

CHAPTER-VII: Mineral Concession, Fees and Royalties

7.1 Results of Audit

Test check of the records of Mining Department, conducted during the year 2003-04 revealed under assessments and losses of rent, royalty, fee etc. amounting to Rs 178.43 crore in 5,745 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	238	59.33
2	Short levy of royalty due to downgrading of coal	7	3.47
3	Non/short levy of dead rent/ surface rent	48	2.74
4.	Non-levy of royalty on coal consumed by workmen	25	0.61
5.	Non-levy of interest	171	4.40
6	Non-levy of penalty/fees	866	1.45
7	Non/short levy of auction money due to non settlement / irregular settlement of sand <i>ghats</i>	246	4.93
8	Non-initiation of certificate proceedings	4,023	91.38
9.	Other cases	121	10.12
Total		5,745	178.43

During the year 2003-04 the concerned Department accepted under-assessment etc. of Rs 50.07 crore involved in 1,097 cases of which 796 cases involving Rs 48.47 crore have been pointed out in audit during 2003-04 and rest in earlier years.

A few illustrative cases involving Rs 23.83 crore are given in the following paragraphs:

7.2 Blocking up of royalty

The Mines and Mineral (Regulation and Development) Act, 1957 provides for payment of royalty by the lessee on the quantity of minerals removed or consumed from the leased area. According to the judicial pronouncement¹ removal from the seam in mine and extracting the same through the pits mouth to the surface satisfies the requirement of the Act *ibid* 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 lease hold area.

In five District Mining Offices², 24.33 lakh MT of various minerals (lime stone, kyanite and coal of various grades) were lying undisposed during the period between 2000-01 and 2002-03. Demand for royalty on these minerals was neither raised nor realised by the District Mining Officers. Due to failure of the Department in raising demands of royalty a sum of Rs. 20.68 crore remained blocked.

After this was pointed out, three DMOs stated between August and November 2003 that action would be taken while the DMO Bokaro stated in December 2004 that certificate case for Rs 4.17 crore has been instituted in 2004-05 in case of Kalyani Project and the DMO Dhanbad stated in December 2004 that show cause notices to all concerned collieries have been issued in July 2004 and further action would be taken. Further reply has been received (April 2005).

The cases were reported to the Government in June 2004; their final reply is awaited (April 2005).

7.3 Non/short levy of surface rent

Under the Mineral Concession (MC) Rules, 1960, the holder of a mining lease is liable to pay surface rent in respect of surface area used by him for the purpose of mining operation at such rate not exceeding land revenue and cesses assessable on the land. Further, mining operation being a commercial activity, surface rent equivalent to one-twentieth of the market value of the land is to be charged at commercial rates.

In six District Mining Offices³, it was noticed that 44 lessees holding 66 leases of limestone, iron ore, graphite, dolomite, bauxite, manganese, coal, fire clay, soapstone, copper and uranium used 14,070.102 acres of land for mining operation between January 1999 and March 2003. The Department failed to

¹ CWJC 2477 of 1996 (R) of Patna High Court, Ranchi Bench

² Bokaro, Dhanbad, Garhwa, Giridih and Jamshedpur

³ Chaibasa, Daltonganj, Hazaribagh, Jamshedpur, Lohardaga and Latehar

realise surface rent at commercial rate. Surface rent payable worked out to Rs 2.55 crore against which the lessees paid Rs 0.85 lakh only in 24 leases at non-commercial rate resulting in non/ short levy of surface rent of Rs 2.54 crore.

After this was pointed out, the Mining Officers Chaibasa, Daltonganj, Latehar, Jamshedpur and Hazaribagh stated that necessary direction from the Government would be taken. Further reply has not been received (April 2005).

The cases were reported to the Government in June 2004; their final reply is awaited (April 2005).

7.4 Non-levy of penalty for illegal mining of brick earth

Under the BMMC Rules, 1972 and notification issued thereunder in March 1992, every brick kiln owner/ brick earth remover shall pay amount of prescribed consolidated royalty based on categories of brick kilns before issue of the permit. In case, any person who removes minor mineral without valid lease/permit 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 him without any lawful authority.

In four District Mining Offices⁴ it was noticed that out of 419 brick kilns, 151 brick kilns were operated during brick seasons 2001-02 and 2002-03 without payment of consolidated royalty and valid permit. No demand for recovery of price of the mineral as penalty was raised against the defaulters. As price of mineral was not fixed by the Deputy Commissioner, penalty amounting to Rs 35.93 lakh calculated at the minimum rate of royalty was leviable from the brick kiln owners.

After this was pointed out between February and December 2003, the DMOs/ AMOs Ranchi, Daltonganj and Lohardaga stated that necessary action would be taken, while AMO Latehar raised demand of Rs 0.45 lakh. Further reply has not been received (April 2005).

The cases were reported to the Government in June 2004; their final reply is awaited (April 2005).

⁴ Daltonganj, Latehar, Lohardaga, and Ranchi

7.5 Non-levy of penalty for non-submission/ delayed 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 every day after the expiry of the prescribed date subject to maximum of Rs 2,500.

In 11 Districts Mining Offices⁵ it was noticed that 106 lessees in 786 cases did not furnish the returns in time. Though the delay ranged between 19 and 136 months during July 1999 to November 2003, yet no penalty was imposed by the Assessing Officer in any of the cases. Thus, the Department failed to impose penalty of Rs 19.65 lakh for delayed submission of monthly returns.

After this was pointed out, between March 2003 and January 2004, the concerned Officers stated that matter would be examined and action taken accordingly. Further reply is awaited (April 2005).

The cases were reported to Government in June 2004; their final reply is awaited (April 2005).

7.6 Short levy of dead rent

Under the provisions of the Mines and Minerals (Regulation and Development) Act, 1957 the holder of a mining lease shall pay to the State Government every year, dead rent at such rate as may be specified for the time to time

In three District Mining Offices⁶, it was noticed that seven lessees having eight leases, over an area 5,513.69 hectares, had neither extracted nor removed minerals from leased hold areas during the year 2000-01 to 2002-03. The lessees were liable to pay dead rent amounting to Rs 8.17 lakh against which the lessees paid Rs 3.16 lakh only. This resulted in short levy of dead rent amounting to Rs 5.01 lakh.

⁵ Bokaro, Chaibasa, Daltonganj, Dumka, Giridih, Hazaribagh, Jamshedpur, Latehar, Lohardaga, Ranchi and Sahebganj

⁶ Chaibasa, Jamshedpur, and Latehar.

After this was pointed out, between February and November 2003, the concerned District Mining Officers stated that demand would be raised after examination of the cases. Further reply has not been received (April 2005).

The case was reported to the Government (June 2004); their final reply is awaited (April 2005).