

## CHAPTER-VII: MINING RECEIPTS

### 7.1 Results of Audit

Test check of records maintained in the office of the Deputy Director of Mines and Mining Officers during 2004-05 revealed non/short levy of royalty, dead rent, interest and other irregularities of Rs.58.54 crore in 83 cases which may broadly be categorised as under:

*(Rupees in crore)*

Sl. No.	Subject	No. of cases	Amount
1.	Irregularities of miscellaneous nature	27	57.48
2.	Non/short levy of royalty/ dead rent	48	0.63
3.	Non/short recovery of interest and non levy of interest	8	0.43
<b>Total</b>		<b>83</b>	<b>58.54</b>

During the year 2004-05, the Department accepted under assessment etc of Rs.44.96 crore involving 30 cases, which had been pointed out in 2004-05. The Department recovered only Rs.5.30 lakh in 22 cases.

A few illustrative cases highlighting important audit observations involving Rs.29.48 crore are discussed in the following paragraphs

## **7.2 Short realisation of royalty on high grade Iron Ore**

Government of India, Ministry of Mines in their notification of September 2000 amended the Mineral Concession Rules (MC Rules) and inserted a new provision according to which in case processing of run-of-mine<sup>1</sup> mineral is carried out within the lease hold area, royalty shall be chargeable on the processed mineral removed from the lease hold area. Prior to the aforesaid notification, royalty was chargeable on unprocessed mineral i.e. mineral extracted from the seam.

Test check of records of two Mining circles<sup>2</sup> revealed in December 2004 that nine mines<sup>3</sup> of eight lessees were not run-of-mines. The Assessing Officers incorrectly levied royalty of Rs.7.28 crore on 36,51,833.330 MT of processed mineral instead of Rs.8.49 crore on 36,72,545.805 MT of unprocessed mineral fed to the processing plant in 2003-04. This resulted in short levy of royalty of Rs.1.21 crore.

After this was pointed out in December 2004, DDM<sup>4</sup>, Joda and Koira stated in December 2004 that royalty was correctly charged on the processed mineral. The replies were not tenable since these mines were not run-of-mines and hence royalty was payable on unprocessed mineral instead of processed mineral.

The matter was brought to the notice of the Department in February 2005, reply had not been received (October 2005).

## **7.3 Loss of revenue on illegal extraction/removal and disposal of stock of ore**

The Mines and Minerals (Development and Regulation) (MM (DR) Act, 1957 provides that no person shall undertake any mining operation in any area, except under and in accordance with the terms and conditions of the mining lease. Whenever any person raises without any lawful authority, any mineral from any land, the Government may recover from such person the price of the mineral so raised, or where such mineral has already been disposed of, the price thereof and royalty etc. may be realised. As per the Government of Orissa, Steel and Mines Department's order of March 1998 all kinds of ores and minerals seized in the field should be disposed of within three months.

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1 The blasted materials containing ore with other foreign materials brought to the crushing plant ore.

2 Joda and Koira.

3 Jilling Longalotta Mines of M/s. E.M.I. Ltd, Jaruri Iron/Mangamese Mines of M/s. Kalinga Mining Corporation Ltd, Nuagoan Iron Mines of M/s. K.J.S. Alluwalia, S.G.B.K. Mines of M/s. O.M.C Ltd, Khandabandha Iron Mine of M/s. O.M.C. Ltd, Khandabandha Iron Mines of M/s. TISCO Ltd, Jajang Iron Mines of M/s. Rungta Mines Ltd, SanIndupur Iron/Manganese Mines of M/s. National Enterprises and Oraghat Mines of M/s. Rungta Sons (P) Ltd.

4 Deputy Director of Mines.

Under MC Rules, in case of belated payment of mining dues simple interest at the rate of 24 *per cent* per annum is chargeable from the sixtieth day of the expiry of the due date till the default continues.

**7.3.1** Test check of the records of Jajpur Road Mining Circle, revealed in September 2004 that M/s. Tata Iron & Steel Company Limited (TISCO Ltd.), a lessee applied for second renewal before expiry of a mining lease (i.e. 11 January 1993) over an area of 1,261.476 hectares for chromite ore in Sukinda. Government renewed only 406 hectares and took away the possession of 855.476 hectares in October 1996 from the lessee and handed over the possession to M/s. Orissa Mining Corporation Limited (OMC Ltd.) as custodian. Subsequently Government leased out 89 hectares out of 855.476 hectares to M/s. Jindal Strips Ltd. in August 2001. DDM, Jajpur Road reported in September 2001 that M/s. TISCO Ltd. extracted 2,80,933 MT of beneficiable low grade chromite ore in the area of 89 hectares between October 1996 and May 2000 illegally as it was beyond the mining area renewed in favour of M/s. TISCO Ltd. The Company did not furnish any accounts for the said quantity. Government of Orissa, Department of Steel & Mines in their order of November 2003 decided to hand over 1,88,550 MT of ore to M/s. TISCO on payment of two times of royalty treating M/s. TISCO Ltd as lessee. The Government order to levy two times of royalty was not in consonance with the provisions of the Act *ibid*. The Department realised Rs.1.47 crore towards two times of royalty on 1,88,550 MT of ore instead of realising cost of ore and royalty. This resulted in loss of revenue of Rs.16.29 crore.

Government would sustain further loss of revenue towards interest at the rate of 24 *per cent* per annum for delay in raising demand.

- The Department also detected in November 1999 unauthorised extraction of 63,168 MT of medium grade and 3,640 MT of below low grade chromite ore beyond the area covered in renewal of mining lease of M/s TISCO Ltd. but did not take any step to raise demand and realise Rs.9.36 crore towards the cost of ore and royalty from the lessee for illegal extraction.

Government would sustain further loss of revenue towards interest at the rate of 24 *per cent* per annum for delay in raising demand.

**7.3.2** Government also proposed to dispose of the balance quantity of 92,383 MT of ore valued Rs.8.34 crore out of 2,80,933 MT of beneficiable low grade chromite ore through public auction or to deliver the material to OMC or to M/s. TISCO on payment of value of the material. The upset price of chromite was submitted to the DM<sup>5</sup> in February 2004 but returned to the DDM, Jajpur Road in April 2004 with the direction to revise the upset price. As the upset price was not approved, the material had not been disposed of even after a lapse of three years. This resulted in non realisation of revenue of Rs.8.34 crore worked out on the basis of cost price and royalty.

The matter was brought to the notice of the Department/Government in February 2005; reply had not been received (October 2005).

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5 Director of Mines.

**7.4 Loss of revenue due to revocation of grant order by State Government**

Under the provisions of MC Rules, an application for renewal of mining lease shall be made to the State Government 12 months before the expiry of the lease. Mining lease deed shall be executed within six months of the grant order or within such further period as the State Government may allow and if no such lease deed is executed within the said period due to any default on the part of the applicant, the State Government may revoke the order granting the lease. Further under the provisions of the MM(DR) Act, whenever any person raises without any lawful authority any mineral from any land, the Government may recover from such person the mineral so raised or where such mineral has already been disposed of, the price and royalty thereof be realised.

Test check of records of DDM, Rourkela in February 2005 revealed that the State Government renewed a mining lease in January 2001 in favour of M/s. Hindustan Zinc Ltd. for a period of 20 years from 26 November 1994. The lessee did not execute the lease deed within the stipulated period but applied for surrender of the lease area in April 2002. The State Government revoked the renewal of lease order in December 2003. The lessee extracted 2,542 MT of concentrate lead and 3.968.250 kgs of silver between January 2001 and December 2002. Non execution of lease deed and consequent revocation of renewal order made extraction of ore unlawful and illegal. Thus the lessee was liable to pay cost of ore in addition to royalty for ores extracted between January 2001 and December 2003. The State Government took over the possession of the leased area in June and July 2004 without effecting recovery of Rs.6.23 crore towards cost of above minerals.

After this was pointed out in audit in February 2005 the DDM, Rourkela stated in February 2005 that the lessee despatched the ore on payment of usual royalty before receipt of the revocation order. The reply was not tenable as failure to execute the lease deed led to revocation of the grant order. As such production of ore and their despatch from mine was illegal for which the lessee was liable to pay the cost of the ore in addition to royalty. Non recovery of cost of ore before taking over possession led to loss of revenue of Rs.6.23 crore.

The matter was reported to DM and Government in March 2005. Government stated in August 2005 that the lessee was allowed removal as per conditions of lease as the lessee was working under provision of Rule 24-A (1) and royalty was realised. There is no provision in M&M (D&R) Act, 1957 or MC Rules 1960 to handle such situation. The reply is not tenable since as per the admission of the Department there exists no provision in M&M (D&R) Act or MC Rules to handle such situation which is a failure in the system itself.

## **7.5 Unauthorised extraction/removal of iron ore**

The MM (DR) Act, provides that no person shall undertake any mining operation in any area, except under and in accordance with the terms and conditions of mining lease. Whenever any person raises without any lawful authority, any mineral from any land, the Government may recover from such person the price of mineral so raised, or where such mineral has already been disposed of, the price thereof and royalty may be realised. Under MC Rules if an application for renewal of a mining lease is not disposed of by the State Government before the date of expiry of the lease, the period of that lease shall be deemed to have been extended by a further period till the State Government passes order thereon. As per Forest Conservation Act (FC Act) 1980, non forest activities such as mining operation in forest area cannot be undertaken without prior approval of the Central Government, even in case of renewal of mining lease.

Scrutiny of records of Koira Mining Circle under the jurisdiction of DDM, Koira revealed in December 2004 that a mining lease for iron ore over an area of 90.143 hectares expired on 26 August 2001. The lessee applied for renewal of mining lease on 27 July 2000 and continued mining operation under deemed extension<sup>6</sup>. DFO, Sundergarh, however, directed the lessee (25 August 2001) not to undertake mining operation in forest broken land<sup>7</sup> without forest clearance from Central Government. The lessee continued mining operation and extracted 1,86,750<sup>8</sup> MT of different grades of iron ore illegally from 1 September 2001 to 31 October 2004 and kept 13,963.660 MT of iron ore in stock as on 31 October 2004. Thus the lessee was liable to pay Rs.5.09 crore towards cost of ore and Rs.2.25 lakh towards royalty on the closing stock respectively for such illegal mining. DDM neither raised any demand nor took any action to stop the illegal operation.

After this was pointed out in December 2004, the DDM, Koira stated that the dereservation proposal submitted by the lessee in November 1988 was sent to DFO in March 1989 and finally on 22 August 2003 after rectification and the lessee worked under deemed extension. The reply was not tenable as the lessee operated the mines illegally in the forest broken land. After coming into force of FC Act, without the prior approval of the Central Government, no part of the forest land could be used for any mining purpose. Therefore, the assessing officer should have raised demand as soon as illegal extraction was noticed.

The matter was brought to the notice of the Department and Government in February 2005; reply had not been received (October 2005).

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6 Working of mine pending disposal of renewal application by State Government.

7 Breaking or clearing of forest land for mining purpose.

8 This production does not include the production of 25,576 MT of fines as the rate of PMV was not available with the Department.

### **7.6 Non levy of interest on delayed payment of mining dues**

Under the MC Rules, as amended from time to time, in case of belated payment of dead rent, royalty or other mining dues, simple interest at the prescribed rate<sup>9</sup> for the amount in default is chargeable from sixtieth day of the expiry of the due date for the period of default.

Test check of records of five mining circles<sup>10</sup> revealed between June 2004 and January 2005 that interest amounting to Rs.41.57 lakh on belated payment of dead rent and royalty in nine cases from 1999-2000 to 2003-04 was not levied.

After this was pointed out in audit between June 2004 and January 2005 all the mining authorities except DDM, Talcher agreed between June 2004 and December 2004 to raise the demand. The DDM, Talcher did not give any specific reply. However, DM stated in April 2005 that Rs.3.30 lakh was realised in three cases in respect of Mining Officers, Baripada and Bhawanipatna.

The matter was brought to the notice of the Department/Government in March 2005; reply had not been received (October 2005).

### **7.7 Short realisation of royalty on manganese ore**

As per provisions of the MM (DR) Act, read with Government of India (GOI), Ministry of Mines in their notification of September 2000, royalty on manganese ore and concentrate was fixed at three *per cent* and one *per cent* respectively of sale price on advalorem basis. GOI, Ministry of Mines issued guidelines in April 2003 according to which the State Government shall add 20 *per cent* to benchmark value published by the Indian Bureau of Mines for individual mineral for reckoning the sale price for computation of royalty. As per Government of Orissa, Mining and Geology Department notification of August 1974, the Mining Officer shall make quarterly verification of returns furnished by the lessees and shall raise demand for differential royalty, if any, as soon as possible after expiry of each quarter.

Test check of records of Koira Mining Circle revealed in December 2004 that the lessee M/s. TISCO Ltd. paid royalty amounting to Rs.16.47 lakh for the period 2003-04 at the pre-revised flat rate on his self assessment instead of Rs.39.21 lakh worked out on the basis of royalty on benchmark value as per the guidelines of GOI. The assessing officer did not check the returns properly and made incorrect assessment of royalty which led to short realisation of royalty of Rs. 22.74 lakh.

After this was pointed out in audit in December 2004 the DDM agreed in December 2004 to assess royalty as per audit observation.

The matter was brought to the notice of the Department/Government in March 2005; reply had not been received (October 2005).

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9 15% w.e.f 2 October 1982 and 24% w.e.f 1 April 1991.

10 Bhawanipatna, Baripada, Koira, Koraput and Talcher.

