

## CHAPTER VI MINES AND MINERALS

### 6.1 Results of audit

Test check of records relating to mines and minerals under different district land and land reforms (DL&LR) offices as well as offices of the Cess Deputy Collector, Chief Mining Officer and other mining officers, conducted during the year 2005-06, revealed underassessment, non/short realisation of revenue amounting to Rs.209.71 crore in 76 cases, which broadly fall under the following categories :

*(Rupees in crore)*

Sl. No.	Categories	No. of cases	Amount
1.	Non/ short assessment of cesses on minor/ major minerals	9	116.58
2.	Non/ short assessment/ realisation of price of minor/ major minerals extracted unauthorisedly	26	88.86
3.	Non/ short assessment/realisation of surface rent/ dead rent	2	0.02
4.	Non/ short assessment/ levy/ realisation of royalty and cess	20	0.42
5.	Other cases	19	3.83
<b>Total</b>		<b>76</b>	<b>209.71</b>

During the course of the year 2005-06, the concerned department accepted observations of Rs.56.13 crore in 62 cases of which 61 cases involving Rs.56.12 crore were pointed out in audit during the year 2005-06 and the rest in earlier years. An amount of Rs.0.96 lakh was realised at the instance of audit.

A few illustrative cases involving Rs.202.76 crore highlighting important observations are given in the following paragraphs:

## **6.2 Assessment and collection of mining receipts including coal**

### **6.2.1 Introduction**

Under the provisions of the West Bengal Estates Acquisition Act, 1953, right in subsoil including rights in mines and minerals in the estates are vested in the State. Accordingly, extraction of minerals is governed under the Mines and Minerals (Development and Regulation) (MMDR Act) Act, 1957, Mineral Concession Rules (MC Rules) 1960, Cess Act, 1880, West Bengal Primary Education Act, 1973 and West Bengal Rural Employment and Production Act, 1976.

Coal is the most important major mineral available in West Bengal. The receipts from coal comprise royalty or dead rent, surface rent, price for unauthorised extraction, interest for delayed payment, water rate and different kinds of cess.

The Commerce and Industries Department (Mines Branch) is the administrative head of the mining estates of the State with the Principal Secretary as its head at the Government level and the Director of Mines and Minerals as the head of the directorate. The Director of Mines and Minerals assist the department in development and regulation of mines and minerals and grant of mining lease as well as assessment of royalty or dead rent with the assistance of the Chief Mining Officer (CMO) at Asansol and four zonal mining officers (MO) at Siliguri, Suri, Chinsurah and Purulia. The Cess Deputy Collector (CDC), Asansol and the respective district land and land reform officers (DL&LRO) under the Land & Land Reforms Department are responsible for collection of royalty or dead rent as well as assessment and collection of surface rent, water rate and different kinds of cess. As an exception, rural employment (RE) and primary education (PE) cess on coal are assessed and realised by the Assistant Commissioner of Commercial Taxes (ACCT), Asansol charge under the Finance Department. Outstanding dues are recoverable under the Bengal Public Demands Recovery Act 1913.

### **6.2.2 Scope of Audit**

The records of the Commerce and Industries (C&I) Department, Director of Mines and Minerals, CMO Asansol, MOs of Purulia, Suri and Siliguri, CDC Asansol, DL&LRO of Purulia, Bankura, Birbhum, Darjeeling and Jalpaiguri

and ACCT Asansol for the years 2000-2001 to 2004-2005 were examined between October 2005 and February 2006. The audit findings are summarised in the succeeding paragraphs.

### 6.2.3 Underassessment of RE and PE cess

#### 6.2.3.1 Allowance of inadmissible deduction

Under the West Bengal Rural Employment and Production Act and the West Bengal Primary Education Act as amended in 1992, every lessee of coal mine shall pay RE and PE cess for any financial year on the basis of half of the annual value of the entire coal produced during the two years immediately preceding that financial year. Every owner of a coal bearing land is required to submit a declaration showing the annual value of coal produced and amount of RE and PE cess payable for that year. The Acts do not provide for any deduction on account of any loss occurred after production or on account of quality degradation for assessment and collection of cess.

Scrutiny of declarations and assessment orders of ACCT, Asansol charge revealed that a lessee<sup>1</sup> claimed deduction of Rs.339.28 crore on account of loss on stock and quality deduction. The assessing authority incorrectly allowed the deduction resulting in underassessment of RE and PE cess of Rs.93 crore as detailed below:

*(Rupees in crore)*

Year	Date of assessment	Quality deduction	Loss on stock of coal	Total deduction allowed	Underassessment of RE and PE cess
1998-99	31.07.02	46.08	15.28	61.36	23.52
1999-2000	-do-	93.67	19.98	113.65	28.41
2000-01	-do-	146.68	17.59	164.27	41.07
<b>Total</b>		<b>286.43</b>	<b>52.85</b>	<b>339.28</b>	<b>93.00</b>

#### 6.2.3.2 Application of incorrect rate of RE and PE cess

By a notification issued in December 1998, the rates of RE and PE cess were reduced from 38 per cent and seven per cent to 20 per cent and five per cent respectively from 1 December 1998 on the annual value of coal.

<sup>1</sup> M/s Eastern Coal Fields Limited

Test check of records of ACCT Asansol charge revealed that in respect of a company<sup>2</sup> the assessing authority while finalising the assessment in July 2002 for the year 1997-98 and 1998-99 applied reduced rate of 20 per cent and five per cent in respect of RE and PE cess respectively from December 1997 instead of December 1998. This resulted in underassessment of RE and PE cess of Rs.12 crore during December 1997 to November 1998 as detailed below:

*(Rupees in crore)*

Period	Date of assessment	Annual value of coal	Rate chargeable	RE and PE cess leviable	Rate charged	RE and PE cess levied	Short levy
1.12.97 to 31.3.98	31.07.02	20.00	45%	9.00	25%	5.00	4.00
1.4.98 to 30.11.98	-do-	40.00	45%	18.00	25%	10.00	8.00
<b>Total</b>							<b>12.00</b>

### **6.2.3.3 Short assessment due to incorrect gradation of coal**

Cross verification of records of ACCT Asansol with that of CMO Asansol revealed that M/s Bengal Emta Coal Mines Ltd extracted only 'C' grade coal during April 1999 to March 2001 and submitted returns accordingly to the CMO for assessment of royalty. However, in the annual declaration submitted to ACCT Asansol for assessment of RE and PE cess for the said period, the lessee showed extraction of coal of different grades varying between 'C' and 'G' resulting in reduction in the annual value of coal. The ACCT assessed RE and PE cess accordingly on the reduced value of coal. This resulted in short assessment of cess of Rs. 9.97 crore as detailed below:

*(Rupees in crore)*

Period of Assessment	Date of assessment	Rate of RE and PE cess	Annual value of coal assessable	Annual value of coal assessed	RE and PE cess assessable	RE and PE cess assessed	Short assessment
1999-2000	30.7.2002	25%	74.48	58.79	18.62	14.70	3.92
2000-01	30.7.2002	-do-	117.94	93.74	29.48	23.43	6.05
<b>Total</b>							<b>9.97</b>

### **6.2.4 Non imposition of price of minerals extracted unlawfully**

As per provisions of MMDR Act, no person shall undertake any mining operation in any area except under the terms and conditions of a lease or a

<sup>2</sup> Bharat Coking Coal Limited

quarry permit. In the event of unauthorised extraction of minerals, the State Government is empowered to recover the mineral raised unlawfully or where such minerals have already been disposed of, the price thereof. Under the MC Rules, ordinary sand used for stowing<sup>3</sup> purpose is treated as major mineral, extraction of which can be done under a mining lease. No price has been prescribed for stowing sand.

Scrutiny of records of the C&I Department and four<sup>4</sup> DL & LROs revealed that C & I Department granted temporary working permits to M/s ECL from time to time since August 1999 for extraction of stowing sand from the river-beds. The quantity of sand permitted for extraction against 10 permits was 10.65 crore cft. in three districts. However, as per the statement submitted, M/s ECL extracted 22.21 crore cft. of sand. The DL&LROs while finalising the assessments between October 2000 and February 2005 did not recover the price of sand extracted unauthorisedly. This resulted in non imposition and non realisation of the price of sand of Rs.2.50<sup>5</sup> crore used for stowing purpose as detailed below:

District	Period of permit	Permitted quantity in cft	Extracted quantity in cft	Excess extraction in cft	Royalty involved (in Rs)	Penal price payable (Rs. in crore)
Burdwan	1.3.01 to 31.7.01	1,91,47,306	2,26,47,359	35,00,053	75,601	0.08
Purulia	29.8.00 to 30.6.05	11,99,960	1,64,30,816	1,52,30,856	3,28,986	0.33
Birbhum	- do -	8,61,40,882	18,29,93,004	9,68,52,122	20,92,006	2.09
<b>Total</b>		<b>10,64,88,148</b>	<b>22,20,71,179</b>	<b>11,55,83,031</b>	<b>24,96,593</b>	<b>2.50</b>

After this was pointed out, DL&LRO Burdwan raised demand of Rs.7.56 lakh in March 2006. However, report on realisation has not been received (October 2006). Final reply from the other two DL & LROs has not been received.

### 6.2.5 Non assessment of cess on dead rent

Under the Cess Acts read with clarification issued in May 2000, cess on dead rent are realisable at the rate of 86<sup>6</sup> paise per rupee.

<sup>3</sup> Ordinary sand used for filling the pits of a coal mine.

<sup>4</sup> Bankura, Birbhum, Burdwan and Purulia

<sup>5</sup> The price has been worked out at the rate of 10 times of the royalty in accordance with the provisions of the West Bengal Minor Minerals Rules, 1973.

<sup>6</sup> Rural employment cess-45 paise, public works cess-25 paise, primary education cess-10 paise and road cess-6 paise

Test check of records revealed that CDC Asansol and DL&LRO Birbhum did not assess cess of Rs.1.59 crore on dead rent assessed between 12 July 2000 and 4 January 2006 payable for various periods between May 1997 and April 2005. This resulted in non assessment and non levy of cess of Rs.1.59 crore.

After this was pointed out, the assessing authority raised demands for Rs.54.67 lakh in January 2006. Report on realisation has, however, not been received (October 2006). As regards balance amount of cess, CDC Asansol stated that new certificate case for realising cess on dead rent would be initiated on verification of records.

### **6.2.6 Non assessment of water rate**

Under the provisions of the MC Rules and terms and conditions of mining lease, the lessee shall pay water rate at prescribed rate in respect of all parts of surface of lands occupied or used by him. Water rate has been fixed at Rs.54 per acre per annum under the West Bengal Irrigation (Imposition of Water Rate) Act, 1974. The Rules do not specify the authority responsible for assessment and collection of water rate.

During test check of records of CDC Asansol and four<sup>7</sup> DL & LROs, it was noticed that water rate was not assessed and realised on 46,946 acres of land occupied or used by four lessees for extraction of coal. This resulted in non assessment and consequent non realisation of water rate of Rs.98.05 lakh for the various periods between May 1999 and September 2004.

After this was pointed out, DL&LROs of Birbhum and Purulia districts raised demands of Rs.38.29 lakh between December 2005 and March 2006 while DL&LROs of Darjeeling and Bankura districts stated that action would be taken on verification of records. CDC Asansol stated in February 2006 that clarification from Government had been sought for as to which authority was responsible for assessment and collection of water rate.

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<sup>7</sup> Bankura, Birbhum, Darjeeling and Purulia

Government to whom the cases were reported, stated in June 2006 that Finance Department would take up the matter with Irrigation and Waterways Department and would decide the authority for assessment.

### **6.2.7 Non levy of interest**

Under the provisions of the MC Rules read with notification issued in January 1979, mining dues other than minor minerals including royalty relating to the quarters ending March, June, September and December every year are required to be paid by the first day of the respective succeeding month. If the quarterly dues remain unpaid on the expiry of the sixtieth day from the due date, the assessing authority shall charge simple interest at 24 *per cent* per annum till the date of payment.

Scrutiny of records of CDC, Asansol revealed that two<sup>8</sup> lessees paid between March 2001 and July 2003 royalty of Rs.2.84 crore for various quarters ending between June 2000 and March 2003. CDC Asansol, however, did not levy and realise interest of Rs.16.55 lakh from the lessee for delay ranging between 31 and 188 days after the expiry of sixtieth day.

After this was pointed out, the assessing authority raised demands of interest against the lessees in August 2006. Report on realisation has, however, not been received (October 2006).

### **6.2.8 Non initiation of certificate proceeding**

Under the provisions of the MMDR Act and Cess Act, any arrear rent, royalty, tax, fee together with cess payable thereon may be recovered from the defaulter lessee in the same manner as an arrear of land revenue under provisions of the Bengal Public Demands Recovery Act, 1913.

Scrutiny of records of CDC Asansol, DL & LROs Birbhum and Bankura districts revealed that dead rent, surface rent and cess payable by two<sup>9</sup> lessees for various periods between May 1999 and April 2003 were assessed and demanded between April 2001 and July 2003. CDC Asansol and the other two DL & LROs did not initiate any certificate proceedings against the lessees for non payment of dues of arrear rents of Rs.1.17 crore and cess of Rs.0.99 crore after lapse of time between 27 and 60 months from the date of

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<sup>8</sup> Bengal EMTA Coal Mines Ltd and Indian Iron and Steel Co.

<sup>9</sup> M/s Bharat Coking Coal Ltd. and M/s Eastern Coal Fields Ltd.

issue of demand notice. This resulted in non realisation of revenue of Rs.2.16 crore due to non initiation of certificate proceedings.

After this was pointed out, the CDC Asansol and DL & LRO Bankura stated that certificate proceedings would be started on verification of the records while the DL & LRO Birbhum instructed M/s ECL to make payment of dues. Report on further action taken has not been received (October 2006).

Government to whom the cases were reported furnished no specific reply(October 2006).

### **6.3 Unauthorised extraction of minerals**

Under the provisions of the MMDR Act, as amended in 1972 and the Rules made thereunder, no person is entitled to undertake any mining operation in any area except under the authority of a valid quarry permit/mining lease. Extraction in excess or without valid permit is unauthorised. In the event of unauthorised extraction of minerals, apart from other penal action, State Government is empowered to recover either the minerals raised unlawfully or the price thereof. By an order issued in September 1984, the Board of Revenue, West Bengal fixed the price of brick earth at Rs.30 per 100 cft. for 1981 with an increase of Rs.1.50 per 100 cft. each year. In the absence of fixation of price of sand by the Land and Land Reforms Department, the procurement price at the rate of Rs.680 per 100 cft. fixed by the Public Works (Roads) Department for the relevant period has been taken into consideration.

#### **6.3.1 Short raising of demand for earth and sand extracted unauthorisedly**

Scrutiny of records of DL & LRO Hooghly revealed that a company was entrusted with the construction work of Durgapur Expressway. It extracted 281.71 lakh cft. of earth against the permitted quantity of 15.14 lakh cft. and 563.43 lakh cft. of sand without any permit during 2001-05. Thus, extraction of 266.57 lakh cft. of earth and 563.43 lakh cft. of sand was unauthorised for which Rs.1.72 crore and Rs.38.31 crore respectively was recoverable. Besides, Rs.7.42 lakh towards royalty and cess for permitted quantity of earth was also realisable. Thus total demand works out to Rs.40.10 crore. But district authority demanded Rs.5.78 crore only towards royalty and cess on the



total quantity of earth and sand extracted by the company. This resulted in short raising of demand of Rs.34.32 crore.

Government to whom the case was reported stated in June 2006 that the matter was under scrutiny.

### **6.3.2 Non/short realisation of revenue from minerals extracted unauthorisedly**

Scrutiny of records of four<sup>10</sup> DL & LR Offices revealed that in 236 cases brickfield owners and other agencies extracted 45.41 crore cft. of brick earth/earth between 2000-01 and 2004-05 for the purpose of manufacturing bricks and other commercial purposes without valid quarry permits. There were 64 cases of repeated offenders. Such illegal extractions were detected by the revenue inspectors of the BL&LR offices but DL & LR offices, instead of, recovering the price of earth of Rs.28.60 crore, realised only Rs.0.22 crore as royalty. This resulted in non/short realisation of price of earth of Rs.28.38 crore.

Government to whom the cases were reported stated in June 2006 that out of total dues of Rs.36.36 lakh in South 24 Parganas, Rs.2.15 lakh has been realised and in North 24 Parganas Rs.1.06 lakh has been realised in full. Replies from DL & LROs Burdwan and Paschim Medinipur have not been received. In two cases brick field owners paid royalty instead of price of the mineral extracted unauthorisedly. Managing Director, Housing Infrastructure Development Corporation Limited (HIDCO) has requested to waive the demand for unauthorised extraction and the matter is under scrutiny of the C&I Department. In the rest of the cases steps are being taken to recover the price of minerals extracted unauthorisedly.

### **6.3.3 Non raising of demand on unauthorised extraction of minerals**

In Howrah district a company entrusted with widening and strengthening of National Highway No.6, extracted 29.44 lakh cft of earth and 2.67 crore cft. of sand during 2004-05 against the permitted quantity of 33,600 cft. of earth and 9.32 lakh cft. of sand. Thus extraction of 29.11 lakh cft. of earth and

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<sup>10</sup> Burdwan (East), North 24 Parganas, Paschim Medinipur and South 24 Parganas.

2.57 crore cft of sand was unauthorised for which price of Rs.18.77 lakh and Rs.18.22 crore respectively was realisable. But the district authority did not raise any demand for its realisation. This resulted in non raising of demand of Rs.18.41 crore towards prices of minerals.

The DL & LRO while admitting the audit observation stated that quantum of earth and sand that had been extracted without permission would be treated as unauthorised and price of earth and sand would be charged thereon.

Government to whom the case was reported stated in June 2006 that the matter was under scrutiny.

#### **6.4 Short realisation of royalty and cess on minor minerals**

Under the West Bengal Minor Minerals Rules, 2002 read with the Cess Act, 1880, West Bengal Primary Education Act, 1973 and the West Bengal Rural Employment and Production Act, 1976, extraction of minor minerals is permissible on the strength of a quarry permit issued by the DL&LR offices on realisation of royalty and cess<sup>11</sup> in advance at the rates prescribed by Government. The rates of royalty and cess on different kinds of minor minerals have been revised with effect from 8 November 2002.

Scrutiny of records of three<sup>12</sup> DL & LR offices revealed that in 406 cases the district authorities granted quarry permits for extraction of 111.48 lakh cft. of various kinds of minor minerals such as earth, sand, morrum, boulder, gravel, stone etc. between 8 November 2002 and 30 March 2003. But the district authorities realised royalty and cess of Rs.49.75 lakh at the pre revised rate instead of Rs.76.60 lakh at the revised rate. This resulted in short realisation of royalty and cess of Rs.26.85 lakh as detailed below:

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<sup>11</sup> Public works cess, road cess, primary education cess and rural employment cess.

<sup>12</sup> Burdwan (East), Paschim Medinipur and Purulia.

(Rupees in lakh)

Name of minerals	Quarry permits issued between	No. of cases	Quantity extracted (Lakh cft.)	Revised rate (Rs. per 100 cft.)	Pre-revised rate (Rs. per 100 cft.)	Difference in rates (Rs. per 100 cft.)	Short realisation
Earth	26.3.2003 and 30.3.2003	9	15.80	royalty-34.00 cess-15.00	20.00 15.00	14.00 --	2.21 --
Sand	8.11.2002 and 10.1.2003	276	59.68	royalty -63.00 cess-15.00	37.50 13.50	25.50 1.50	15.22 00.90
Morrum	11.11.2002 and 13.12.2002	44	20.95	royalty -43.00 cess-15.00	20.00 14.00	23.00 1.00	4.82 0.21
Boulder	26.11.2002 and 16.12.2002	24	5.44	royalty -63.00 cess-15.00	30.00 14.00	33.00 1.00	1.80 0.05
Gravel	3.12.2002	1	1.00	royalty -63.00 cess-15.00	37.50 13.50	25.50 1.50	0.26 0.02
Stone	18.11.2002 and 16.012003	52	8.61	royalty -63.00 cess-24.00	50.00 21.25	13.00 2.75	1.12 0.24
<b>Total</b>		<b>406</b>	<b>111.48</b>				<b>26.85</b> <b>(Royalty-</b> <b>25.43 and</b> <b>Cess-1.42)</b>

Government to whom the cases were reported stated in June 2006 that Rs.22,325 had been realised by DL & LRO Purulia and reply from Burdwan and Paschim Medinipur has not been received (October 2006).