

## CHAPTER-VII: Mineral Concession, Fees and Royalties

### 7.1 Results of Audit

Test check of the records of Mining Department, conducted during the year 2004-05, revealed under assessments and losses of rent, royalty, fee etc. amounting to Rs 270.62 crore in 11,877 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 cess	237	93.09
2	Short levy of royalty due to downgrading of coal	5	1.85
3	Non/short levy of dead rent/ surface rent	22	0.69
4	Non levy of royalty on coal consumed by workmen	18	0.59
5	Non levy of interest	37	3.45
6	Non levy of penalty/fees	279	11.54
7	Non/short levy of auction money due to non/ irregular settlement of sand <i>ghats</i>	35	0.39
8	Non initiation of certificate proceedings	119	1.58
9	Other cases	11,125	157.44
<b>Total</b>		<b>11,877</b>	<b>270.62</b>

During the year 2004-05, the concerned Department accepted under assessment etc. of Rs 99.81 crore involved in 7,503 cases of which 6,987 cases involving Rs 58.27 crore have been pointed out in audit during 2004-05 and rest in earlier years.

A few illustrative cases involving Rs 2.56 crore are given in the following paragraphs:

## **7.2 Blocking up of royalty**

The Mines and Mineral (Regulation and Development) Act (MMRD Act) 1957, provides for payment of royalty by the lessee on quantity of minerals removed or consumed from the leased area. According to the judicial pronouncement\* removal from the seam in mine and extracting the same through pits mouth to the surface satisfies the requirement of Act in order to give rise to liability for payment of royalty. Further, the lessee is liable to pay royalty on the quantity of mineral extracted irrespective of whether it is removed or not from the leasehold area.

In three district mining offices (DMOs), it was noticed between March and December 2004 that 11.86 lakh MT of various minerals (like lime stone and coal of various grade) were lying in stock undisposed during the period between 2002-03 and 2003-04. In no case demand for royalty was either raised or realised by the DMOs in accordance with judicial pronouncement. Due to non raising of demand of royalty a sum of Rs 12.18 crore remained blocked as detailed below:

(Rupees in lakh)						
Sl. No	Name of the office/lessee	Name of mineral	Period	Quantity (in lakh MT)	Rate of royalty per MT	Amount of royalty
1	DMO Dhanbad/ Bharat Coking Coal Limited (BCCL)	Coal	2003-04	2.39	Between Rs 85 and 250	300.24
2	DMO Garhwa/ Steel Authority of India Limited. (SAIL)	Lime-stone	2003-04	0.39	Rs 40	15.42
3	DMO Hazaribag/ Central Coalfields Limited (CCL)	Coal	2002-03	9.08	Rs 70 and 165	902.17
	<b>TOTAL</b>			<b>11.86</b>		<b>1,217.83</b>

The matter was reported to the Department between March and December 2004 and Government in May 2005; reply has not been received (January 2006).

## **7.3 Non realisation of royalty**

Under Mineral Concession Rules (MC Rules), 1960, every lessee is required to furnish monthly return for extraction and removal of mineral by the first of the month following the month to which the return relates. Rules also provide for verification of lessee's royalty returns by the assessing officer for assessment of demand. Further, the MMRD Act provides for payment of royalty by the lessee on the quantity of minerals removed or consumed from the leased area. The lessee shall store the unutilised/non saleable sub grade

\* Central Coal Field Ltd *Vrs* State of Bihar & others CWJC 2477 of 1996(R) of Patna High Court, Ranchi Bench.

mineral properly for future beneficiation and if Government is satisfied that inferior quality of the mineral cannot be used as major mineral, it may, by order permit the lessee to dispose it off as minor mineral.

- In DMO Hazaribag, it was noticed in March 2005 that the lessee\* despatched 2.84 lakh MT of deshale reject (Grade-G) coal\*\* from leasehold area during the period between March 1999 and February 2002 without payment of royalty till December 2004. This resulted in non realisation of royalty amounting to Rs 1.42 crore.

The matter was reported to the Department in March 2005 and Government in May 2005; reply has not been received (January 2006).

- In DMO Hazaribag, it was noticed in March 2005 that 81,938.72 MT of washery-I (W-I) reject coal (Grade-G) was lying in stock since 1999-00 to 2000-01. Out of this, 38,922.61 and 789.88 MT of W-I rejects were sold between October 2001 and September 2002 without payment of royalty. Further, balance quantity of 42,672.86 MT of reject coal pertaining to the period 2002-03 were not carried forward in the returns after September 2003 onwards without assigning any reasons. This resulted in non realisation of revenue of Rs 47.71 lakh.

After this was pointed out, the DMO Hazaribag stated in July 2004 that the demand has been raised for royalty of Rs 27.70 lakh on unaccounted 42,672.86 MT of reject coal. Action on the balance quantity has not been taken so far. Further reply has not been received (January 2006).

The cases were reported to Government in May 2005; reply has not been received (January 2006).

#### **7.4 Non levy of penalty**

Under the Bihar Minor Minerals Concession Rules (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 a sum of Rs 20 for every day after the expiry of the prescribed date subject to maximum of Rs 2,500 as penalty.

\* Bokaro West Colliery (TISCO), Hazaribag.

\*\* Deshale reject is the product coming out of deshaling plant. As per the grade declaration for 2003-04 by TISCO Ltd, the ash content was 59.90 *per cent* in the deshaling plant reject.

In nine DMOs\*, it was noticed that 126 lessees in 1,304 cases did not furnish the returns in time. During the period between April 1999 and March 2004 the returns were submitted with delay ranging between one and 60 months, but no penalty was imposed by the assessing officer in any of the cases. Thus, the Department failed to impose penalty of Rs 32.60 lakh for delayed/ non submission of monthly returns.

The cases were reported to the Department/Government in December 2004 and May 2005; reply has not been received (January 2006).

### **7.5 Short levy of royalty due to suppression of production of mineral**

Under the BMMC Rules, every lessee or permit holder is required to submit every month, a return in the prescribed form for extraction of minor minerals, by the fifteenth day of the following month to which it relates. Royalty is payable on the total quantity of mineral removed from leasehold area. Further as per Government notification of July 1998, 10 *per cent* of dust is generated from the boulders used in the crusher for production of stone chips.

During the course of audit of DMO, Sahebganj, it was noticed in September 2004 that a lessee showed an opening balance of 3,07,986 cft of stone dust in the monthly return of September 2002, against the closing balance of 7,986 cft of stone dust shown in the monthly return of August 2002. Hence there was an excess exhibition of 3,00,000 cft stone dust. This indicated crushing of 30,00,000 cft of stone boulders and production of 27,00,000 cft of stone chips which was suppressed and no royalty was paid which resulted in loss of royalty of Rs 19.10 lakh.

After this was pointed out in September 2004, the DMO, Sahebganj raised additional demand of Rs 13.61 lakh in February 2005 after adjusting Rs 5.49 lakh already paid in October 2004. Further reply has not been received (January 2006).

The case was reported to Government in May 2005; reply has not been received (January 2006).

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\* Daltonganj, Dhanbad, Dumka, Hazaribag, Koderma, Lohardaga, Pakur, Ranchi and Sahibganj.

### **7.6 Non/short levy of penalty for illegal mining of brick earth**

As per provisions of BMMC Rules and Government notification of March 1992, every brick kiln owner/ brick earth remover shall pay the prescribed consolidated royalty based on categories of the brick kilns before issue of permit. Under Rule 26A of BMMC Rule, a consolidated amount of royalty shall be paid by the brick kiln owner/brick earth remover per kiln per annum to the State Government in a manner prescribed therein on a fixed number of bricks for every classified area. Further Rule 40(8) of the Rules *ibid* provides that whoever removes minor mineral without valid lease/ permit shall be liable to pay the price thereof as penalty and 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 two DMOs, Hazaribag and Lohardaga, it was noticed between May and September 2004 that 66 brick kilns were operated in brick season 2003-04 without obtaining valid permit and without payment of consolidated royalty. Out of these in 58 cases relating to DMO Hazaribagh demand for consolidated royalty was raised without reference to the price of mineral and in two cases a total sum of Rs 15,000 was realised. Taking the minimum price of the mineral as equivalent to royalty and deducting the amount of royalty already levied, there was non/short levy of penalty of Rs 14.70 lakh.

After this was pointed out between May and September 2004, DMO Lohardaga stated in May 2004 that there is no provision of penalty under Rule 26A, while DMO Hazaribag stated that consolidated royalty has to be recovered under Rule 26A for which demand notices had been issued. The reply of the Department was not tenable as Rule 40(8) attracts penal provision for illegal removal/excavation of minor minerals/brick kiln earth whereas Rule 26A deals with payment of consolidated royalty of brick kiln owner having valid permit. Where mining is being done without any permit, all such cases are to be treated as illegal excavation and penalty imposed under Rule 40 (8). Further reply has not been received (January 2006).

The cases were reported to Government in May 2005; reply has not been received (January 2006).