95 mtrs.	781.9 mtrs.	734.55 mtrs.	341.85 mtrs.
New mineral discovered and mineral wise detail of proving	Started detailed proving of two new limestone deposits	Detailed proving of limestone deposits continued	Detailed proving of limestone deposits continued	Detailed proving of limestone deposits continued	Detailed proving of limestone deposits continued

Increased drilling work undertaken is a performance indicator of discovery of new minerals in new locations. However, the table above shows a declining trend from 2002-03 onwards and was almost one fourth during 2005-06 as compared to the year 2001-02.

The department attributed declining trend in regulatory aspects of mining activities in the field of mineral investigations and timely completion of geotechnical investigation to shortage of technical and supporting staff.

After this was pointed out, the department intimated in July 2007 that arrangements had now been made to depute three drilling rigs with M/s India Cement Ltd. at Gumma (Chopal) in Shimla district and it was expected that drilling progress would increase considerably.

**EXPLOITATION OF MINERALS****MAJOR MINERALS****5.2.9 Under exploitation of proved major mineral reserves**

Limestone is an abundantly available natural resource and a vital raw material for mineral industries. However, such mineral deposits need to be located, surveyed and economically exploited.

Department of Industries (Geological Wing) had identified the limestone reserves as under:

Districts	In million tonnes			
	Proved	Probable	Possible	Total
Bilaspur	370	150	500	1,020
Chamba	400	850	100	1,350
Kangra	10	20	10	40
Kullu	--	--	120	120
Mandi	500	20	600	1,120
Sirmour	150	200	1,200	1,550
Shimla	--	50	1,600	1,650
Solan	550	100	1,000	1,650
Lahaul and Spiti	--	--	1,000	1,000
Kinnaur	--	--	100	100
<b>Total</b>	<b>1,980</b>	<b>1,390</b>	<b>6,230</b>	<b>9,600</b>

The exploitation of limestone reserves was got done by the State Government through three<sup>B</sup> cement plants covering 441 million tonnes (MT) reserves, leaving thereby proved reserves of 1,539 MT i.e. 78 *per cent* untapped.

Further three memorandum of understanding (MOUs) were signed by State Government with three bidders between 1995 and 2002 for establishing cement plants each having a capacity of one MT. Of these, in one case the possession of land was not handed over to the lessee while in other two cases the lessee did not start the work within the prescribed time and their contracts were terminated. As a result, exploitation of limestone could not be undertaken. These are discussed in the succeeding paragraphs.

<sup>B</sup> CCI Rajban, GACL Darlaghat and ACC Barmana

### ***5.2.10 Delay in transfer of surface rights***

A mining lease deed for major mineral over an area of 2.382 sq. kms (232.60 hectares) in Solan district was entered in August 1991 with M/s National Mineral Development Corporation (NMDC) for a period of 20 years with the approval of the Ministry of Coal and Mines (MCM). The lease stipulated commencement of mining operations within two years from the date of execution of lease deed. However, the lessee could not commence mining operation within the stipulated period, due to non transfer of surface rights on private land required for the project. A show cause notice was served on the lessee on 6 September 2002 for non commissioning of project. The lessee refuted the charges stating that despite sincere efforts and huge investments, he was not given surface rights on private land. The State Government referred the matter for adjudication/termination of mining lease in January 2003 to the MCM. In the meantime, the Ministry of Steel (MOS) in their letter dated June 2003 addressed to Chief Secretary to Government of Himachal Pradesh expressed surprise over show cause notice served to the lessee by the State Government. It stated that as surface rights were not granted to NMDC, commissioning of the project was not possible. Further, while working out the revenue loss<sup>♥</sup> to the State exchequer, MOS stressed need for expeditious acquisition of land and grant of permission to NMDC for starting the project activity. Thus, due to delay of nine years, in commissioning of the project, the State exchequer was unnecessarily deprived of its anticipated revenue of Rs. 91.47 crore from April 1997 onwards on account of royalty alone, out of which Rs.51.47<sup>3R</sup> crore pertained to the period from April 2001 to March 2006.

The department admitted in May 2006 that the delay in commissioning of the project was due to delay in communicating State Government approval to NMDC for acquisition of surface rights on private land.

### ***5.2.11 Non forfeiture of security deposit***

The State Government entered into MOUs with two private companies\* in July 1995 and February 2002 for setting up of large capacity cement projects selectively in private sector, with private investments. Each intending company was required to furnish a security of Rs.10 lakh in the shape of irrevocable bank guarantee within 15 days of signing the MOU for carrying out its objectives. The security deposit was required to be lapsed to Government if the company failed to carry out the objectives of the MOUs.

Test check of records revealed that none of the projects were commissioned and MOUs were terminated in October 2005 and July 2006. But security deposits could not be lapsed to Government as the bank guarantee given by the companies

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<sup>♥</sup> Loss of revenue worked out by the Ministry was Rs. 12.44 crore per annum or Rs. 62.20 crore for five years

<sup>3R</sup> On proposed installed capacity of two million tonnes per annum

\* M/s Larsen and Toubro Ltd. and M/s Grasim Industries Ltd



had already lapsed in July 2002 and May 2003. This resulted in loss of Rs. 20 lakh. The department had made no efforts to revalidate the guarantees after their validity had expired. In addition, the State exchequer was deprived of minimum revenue of Rs. 20 crore on account of royalty on limestone required for production of proposed five MT of cement during the period April 2001 to March 2006.

After this was pointed out, the department admitted in July 2007 that in both cases bank guarantees lapsed.

#### **5.2.12 Non realisation of royalty on rock salt**

As per amendment dated April 2003 made by GOI Ministry of Mines in the MCR, royalty on rock salt was to be computed on the basis of average value as published by the Indian Bureau of Mines (IBM) in the “Monthly Statistics of Mineral Production”. The State Government was to add 20 *per cent* to this bench mark value for the purpose of computation of royalty payable at the rate of 10 *per cent* of the value so arrived at.

A mining lease for ownership and management of Government salt works over an area of 665-18-10 *bighas* in Mandi district, entered into between Salt Commissioner, GOI and M/s Hindustan Salts Ltd, was renewed for 20 years with effect from 1 May 1983 to 30 April 2003. Thereafter, the lease agreement was not renewed though the lessee had applied for renewal in May 1997. The lease agreement was still pending. The company, continued extraction of mineral beyond April 2003. As per monthly return filed by the company with MO Mandi, 6,691 metric tonnes of rock salt was extracted by the company from June 2003 to March 2006 on which royalty of Rs. 9.77 lakh was realisable. The department neither demanded this amount nor was it paid by the company.

After this was pointed out, the department stated in July 2007 that the said company had been directed (May 2007) to deposit the royalty amount. Final outcome was awaited.

#### **5.2.13 Non renewal of leases**

Under MCR, an application for renewal of mining lease shall be made to the State Government atleast 12 months before the date(s) on which the lease was due to expire. No time limit has been fixed for renewal of leases.

Test check of records revealed that in Sirmour district, 23 leases having 20 years term and one lease of 10 years term were due for renewal between November 1984 and November 2005. All these firms applied within prescribed time but leases were not renewed despite delay ranging from 6 to 252 months as detailed below:

<b>Sr. No.</b>	<b>Reasons for non renewal</b>	<b>No. of cases</b>	<b>Area (Hect.)</b>	<b>Period</b>
1.	Non clearance of outstanding dues	1	255.07	Over 14 years (since 1992)
2.	Non renewal due to non receipt of joint inspection report	7	7,679.00	3 months to 2 years
3.	Non receipt of IBM report	3	34.31	6 months to 13 years
4.	Non receipt of consent from gram panchayat/shamlat* land owners	2	17.84	11 to 21 years
5.	Non submission of documents	2	182.97	2 to 8 years
6.	Non obtaining of clearance from the Forest Department/Ministry of Environment and Forest under FCA,1980	1	3.21	Over 8 years
7.	Non receipt of report from mining officer	2	43.00	10 months to 1 year
8.	Non surrendering of forest land from leased area	2	54.06	2 to 8 years
9.	Non conducting of inspection of the mining area	2	735.25	1 to 5 years
10.	Show cause notice for cancellation	1	43.12	Over 8 years
11.	Dispute between the parties	1	8.03	Over 3 years

All these companies except 12 companies continued mining operations beyond lease periods. Some continued their mining operations beyond 10 years which was half of the renewable lease period. Thus provision for renewal of lease deed proved superficial.

***5.2.14 Non approval/submission of mine closure plans and financial assurances***

As per amendment (April 2003) to MCR, each mining lessee was required to submit a progressive<sup>^</sup> mine closure plan within 180 days from the date of amendment i.e. April 2003. In case of final<sup>^^</sup> closure of a mine, the lessee was required to submit a final closure plan one year in advance of closure of mine. Financial<sup>^n</sup> assurance in the form of letter of credit from any scheduled bank, surety bond or in any other form as may be acceptable to competent authority were to be furnished by every lease holder. The amount of assurance was based on expected amount required for replenishment of abandoned mines. Financial assurances were to be furnished by the lessees to the Regional Controller of Mines or officer authorised by State Government in this behalf.

During test check of records it was noticed in June 2006 that mine closure plans were either not furnished or were not accompanied with financial assurance in respect of 62 lessees. This resulted in not obtaining of financial assurances of Rs.1.13 crore as detailed below:

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\* Common land

<sup>^</sup>A progressive plan for the purpose of providing protective, reclamation and rehabilitation measures in a mine or part thereof

<sup>^^</sup> A plan for the purpose of decommissioning, reclamation and rehabilitation in a mine or part thereof after cessation of mining operations

<sup>^n</sup> Financial assurance was based on the category of mines. Minimum financial assurance was Rs. 2 lakh and Rs. 1 lakh for A and B category mines

(Rupees in lakh)

Sr. No.	Reasons	No. of cases	Amount of financial assurance	Period involved
1.	Mine closure plans not submitted/approved and financial assurance not obtained	47	47	Over 3 years
2.	Mining plans were approved for next five years after cut off date without insisting for mine closure plans	10	10	-do-
3.	Mine closure plans approved but financial assurance not obtained/short obtained	5	56	-do-
<b>Total</b>		<b>62</b>	<b>113</b>	

Besides contravention of rules, inaction on the part of Mining Department resulted in undue financial aid to the lessees. The department had not at any stage impressed upon the lessees to submit financial assurances.

After this was pointed out, the department stated in July 2007 that out of 62 cases, mine closure plans in 26 cases were under preparation while in 33 cases it was submitted to/approved by the IBM. Final action taken in remaining cases has not been intimated. However, reply was silent about furnishing of financial assurance.

#### ***5.2.15 Non/short recovery of dead rent, royalty and surface rent***

Under the Act and rules framed thereunder, every mining lessee was required to pay dead rent or royalty, whichever was higher. Besides, surface rent was also payable at the prescribed rates.

Test check of records of nine<sup>@</sup> MOs revealed between July 2006 and March 2007 that in 84 cases, Rs. 35.28 lakh on account of dead rent, royalty and surface rent though recoverable was not recovered.

After this was pointed out, the department intimated in July 2007 that an amount of Rs. 18.91 lakh had been recovered and efforts were being made to recover the balance amount of Rs. 16.37 lakh.

#### ***MINOR MINERALS***

#### ***5.2.16 Delay in demarcation of khud on inter state boundary***

During test check of records of MO Kangra, it was noticed that illegal mining activities were taking place in Chakki *khud* (an interstate boundary between Himachal Pradesh and Punjab state). Twelve stone crushers of Punjab state were involved in the activities. The State Government was informed in August 2003 by the stone crushers of Himachal side that Government had been losing Rs.2.80

<sup>@</sup> Bilaspur, Chamba, Hamirpur, Kangra, Kinnaur, Kullu, Shimla, Solan and Una

crore per annum on account of royalty payable from illegal mining activities done by 12 stone crushers, alone. The Director of Industries, requested Revenue Department in June 2005 to demarcate the *khud*. But no demarcation was done upto November 2006. Meanwhile, a raid was conducted in March 2006 by Sub Divisional Magistrate, Nurpur, which revealed that 40 stone crushers of Punjab side were engaged in illegal mining from Chakki *khud*. The magnitude of loss caused by 40 stone crushers involved in illegal mining would be quite higher.

After this was pointed out, the department stated that demarcation of Chakki *khud* was completed in March 2007 according to which almost whole of Chakki *khud* area fell in the jurisdiction of Himachal Pradesh. Thus delay in demarcation resulted in deprivation of minimum revenue of about Rs. 8.40<sup>&</sup> crore to Government from April 2003 to March 2006.

#### **5.2.17 Non revision of royalty rates of minor minerals**

The MMDR Act empowered the State Government to make rules in respect of minor minerals viz., fixing of rates of royalty, fee, dead rent, fines etc.

The rates of royalty in respect of minor minerals have not been revised with effect from 25 June 1999. Since then the Central Government has revised the rates of royalty of major minerals twice on 12 September 2000 and on 14 October 2004. But State Government did not revise the rates of minor minerals. Non revision of royalty rates deprived State exchequer of revenue of Rs. 3.98<sup>o</sup> crore.

After this was pointed out, the department stated in July 2007 that proposal for revision of rates, sent to State Government in March 2006 was under consideration of Government.

#### **5.2.18 Non auctioning of mining sites/involvement of Panchayati Raj Institutions**

As per amendments dated June 2003 to HPMMCRR, no mining lease, short term permits and tender or auction or contract shall be granted to any person without prior recommendation of the gram sabha or panchayat concerned. The modalities of granting recommendation by the gram panchayats were not prescribed by Government.

It was noticed that 24 mining sites in Kangra district fell under the jurisdiction of nine panchayats. All the panchayats were requested between March 2004 and March 2006 to send recommendations for grant of leases of mines falling under their jurisdiction but it was not received from any panchayat. The department also

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<sup>&</sup> Amount was mentioned in records of department

<sup>o</sup> 2002-03: 1.35 crore; 2003-04: 1.38 crore; 2004-05: 0.72 crore; 2005-06: 0.53 crore calculated on the basis of proportionate increase in royalty rates for major minerals

did not pursue the matter with concerned panchayats to obtain the same, as such, none of the mining sites could be leased out. Failure of the department to prescribe modalities for granting recommendation including time schedules within which it was to be procured from panchayat, deprived State exchequer of minimum royalty of Rs. 4.62 lakh, during the period from October 2003 to March 2006.

After this was pointed out, the department stated in July 2007 that action was being taken for obtaining NOC from 16 concerned panchayats while in the remaining eight cases mining operation had been started. However, date of operation was not communicated. Report on further action taken was however, awaited.

#### **5.2.19 Non amendment to the provisions of penalty**

As per River/Stream Bed Mining Policy Guidelines (RSBMP guidelines) approved by State Government in February 2004, compounding of an illegal mining or transportation case could be done by charging a minimum fine of Rs. 5,000. Necessary amendment in this regard was to be made in the HPMMCRR. However, this amendment was not carried out in the rules.

Test check of records of seven\* district offices revealed that 356 cases detected during March 2004 to March 2006, were decided by the civil courts by imposing fine of lesser amounts than minimum fine of Rs. 5,000. It was due to the fact that corresponding amendment in the rules was not made by Government since February 2004. This resulted in loss of Government revenue of Rs.15.38 lakh.

#### **5.2.20 Non implementation of feasibility reports**

As per RSBMP guidelines, a feasibility report for working in a particular river/stream bed was to be prepared by the geological wing with respect to availability of minerals, geology, physiography, soil/bank erosion etc. Accordingly, a feasibility report was prepared by geological wing in March 2004 of the river beds/parts of river bed of Hamirpur district. As per this feasibility report, 18 river beds/*khuds* having annual replenishment of boulders, *bajri* and sand that could safely be allowed to be lifted, worked out to 55,99,130 MT. The report was an authentic detailed study purported to assist and guide in future, mining policy/planning of that district from the year 2004-05 onwards.

Test check of records of MO Hamirpur revealed that the department did not bring the feasibility report of river beds in district Hamirpur to the notice of the auctioning<sup>§</sup> committee at the time of auction of river beds/*khuds*. Consequently, auctioning committee stuck to the old conservative approach of selective mining and auctioned the beds for Rs.1.52 crore against Rs.7.95 crore realisable as per feasibility reports during the period April 2004 to March 2006. Non

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\* Bilaspur: 160; Hamirpur: 28; Kangra: 15; Sirmour: 33; Shimla: 50; Solan: 9 and Una:61

§ Headed by concerned sub divisional magistrate

implementation of the feasibility reports of working in the river beds/*khuds* led to shortfall in revenue to the extent of Rs. 6.43<sup>Δ</sup> crore.

After this was pointed out, MO Hamirpur while admitting the audit observations, stated that matter would be brought to the notice of auctioning/joint inspection committee at the time of annual review.

#### ***5.2.21 Non auctioning of river/khud***

Forest Department through notifications dated August 1998 and December 1998 clarified that the land categorised as “*gair mumkin*” “*charagah bila drakhtan*<sup>@</sup>” and “*na kabil cherand*<sup>φ</sup>” were not forest land for the purpose of application of FCA. However, the above notifications were rescinded by Forest Department on 9 August 2003. As such, all mineable sites were open for auction during August 1998 to August 2003.

Test check of records of five field units revealed that the department did not avail of this opportunity during August 1998 to August 2003. As a result, 86<sup>α</sup> mineable sites falling under above categories of land, involving royalty of Rs. 77.76<sup>\*\*</sup> lakh (based upon previous last auctioned amounts) were not put to auction and remained unexploited. This resulted in depriving the State Government of revenue of Rs. 77.76 lakh.

The department intimated in July 2007 that all MOs had now been directed to identify such areas and get clearance under FCA by submitting the cases to DFOs.

#### ***5.2.22 Non forfeiture of security deposits of minor minerals***

The terms and conditions of contract agreement provide that in case of default, in the payment of contract money on the due date, the contract may be terminated by Government by giving one month notice, with forfeiture of security deposits.

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<sup>Δ</sup> Royalty realisable as per quantity in feasibility report = 7.95 crore  
Less royalty realised = 1.52 crore  
(2004-05: Rs. 3.17 crore and 2005-06: Rs. 3.26 crore)

\* Land for which no land revenue is assessed/realised

@ Land without trees where cattle are grazed

φ Land where cattle are not grazed

<sup>α</sup> Bilaspur: 10; Chamba: 14; Mandi: 24; Solan : 20 and Shimla: 18

\*\* For the review period April 2001 to August 2003

Test check of records of two field units revealed that 17<sup>λ</sup> bidders failed to pay the prescribed fixed instalments of contract money. The department did not take any action to terminate the contract and forfeit security deposit of Rs. 3.53 lakh.

After this was pointed out, the department stated in July 2007 that in six cases of Hamirpur district the security amount had been forfeited and deposited in the revenue head whereas in one case security amount was refunded. Further development in the remaining three cases was awaited. In the case of MO Kangra, the department stated that the action was being taken in the matter.

### **5.2.23 Internal control mechanism**

#### **5.2.23.1 Non scrutiny of returns**

To exercise effective internal control over the activities being carried out and to ensure correct application of provisions of act/rules, the department had prescribed periodical returns such as quarterly report of old arrears, monthly revenue receipts statement, monthly statement of raids conducted for checking of illegal mining etc.

It was noticed that although quarterly arrear reports were being received at the directorate but no scrutiny was made and no guidance/ direction was given to field units even if these showed negligible or nil recoveries.

#### **5.2.23.2 Non issuance of departmentally printed 'M' form**

Issuance of departmentally printed serial numbered 'M' forms had not been provided in the rules to avoid use of fake 'M' forms.

This resulted in non exercising of departmental control over mineral exploitations done by mineral user agencies.

### **5.2.24 Internal audit**

Internal audit system is not in vogue. None of the field units had been audited by the internal auditor. Though a section officer (F&A) has been provided but he performs routine duties at directorate level. Manual prescribing duties as internal auditor had not so far been finalised.

Fifty two bank drafts aggregating Rs.20 lakh received during April 2004 to March 2006 by MO Shimla on account of royalty were deposited late with delay ranging from four days to five months.

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<sup>λ</sup> Hamirpur: 10 and Kangra: 7

After this was pointed out, the department intimated in July 2007 that MO Shimla had only single clerk who was holding work of mining activity and also the custodian of cash/receipts and due to overloading of work, the drafts/cheques could not be processed timely. It was further stated that the office was now making efforts to deposit the drafts/cheques timely in the treasury.

#### **5.2.25 Conclusion**

It would be seen from the above that internal controls in the department were weak. No long term planning in consonance with NMP was finalised. Because of this, exploration of available mineral resources in the State could not be assessed. The Industries Department lacked co-ordination with other departments that resulted in delayed grant of leases and late demarcation of river beds. Thus mineral resources had remained untapped depriving State of revenue. Rates of minor minerals and provisions of the Act/ Rules were also not revised as required.

#### **5.2.26 Recommendations**

In view of the observations in the review, State Government may consider implementation of following recommendations:

- Long term State mineral policy with periodical fixation of exploitation targets of available mineral resources, need to be finalised in consonance with the provision of NMP.
- Proper co-ordination with other departments like Revenue, Forest and Public Works needed for checking illegal extraction/transportation of mineral.
- A strong mechanism needs to be developed to strengthen the existing system of proper levy and collection of royalty preventing leakage/ loss of revenue. The correctness of returns submitted by lessees to the department need to be ensured for which co-ordination between the department and controller of mines and IBM may be considered.
- Provisions of MOUs need to be made more stringent for time bound commissioning of mineral based projects.



**5.2.27 Acknowledgment**

We are thankful to the department and various field offices for co-operation extended by them at various stages. Audit findings were discussed with Additional Chief Secretary (Industries) on 6 August 2007 in the exit conference. Government while accepting most of audit observations assured timely recovery of all sums due to Government, initiation of timely action for obtaining NOC from panchayats etc. as well as clearance of cases falling under FCA, revision of rates of minor minerals in time, strengthening of internal controls and monitoring aspects of the department. The replies received from the department and Government have been taken into consideration while drafting the review.

## **B. Stamp Duty and Registration Fee**

### **5.3 Incorrect exemption on housing loans**

As per notifications dated March 2002 and August 2004, issued under Indian Stamp Act 1899, mortgage deeds executed by the employees of Himachal Pradesh State Government, their public sector undertakings and autonomous bodies, for securing house building loan from banks, construction or purchase of a dwelling house for their own use, were exempted from payment of stamp duty and registration fee. This exemption was, however, not admissible to the employees availing loans from LIC, Housing Finance Ltd.

Test check of records of 12\* sub registrars (SRs) revealed between May and November 2006 that the registering authorities allowed exemption from payment of stamp duty and registration fee in case of 45 employees of State Government, public sector undertakings and autonomous bodies, who secured house building loans of Rs. 1.62 crore from LIC, Housing Finance Ltd. during 2005<sup>†</sup>. The exemption granted was incorrect and resulted in non realisation of stamp duty and registrations fee of Rs. 5.70 lakh.

After this was pointed out, SRs Sarkaghat and Sundernagar accepted audit observations involving Rs.2.60 lakh and stated between September 2006 and June 2007 that Rs. 1.45 lakh had been recovered and efforts were being made to recover the balance amount. Further report and reply from remaining SRs had not been received (September 2007).

The matter was reported to the department and Government between June and November 2006; reply had not been received (September 2007).

### **5.4 Non levy of stamp duty and registration fee**

Mortgage deeds executed for taking loan for dwelling purposes from banks, by employees of Central Government and its public sector undertakings, autonomous bodies and banks were not exempted from stamp duty and registration fee. In such cases, stamp duty at the rate of one and half *per cent* and registration fee at the rate of two *per cent* were leviable.

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\* Banjar : 2 cases; Bhoranj: 1 case; Ghumarwin: 2 cases; Jaisinghpur: 1 case; Karsog: 1 case; Kullu: 2 cases; Mandi: 10 cases; Paonta Sahib: 1 case; Sarkaghat: 7 cases; Shimla (Rural): 4 cases; Sundernagar: 12 cases and Suni: 2 cases.

<sup>†</sup> 1.1.2005 to 31.12.2005

Test check of records of 14 SRs<sup>#</sup> revealed between May 2006 and November 2006 that the registering authorities allowed exemption from payment of stamp duty and registration fee of Rs. 5.67 lakh in the case of 41 employees of Central Government/ Central Government autonomous bodies/ banks, who secured house building loan of Rs.1.62 crore during 2005. Besides, SR Kumarsain, did not charge stamp duty in one case and registration fee in another case without recording any reasons. This resulted in short recovery of Rs. 0.12 lakh. Non levy of stamp duty and registration fee resulted in non realisation of Government revenue of Rs.5.79 lakh.

After this was pointed out, SR Bilaspur stated in January 2007 that efforts were being made to recover the amounts. Reply from remaining SRs had not been received (September 2007).

The matter was reported to the department and Government between June 2006 and December 2006; reply had not been received (September 2007).

### **5.5 Incorrect determination of market value of property**

*Patwaris* are responsible for preparation of *partas*<sup>ε</sup>. As per Inspector General Registration's (IGR) clarification (June 1998), valuation of land is to be done on the basis of kind of land mentioned in the revenue records. Further, the average price is based on consideration amount or market value, whichever is higher on mutation done during the preceding 12 months in respect of sale deeds. The registering officer is also required to verify the consideration shown in the sale deeds with *partas* prepared by the concerned *patwaris*. If the registering officer has reasons to believe that the value of the property or the consideration has not been truly set forth in the instrument, he may, after registering such instrument, refer the same to the collector for determination of the value of consideration and the proper duty payable.

**5.5.1** During audit of records of SR Pachhad, it was noticed in October 2006 that a sale deed<sup>^</sup> of 43.18 bigha of land in village Batol, was registered on 16 March 2005 for Rs.36,000. The market value as per *parta* of said land on the date of registration was Rs. 4.10 crore. Accordingly stamp duty of Rs. 49.22 lakh and registration fee of Rs.0.25 lakh was leviable. The registering authority, while registering the deed levied Rs. 0.04 lakh as stamp duty and Rs. 0.01 lakh as

<sup>#</sup> Bilaspur, Chamba, Ghumarwin, Hamirpur, Jawali, Jubbal, Kullu, Kumarsain, Mandi, Nirmand, Palampur, Sarkaghat, Shahpur and Shimla (Rural)

<sup>ε</sup> It is a valuation report of the land prepared by the *patwari*. The market value is calculated on the consideration amount or market value whichever is higher shown in the deed of the land sold for the preceding year

<sup>^</sup>No. 83/05

registration fee. This resulted in short levy of stamp duty and registration fee of Rs.49.42 lakh.

After this was pointed out, IGR accepted the audit contention in May 2007 and while directing the concerned Deputy Commissioner to investigate the matter stated that because of this incorrect determination of market value, Government was put to loss of Rs. 49.42 lakh.

**5.5.2** During audit of records of 20<sup>&</sup> SRs, it was noticed between April 2006 and November 2006 that consideration of properties set forth in 273 documents registered during 2005 was much below the average price shown in *partas* prepared by the concerned *patwaris* of the localities. Against market value of Rs.40.20 crore, the value set forth in the deeds was Rs.19.47 crore. The registering authorities, while registering the documents failed to correlate the consideration with that of *partas*. This resulted in short realisation of stamp duty of Rs.203.53 lakh and registration fee of Rs.9.81 lakh.

After this was pointed out, SR Baroh intimated in April 2007 that out of Rs.0.95 lakh, an amount of Rs.0.41 lakh had been recovered and that the remaining amount was being recovered. Further report and reply from remaining SRs had not been received (September 2007).

#### **Loss due to incorrect preparation of *parta***

**5.5.3** During audit of records it was noticed that *partas* prepared by the *patwaris* in five<sup>♥</sup> SRs, were incorrect. The *patwaris* had taken lesser value of land while working out average price for preparation of each *parta*. Consequently, 91 deeds executed in 2005 were registered at sale value of Rs. 5.18 crore instead of Rs. 6.59 crore. This resulted in short realisation of stamp duty and registration fee of Rs. 12.28 lakh as detailed below:

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<sup>&</sup> Baroh, Bilaspur, Chamba, Dehra, Ghumarwin, Hamirpur, Indora, Jubbal, Kullu, Manali, Mandi, Nahan, Nalagarh, Pachhad, Paonta Sahib, Palampur, Shimla (Rural), Shimla (Urban), Solan and Sundernagar

<sup>♥</sup> Dharamsala, Indora, Jawali, Pachhad and Shimla (Urban)

(Rupees in lakh)

Name of SR office	Number of cases	Market value as per actual price applicable	Consideration value as per conveyance deed executed	Loss of revenue		Total
				Stamp duty	Registration fee	
Shimla (Urban)	38	455.42	407.67	2.47	0.44	2.91
Jawali	24	22.88	14.51	0.71	0.17	0.88
Indora	15	46.64	40.62	0.66	0.12	0.78
Dharamsala	13	128.98	54.60	6.27	0.69	6.96
Pachhad	1	5.54	0.22	0.64	0.11	0.75
<b>Total</b>	<b>91</b>	<b>659.46</b>	<b>517.62</b>	<b>10.75</b>	<b>1.53</b>	<b>12.28</b>

After this was pointed out, the concerned SRs stated that the relevant documents would be examined. Further reply had not been received (September 2007).

The matter was reported to the department and Government between May 2006 and January 2007; reply had not been received (September 2007).

### **C General Administration Department**

#### **5.6 Non recovery of damages from unauthorised occupants**

The Himachal Pradesh Allotment of Government Residences (General Pool) Rules, 1994, provide that if a residence remains in occupation of an allottee beyond permissible period of retention of residence, such an allottee shall be liable to pay damages, for use and occupation of the residence, at the rate of Rs. 12 per sqft. Permissible period of retention of residence in the case of outstation transfer is two months or upto the date of allotment at new place of posting, whichever is earlier

During audit of records of Directorate of Estates, Himachal Pradesh, Shimla, it was noticed in October 2006 that two allottees transferred out of Shimla were allowed to retain Government residences upto September 2005 and June 2006 respectively. Thereafter, the allottees did not vacate Government accommodation and had retained the residences unauthorisedly. Damages amounting to Rs. 4.90 lakh for the period falling between October 2005 and October 2006 were not recovered from them. The department neither took any action to evict the occupants after the expiry of permissible period of retention of Government residences nor raised any demand of recovery on account of damages.

After this was pointed out, the department intimated in January 2007 that the concerned officers had been informed to pay the damages as per rules. Further report of recovery had not been received (September 2007).

The matter was reported to Government in November 2006; reply had not been received (September 2007).

## **D Co-operation Department**

### **5.7 Non/ short redemption of Government share capital**

The State Government decided in January 1996 that in case of co-operative societies, share of Government contribution shall be redeemable at the rate of five *per cent* of its capital share once an optimum level of Rs.5 lakh is reached. The optimum level of Government share capital was enhanced to Rs.7 lakh with effect from January 2003.

During audit of Assistant Registrar, Co-operative Societies, Kullu, it was noticed in August 2006 that optimum level of Government's contribution of share capital in respect of four co-operative societies aggregated Rs.30.12 crore during the period falling between 1999-2000 and 2005-06. Consequently, share capital of Rs.1.51 crore became redeemable between 1999-2000 and 2005-06. The department did not insist upon the co-operative societies for redemption of Government share capital at the prescribed rate but recovered Rs.65 lakh only resulting in non/short redemption of Government share capital of Rs.86 lakh. Out of this, Rs. 70 lakh pertained to last five years 2001-02 to 2005-06.

After this was pointed out, the department intimated in June 2007 that a sum of Rs.16.27\* lakh had been recovered and efforts were being made to recover the

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\* Rs.3.09 lakh pertained to the years 1999-2000 to 2000-01

balance amount. Further report of recovery had not been received (September 2007).

The matter was reported to Government in September 2006; reply had not been received (September 2007).

Shimla  
The

**(Suman Saxena)**  
Accountant General (Audit)  
Himachal Pradesh

Countersigned

New Delhi  
The

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Comptroller and Auditor General of India