

## CHAPTER-VI: NON-TAX RECEIPTS

### 6.1 Results of audit

Test check of the records of the receipts from water rates, mines and minerals, forest *etc.*, conducted during the year 2008-09, revealed loss/non-recovery of revenue and other deficiencies of Rs. 195.68 crore in 377 cases which fall under the following categories:

(Rupees in crore)

Sl. no.	Categories	No. of cases	Amount
<b>A. Mines and Minerals</b>			
1.	Non-initiation of certificate proceedings	25	46.53
2.	Non/short levy of auction money due to non/irregular settlement of sand <i>ghats</i>	31	15.61
3.	Non-levy of penalty against the works contractors for illegal procurement of minerals	11	8.85
4.	Non-levy of penalty for illegal removal of brick earth	40	8.19
5.	Non/short levy of royalty and cess	18	3.99
6.	Non-levy of interest	26	2.42
7.	Non-levy of stamp duty and registration fees	18	2.09
8.	Loss due to non-levy of fine for continued contravention	06	0.70
9.	Other irregularities	45	5.09
<b>Total</b>		<b>220</b>	<b>93.47</b>
<b>B. Water Rates</b>			
1.	Delay in assessment of water rates resulting in blocking of revenue	06	20.34
2.	Loss of revenue due to non-assessment of target of irrigation	19	11.52
3.	Loss of revenue due to non-raising of demand of water rates	08	8.35
4.	Loss of revenue due to non-settlement of the <i>chat land</i>	15	2.07
5.	Other irregularities	65	45.63
<b>Total</b>		<b>113</b>	<b>87.91</b>
<b>C. Forest Receipts</b>			
1.	Non-eviction of encroached forest land	05	11.11
2.	Loss of revenue due to non-realisation of sales tax	07	0.71
3.	Blocking of revenue due to non-disposal of collected/unclaimed timber	02	0.30
4.	Loss of revenue due to the delay in initiation of certificate cases	03	0.25
5.	Other irregularities	27	1.93
<b>Total</b>		<b>44</b>	<b>14.30</b>
<b>Grand Total</b>		<b>377</b>	<b>195.68</b>

During the year 2008-09, the concerned departments accepted underassessment and other deficiencies involving Rs. 194.72 crore in 390 cases, of which 311 cases involving Rs. 176.76 crore were pointed out during the year 2008-09 and the rest during the earlier years. The concerned departments had also reported recovery of Rs. 3.59 lakh.

A few illustrative audit observations involving tax effect of Rs. 12.87 crore are mentioned in the succeeding paragraphs.

## 6.2 Audit observations

*Scrutiny of the records of the district mining officers/executive engineers revealed several cases on non-compliance of the provisions of the Act/Rules and departmental orders as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions on the part of the departmental officers are pointed out in audit each year, but not only the irregularities persist; these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system and the internal audit.*

## A : MINES AND MINERALS

### 6.3 Non-levy of penalty for illegal removal of brick earth

Under the provisions of the Bihar Minor Mineral Concession (BMMC) Rules, 1972 and the notification issued (March 2001) thereunder, brick kilns are classified into three categories for determination of the consolidated amount of the royalty ranging between Rs. 90,000 (category I) and Rs. 50,000 (category III) based on the area and capacity of the kilns. Every brick kiln owner has to obtain a permit and pay the consolidated amount of the royalty in two equal instalments (first before commencement of the operation and the next before the month of March of the subsequent year). If the brick kiln owner fails to make the payment of the consolidated royalty, the competent officer shall stop such business and initiate certificate proceedings for realisation of the outstanding dues. Further, it is the duty of the district mining officer/assistant mining officer/mining inspector to inspect the area of the brick kiln every month for detection of illegal mining operation.

The Rules also provide that whoever removes minor mineral without a valid lease/permit shall be liable to pay the price of the minerals removed unlawfully as penalty. Besides, rent, royalty or taxes, as the case may be, may also be recovered from him. Further, as envisaged in the Mines and Minerals (Regulation and Development) Act (MMRD Act), 1957, in case of continued contravention of the provision of the Act by a brick kiln owner, an additional fine which may extend to Rs. 500 for every day during which such contravention continues after conviction for the first such contravention, may be imposed.

**6.3.1** During scrutiny of the records in five district mining offices<sup>124</sup> between July and December 2008, it was noticed that 187 brick kilns (category-II: 23; category-III: 164) were operated in the brick season<sup>125</sup> 2006-07 and 2007-08. Of this, 102 brick kiln owners had not paid any royalty (Rs. 53.64 lakh) and the remaining 85 brick kiln owners had made partial payment of the royalty (Rs. 28.80 lakh out of the total payable amount of Rs. 48.20 lakh). The concerned mining officer failed to either stop their business or initiate

<sup>124</sup> Kaimur (Bhabhua), Buxar, Madhubani, Nalanda and Siwan.

<sup>125</sup> Brick season starts from the month of October every year to March of the subsequent year.

certificate proceedings for realisation of the outstanding royalty/arrear amount. This resulted in non/short realisation of the royalty of Rs. 69.30 lakh.

After the cases were pointed out, the concerned mining officer stated between July and December 2008 that necessary action would be taken after verification. Report on recovery has not been received (January 2010).

**6.3.2** During scrutiny of the records in three district mining offices<sup>126</sup> between July and September 2008, it was noticed from the brick kiln registers that 63 brick kilns were operated during the brick season 2007-08 without paying the consolidated amount of the royalty and without any valid permit. Though the district mining officers detected the unauthorised operation of the kilns, yet no action was taken to levy and realise the price of minerals from the brick kiln operators as required under the Rules. Considering the minimum price of the mineral equivalent to the royalty, penalty of Rs. 31.90 lakh was also leviable.

After the cases were pointed out, the Mining Officer, Buxar stated in September 2008 that necessary action would be taken. The Mining Officer, Siwan stated in September 2008 that reply would be sent after review while Assistant Mining Officer, Nalanda stated in July 2009 that no specific provision for imposition of the penalty was available under rule 26(A) of the BMMC Rule. The reply is not tenable as Rule 26-A deals with the payment of the consolidated royalty by the brick kiln owners having valid permit whereas cases of mining without any valid permit are to be treated as illegal excavation and punishable under Rule 40 (8). Further replies have not been received (January 2010).

**6.3.3** During test check of the register and other records in respect of the three district mining offices<sup>127</sup> between August and December 2008, it was noticed that six defaulting brick kiln owners continued to engage in repeated illegal removal of brick earth and operated the kilns without paying royalty and obtaining permit for the period from 2005-06 to 2007-08. Though the illegal operation was in the knowledge of the departmental authorities, no action was taken to stop it and levy a fine for continued violation of the provisions of the Act/Rules. This resulted in non-levy of fine of Rs. 32.85 lakh.

After the cases were pointed out, the concerned mining officers stated between August and December 2008 that the matter would be examined and action taken. The replies were silent regarding the inaction of the mining officers till this was pointed out by audit. Further replies have not been received (January 2010).

The cases were reported to the Government between March and April 2009; their reply has not been received (January 2010).

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<sup>126</sup> Buxar, Nalanda and Siwan.

<sup>127</sup> Kaimur (Bhabhua), Madhubani and Rohtas (Sasaram).

#### **6.4 Non-levy of penalty against the works contractors for illegal procurement of the minerals**

The BMMC Rules provide that the works contractor shall purchase the mineral from lessee/permit holder and authorised dealer only. The Works Department shall not accept any bill which the works contractors submit to recover the cost of minerals used by them in completion of the work unless the same is accompanied with an affidavit in prescribed form 'M' and the particulars in form 'N' under the BMMC Rules describing the names and the addresses of the lessee/permit holder/dealers from whom the minerals were purchased. It shall be the duty of the officer who receives the said bill to send the photocopy of the forms to the concerned district mining officer/assistant mining officer. If verifications of the forms reveal that the minerals are not purchased from any bonafide lessee, it shall be presumed that the concerned mineral was obtained by illegal mining and in that event action should be taken against the works contractor.

During test check of the records of District Mining Officer, Purnea in March 2008, it was noticed that six works departments<sup>128</sup> did not send the particulars of the minerals used by the works contractors to the concerned district mining officer for verification. Instead, the Works Departments, during 2003-04 to 2006-07, deducted royalty of Rs. 99.32 lakh from the contractors for use of the minerals and deposited it into the Government account. This indicates that the minerals were not purchased from the lessee/permit holder/authorised dealers and the contractors were, thus, liable to pay penalty in addition to the royalty. But the District Mining Officer, Purnea on receipt of the information about the deduction of royalty by the works departments, did not initiate any follow up action to call for the copies of the forms 'M' and 'N' from the concerned Works Departments for verification and detection of the cases of illegal mining. This resulted in non-levy of fine of Rs. 99.32 lakh. Besides, such unauthorised procurement of the minerals by the works departments without insisting on forms 'M' and 'N' coupled with failure of the district mining officers/assistant mining officers to detect the illegal mining/irregular procurement of minerals by the works departments encouraged procurement of minerals extracted illegally.

After the cases were pointed out, the Mining Officer, Purnea stated in March 2008 that the matter would be referred to the concerned works departments. The issue of procurement of minerals by the works departments extracted illegally has been highlighted in successive Audit Reports. But neither the Mines and Minerals Department nor the Government has taken any corrective step to stop such violation of the BMMC Rules. Further reply has not been received (January 2010).

The cases were reported to the Government in October 2008; their reply has not been received (January 2010).

<sup>128</sup> Agriculture Department, Public Health Engineering Department, Road Construction Department, Rural Development Department, Rural Works Department and Water Resources Department.

## **B: WATER RATES**

### **6.5 Non-raising of demand of water rates**

Under the Bihar Irrigation (BI) Act, 1997 and the Rules framed thereunder, preparation of *sudkar*<sup>129</sup>, *khesra*<sup>130</sup> and *khatian*<sup>131</sup> are required to be prepared and completed by 30 November for *kharif*, 30 April for *rabi* and 15 June for hot weather crops for recovery of the water rates from the beneficiaries to whom water is supplied for irrigation purposes. These statements are to be prepared by the concerned junior engineer and forwarded to the executive engineer for recovery of the water rates.

During test check of the records in 16 irrigation divisions<sup>132</sup> between August 2007 and September 2008, it was noticed that *khatian* for 3.31 lakh hectares of *kharif*, 1.59 lakh hectares of *rabi* and 3,513.72 hectares of hot weather crops land irrigated during the years 2006-07 and 2007-08 were not prepared and forwarded to the executive engineers by the concerned junior engineers for recovery of the water rates. This resulted in non-raising of demand and collection of the water rates of Rs. 10.24 crore (Rs. 7.20 crore for *kharif*, Rs. 2.95 crore for *rabi* and Rs. 8.68 lakh for hot weather crops).

After the cases were pointed out, the executive engineers of 12 divisions<sup>133</sup> stated between August 2007 and November 2008 that *khatian* could not be prepared due to shortage of the staff while the Executive Engineer, Irrigation Division, Purnea stated in May 2008 that *khatian* could not be prepared due to non-availability of *khatian* form. The Executive Engineer Irrigation Division, Tarapur (Munger) stated in May 2008 that the fact would be intimated after investigation while Executive Engineers, Irrigation Division, Bhagalpur and Saharsa stated between February and June 2008 that the work of preparation of *khatian* is under progress. Further replies have not been received (January 2010).

The cases were reported to the Government between February 2008 and March 2009; their reply has not been received (January 2010).

### **6.6 Non-payment of the water charges**

Under the provisions of the Bihar Irrigation, Flood Management and Drainage (BIFMD) Rules, 2003 framed under the BI Act, every water user association which has been handed over the management of a canal by the Water Resources Department, is required to deposit the Government share of

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<sup>129</sup> *Sudkar*- statement of land irrigated.

<sup>130</sup> *Khesra*-cultivator wise measurement.

<sup>131</sup> *Khatian*-abstract demand of irrigated land.

<sup>132</sup> Baunsi (Banka); Bhagalpur; Bikarmganj (Rohtas); Dehri-on-Sone; Division No. 2, Jamui; Division No. 2, Jhajha; Ganga Pump Canal Division, Chausa (Buxar); Laxmipur at Banka; Purnea; Saharsa; Sone Canal Division, Khagaul; Sone High Level Canal Division, Bhabhua; Tarapur (Munger); Triveni Canal Division, Raxaul; Waterways Division, Gaya and Jehanabad.

<sup>133</sup> Baunsi (Banka); Bikarmganj (Rohtas); Dehri-on-Sone; Division No. 2, Jamui; Division No. 2, Jhajha; Ganga Pump Canal Division, Chausa (Buxar); Laxmipur at Banka; Sone Canal Division, Khagaul; Sone High Level Canal Division, Bhabhua; Triveni Canal Division, Raxaul; Waterways Division, Gaya and Jehanabad.

30 *per cent* of the assessed water rate within the stipulated time. The balance 70 *per cent* of the water rate is to be retained by the water user association for maintenance, operation and development of the canal.

Scrutiny of the records of Sone Canal Division, Khagaul and Sone Canal Division, Bikramganj (Rohtas) between March and August 2008 revealed that during 2003-08, 78,199.22 hectares of land were irrigated in *kharif* season and 39,178.25 hectares of land in *rabi* season for which Rs. 72.77 lakh (being 30 *per cent* of assessed water rate of Rs. 2.43 crore) was to be deposited by 12 user associations. Of this, the user associations paid an amount of Rs. 9.80 lakh only leaving a balance of Rs. 62.97 lakh. Further, neither any action was taken for realisation of the balance share of Rs. 62.97 lakh as per the rules/memorandum of understanding nor was the water supply stopped to the defaulting water user associations.

After these were pointed out, the concerned executive engineers stated between March and August 2008 that action for realisation were being taken. Further replies have not been received (January 2010).

The matter was reported to the Government in October 2008; their reply has not been received (January 2010).

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