

## CHAPTER VII: RECEIPTS FROM MINES AND MINERALS

### 7.1 Tax administration

The State of Meghalaya is endowed with rich mineral deposits, particularly coal and limestone. Constitutionally, the State Government is the owner of the minerals and as such receives rent and royalty accruing from grant of prospecting and mining rights to individuals and firms. The Constitution of India, however, empowers the Parliament of India to make laws for regulation of mines and minerals. Under this power, the Central Government enacted the Mines and Minerals (Development and Regulation) (MMDR) Act, 1957, and the Mineral Concession (MC) Rules, 1960. Subsequently, the State Government introduced the Meghalaya Minerals Cess (MMC) Act, 1988 to mobilise additional revenue. In Meghalaya, the royalty and cess on coal were ₹ 165 and ₹ 55 per MT respectively, and royalty and cess on limestone were ₹ 45 and ₹ 20 respectively, with effect from 6 January 2009. The rate of royalty on coal was further revised to ₹ 290 per MT with effect from 1 September 2009 while the cess was withdrawn.

### 7.2 Trend of receipts

Actual receipts from Mining & Geology Department during the years 2005-06 to 2009-10 alongwith the non-tax receipts during the same period is exhibited in the following table and graph.

**Table 7.1**

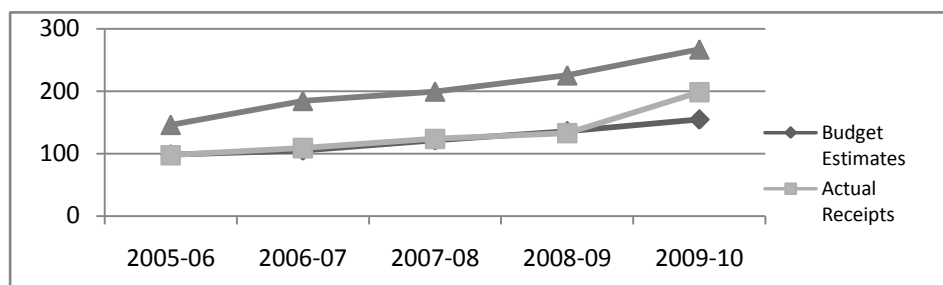
(Rupees in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total non-tax receipts of the State	Percentage of actual receipts vis-à-vis total non tax receipts
2005-06	98.50	97.56	(-) 0.94	0.95	146.01	67
2006-07	105.00	109.03	(+) 4.03	4	184.37	59
2007-08	121.43	123.66	(+) 2.23	2	199.35	62
2008-09	135.69	132.73	(-) 2.96	2	225.31	59
2009-10	154.63	198.21	(+) 43.58	28	275.09	72

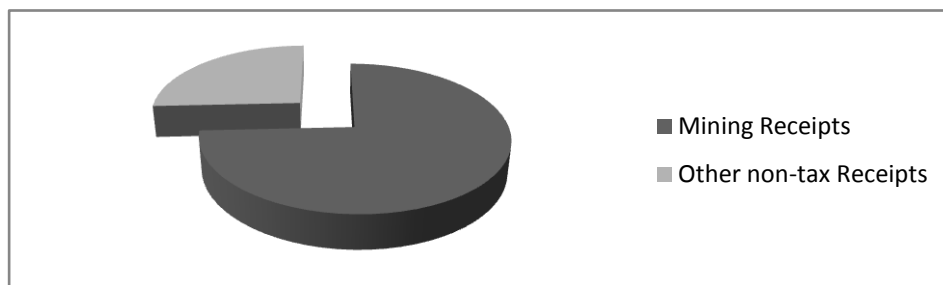
Thus, the percentage of variation which was (-) 0.95 *per cent* has shown correction in subsequent years and reached the level of (+) 28 *per cent* in 2009-10.

Mines and minerals receipts formed about 60-72 *per cent* of the total non-tax receipts of the State during the last five years.

A line graph of budget estimates, actual receipts and total non-tax receipts may be seen below:



Also a pie chart showing the position of actual mining receipts *vis-à-vis* the other non-tax receipts of the State during the 2009-10 may be seen below:



### 7.3 Impact of audit reports

During the last five years (including the current year's report), we have pointed out non/short levy, non/short realisation, underassessment/loss of revenue, incorrect exemption, concealment/suppression of turnover, application of incorrect rate of tax, incorrect computation etc., with revenue implication of ₹ 238.24 crore in 26 paragraphs. Of these, the Department / Government had accepted audit observations in 4 paragraphs involving ₹ 6.79 crore and had since recovered ₹ 0.05 crore. The details are shown in the following table:

**Table 7.3**

(Rupees in crore)

Year of Audit Report	Paragraphs included		Paragraphs accepted		Amount recovered	
	No	Amount	No	Amount	No	Amount
2005-06	2	10.55	2	6.14	1	0.05
2006-07	4	13.80	1	0.19	-	--
2007-08	5	21.35	-	-	-	--
2008-09	5	41.12	-	-	-	--
2009-10	10	151.42	1	0.46	-	--
<b>Total</b>	<b>26</b>	<b>238.24</b>	<b>4</b>	<b>6.79</b>	<b>1</b>	<b>0.05</b>

Thus, against the accepted cases involving ₹ 6.79 crore, the Department/Government has recovered an amount of ₹ 5 lakh which is 0.74 per cent.

**We recommend that the Department needs to revamp its revenue recovery mechanism to ensure that they could recover atleast the amount involved in the accepted cases.**

<b>7.4 Results of audit</b>
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Test check of the records of two units relating to Mining & Geology Department during the year 2009-10 revealed non-realisation of duties, royalties etc., amounting to ₹ 123.90 crore in 23 cases which can be categorised as under:

**Table 7.4****(Rupees in crore)**

Sl. No.	Category	Number of cases	Amount
1.	Non-revision of royalty rate	05	22.08
2.	Leakage of revenue	03	21.53
3.	Non-realisation of royalty	03	0.34
4.	Other irregularities	12	79.95
<b>Total</b>		<b>23</b>	<b>123.90</b>

During the year 2009-10, the Department failed to respond to any of the irregularities brought to their notice.

A few illustrative audit observations involving ₹ 151.39 crore are discussed in the succeeding paragraphs.

## 7.5 Audit observations

Scrutiny of the records in various offices of the Mining and Geology Department revealed several cases of non-observance of the provisions of the Acts/Rules resulting in non/short levy/realisation of royalty/cess/dead rent and other cases as have been mentioned in the ensuing paragraphs of the chapter. These cases are illustrative, based on test check carried out by us. Though we point out such omissions each year, yet the irregularities continue to persist. We feel there is a need for the Government to consider directing the Department to improve the internal control system so that such omissions can be detected, corrected and / or avoided.

## 7.6 Loss of revenue due to delay in issue of notification

**7.6.1** Mention was made in Paragraph 5.11 of the Audit Report, Government of Meghalaya for the year ended 31 March 2004 regarding loss of revenue of ₹ 18.56 crore due to delay on the part of the State Government in circulating the change in the rate of royalty of coal as notified by the Government of India. We further noticed a case of delay in circulating a notification enhancing the rate of royalty as mentioned under:-

The Government of India, Ministry of Coal revised the rate of royalty per metric tonne (MT) of coal from ₹ 165 to ₹ 130 plus five *per cent* of pithead price of coal with effect from 1 August 2007.

We noticed during scrutiny of records of the Director of Mineral Resources (DMR), Meghalaya, Shillong in November 2009 that that the Government of Meghalaya, Mining and Geology Department, notified in August 2009, the applicability of the revised rate of royalty from ₹ 165 to ₹ 290 per MT with effect from 1 September 2009 after a delay of 25 months. We further noticed that between August 2007 and March 2009, the DMR issued Coal Transport Challans (CTC) for despatch of 104.62 lakh MT of coal at the pre revised rate of ₹ 165 per MT and realised royalty of ₹172.63 crore as against ₹ 303.41 crore at revised rate of ₹ 290 per MT. Thus, delay on the part of the State Government to implement the revised rate of royalty resulted in loss of revenue of ₹ 130.78 crore.

**7.6.2** We noticed during scrutiny of records of the DMR in November 2009 that in contravention of the Government notification dated 6 January 2009, the DMR through a public notice, revised the rate of cess on limestone and sillimanite and levied cess on coal from 28 January 2009. We further noticed that 4,22,441 MT of coal, 1,491 MT of limestone and 37 MT of sillimanite were dispatched from the State during the period without realisation of cess/revised rate of cess due to delay on the part of DMR in implementation of revised rate of cess on

limestone and sillimanite and levy of cess on coal. This resulted in loss of revenue of ₹2.33 crore

We also noticed that the DMR check post at Dawki incorrectly allowed 16 exporters to export 9,177 MT of coal to Bangladesh between 28 January 2009 and 2 February 2009 without realisation of cess, resulting in loss of revenue of ₹ 5.05 lakh.

We reported both the cases to the Department / Government in December 2009 but we have not received their replies (October 2010).

### 7.7 Non-realisation of royalty on minerals exported

There are two checkpoints at Borsora, Jaintia Hills District-one belonging to

The MMDR Act and the notifications issued thereunder provide that every licensee or permit holder or lessee shall pay the prescribed royalty in advance on the quantity of minerals removed or consumed by him and in case of default the licensee shall in addition to royalty pay penalty at the rate of 25 to 100 *per cent* of the royalty.

the DMR and the other Land Custom Station (LCS) belonging to the Customs Department. The mining checkpost sends monthly returns to the DMR while the LCS sends the information regarding exports to the Customs Department.

We obtained information from the Customs Department regarding the export of coal

and limestone to Bangladesh through LCS at Borsora and found that 3,92,202.55 MT of coal and 98,218.24 MT of limestone were exported during the period from March 2009 to October 2009. Cross-verification of these exports revealed that DMR recorded export of 38,308 MT of coal by the permit holders after payment of royalty of ₹ 63.21 lakh. Thus, the export of 3,53,894.55 MT coal and 98,218.24 MT lime stone were reflected less in the records of the DMR. The DMR had at no time made any effort to cross-check the exports made through the Customs check post. This resulted in a loss of revenue of ₹ 13.47 crore in the form of royalty and cess and penalty.

We noticed that there was no coordination/reconciliation of figures of the exports liable to pay royalty that were taking place through two check posts viz the Mining checkpost and the Customs checkpost with the result evasion of tax in the mining checkpost remained undetected.

**We recommend that the Government may consider putting in place a mechanism for coordination / reconciliation of the figures of the exports that were liable to pay royalty and were taking place through the Mining checkpost and the Customs checkpost to check the evasion of royalty.**

We reported the case to the Department/Government in December 2009 but we have not received their replies (October 2010).

### 7.8 Loss of revenue due to illegal extraction of coal

We noticed from scrutiny of records of the DMR, Meghalaya, Shillong in

Under the MMDR Act, if coal is transported without payment of royalty, the officer in charge of the check gate shall collect royalty plus a minimum penalty of 25 *per cent* of royalty involved.

November 2009 that a lease agreement was executed in March 1988 with M/s Coal India Limited (CIL) for a term of 20 years in Nangwalbibra area of South Garo Hills district but the CIL could not carry out mining operations because of law and

order problem in the area. The DMO, Williamnagar visited the area on 28, 29 and 30 November 2007 and apprised the DMR of illegal extraction and despatch of at least 48,000 MT of coal between December 2007 and March 2009 from the leased area. Not only did the DMR fail to detect unauthorised extraction in time, but the departmental checkposts also failed to prevent transportation of illegally extracted coal. The DMR reported the matter to the Government in February 2008 but till date (August 2010) the Government has not taken any action. This led to minimum loss of revenue of ₹ 99 lakh. Besides, penalty of ₹ 24.75 lakh is also leviable.

We reported the matter to the Department/Government in December 2009 but we have not received their replies (October 2010).

### 7.9 Incorrect waiver of interest

While auditing the records of the DMR Shillong in November 2009, we noticed that the CIL did not extract any coal from the leasehold land at

The MMDR Act, and rules framed there under provides that if the dues payable by the lessee are not paid within the time specified, simple interest at the rate of 24 *per cent* per annum may be charged on the amount remaining unpaid from the sixtieth day of the expiry of the date fixed for payment of such dues. The Act does not provide for waiver of interest.

Nangwalbibra and was liable to pay dead rent of ₹ 79.78 lakh upto March 2008. For non-payment of dues, simple interest of ₹ 81.65 lakh was also payable by the lessee.

The lessee paid the dead rent in June 2009 and prayed for waiver of the interest payable for delayed payment of dead rent. The State Government waived payment of interest although there was no provision for waiver of interest in the Act. This resulted in loss of revenue of ₹ 81.65 lakh.

We reported the matter to the Department/Government in December 2009, but we have not received their replies (October 2010).

### 7.10 Non-levy of royalty on minerals consumed

We obtained information from M/s Mawmluh Cherra Cement Limited<sup>1</sup> and noticed that the company utilised 45,959 MT of coal and 19,700 MT of clay between April 2007 and March 2009 from eighty-three private suppliers. We cross-checked the information with the CTC registers in DMR, Shillong and found that neither any CTC had been issued nor was any royalty realised from the private suppliers for the said supply. Thus unauthorised extraction of coal and clay resulted in non-realisation of royalty of ₹ 82.13 lakh. Besides, minimum penalty of ₹ 18.96 lakh was also leviable for non-payment of royalty on coal.

We reported the case to the Department/Government in December 2009 but their replies have not been received (October 2010).

### 7.11 Non-realisation of cess on limestone

We obtained information from Jaintia Hills and Khasi Hills Territorial Forest

Under the Meghalaya Mineral Cess Act, cess on limestone has been fixed at ₹ 5 per MT from 1 April 1992. In Meghalaya, royalty on limestone is collected both by forest divisions (for limestone extracted from areas under the jurisdiction of forest division) and the DMR (for remaining areas).

Divisions and found that the two forest divisions collected royalty on 9.56 lakh MT of limestone extracted between April 2007 and December 2008 from areas within their jurisdiction. We cross-verified the information with the records of DMR, Shillong in November 2009 and found that

the Department did not have any records relating to extraction, consumption and export of limestone from the areas under the jurisdiction of forest division and collection of cess there from. Thus, lack of co-ordination between two departments led to non-realisation of cess of ₹ 47.80 lakh.

We reported the matter to the Department and to the Government in December 2009 but their replies have not been received (October 2010).

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<sup>1</sup> A cement company based in Shillong

### 7.12 Non-realisation of royalty on limestone

We noticed during scrutiny of records of the DMO, Williamnagar in December 2008 that permit holders/lessees extracted and removed 1,01,284 MT of limestone between April 2006 and March 2008. Though, the DMO realised cess he did not levy and collect royalty on limestone. This resulted in non-levy of royalty of ₹ 45.58 lakh.

The Government of India, Ministry of Mines vide notification dated 14 October 2004 revised the rate of royalty on limestone from ₹ 40 to ₹ 45 which was circulated and made effective by the DMR, Meghalaya on 19 November 2004. Cess on limestone was being realised at the rate of ₹ 5 per MT upto 18 January 2009 in pursuance of State Government notification dated 1 April

After we reported the case, the DMO admitted the facts and stated in March 2009 that royalty on limestone was not collected by him due to non-

receipt of any notification to the effect from the DMR.

We reported the matter to the Department and to the Government in January 2009 but we have not received their replies (October 2010).

### 7.13 Variation in records maintained by the Minerals and Taxation check posts

Taxation check posts are maintaining composition registers. Separate registers are maintained for coal, limestone etc. Likewise, the Mines and Minerals check post maintains composition registers.

Section 9 (2) of the MMDR Act, 1957 lays down that every licensee or permit holder or lessee shall pay the royalty at the rates prescribed in the Act in respect of any mineral removed or consumed by him otherwise penalty along with royalty is required to be collected at the check post.

We collected information in November 2009 from Mineral check post at Umkiang regarding the excess coal carried by trucks during the period from April 2007 to March 2008 and found that 21,430 trucks crossed

the check post carrying excess load of 21,549 MT. On cross verification of records with the Taxation check post at Umkiang we found that 20,461 trucks carrying excess load of 41,030 MT crossed the check post during the aforesaid period. Thus, 19,481 MT of coal carried in excess of permissible limit for which royalty and penalty required to be collected, escaped the notice of the officer-in-charge of the Mineral check post. This resulted in loss of revenue of ₹ 40.18 lakh.

We reported the case to the department/Government in April 2009. We have not received their replies (October 2010).



#### **7.14 Non-levy of penalty**

We noticed during test check of records of DMR in November 2009 that a cement manufacturing company situated at Lumshnong, Jaintia Hills District consumed 6,46,534 MT of limestone between December 2004 and March 2008 and was, thus, liable to pay cess of ₹ 32.33 lakh. The Company paid the amount belatedly by 5 to 41 months in November 2008. For belated payment of dues, penalty of ₹ 32.33 lakh was also leviable.

Under Section 7 of the Meghalaya Minerals Cess Act, 1988, if any dues (cess) payable under the Act are not paid within the due date, these shall be deemed as arrears and the prescribed authority may impose penalty not exceeding the amount of dues.

We reported the case to the Department/Government in December 2009 but we have not received their replies (October 2010).

#### **7.15 Non-realisation of dead rent**

We noticed during scrutiny of the records of the DMR in March 2009 that three lessees did not extract any mineral from the leased areas between January 2006 and December 2006. As such, the lessees were liable to pay dead rent of ₹ 2.25 lakh. Neither did any of the lessees pay the dead rent; nor did the department initiate any action to recover the dues. For non-payment of dues, interest of ₹ 0.98 lakh was leviable but was not levied.

We reported the case to the Department/Government in December 2009 but we have not received their replies (October 2010).

Shillong  
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