

CHAPTER VI: MINING RECEIPTS

EXECUTIVE SUMMARY

Steady increase in tax collection	In 2012-13 the collection from mining receipts increased by 13.91 <i>per cent</i> as compared to the Budget Estimate and 24.59 <i>per cent</i> over the previous year which was attributed by the Department to the enhancement of the rate of royalty of iron ore, chromite etc. by the Indian Bureau of Mines (IBM).
Low recovery by the Department against the observations pointed out by audit in earlier years	During the period 2007-12 audit pointed out non / short-levy, non / short-realisation of royalty, dead rent, surface rent etc., with revenue implication of ₹ 2,929.97 crore in 1,180 cases. Of these, the Department accepted audit observations in 865 cases involving ₹ 2,018.05 crore; but recovered only ₹ 9.16 crore in 210 cases. The average recovery position was 0.45 <i>per cent</i> , as compared to acceptance of objections.
Results of audit in 2012-13	<p>In 2012-13, a Performance Audit on “Working of Steel and Mines Department” was conducted, records of 18 units relating to mining receipts were test checked and found non / short-demand of royalty, dead rent / surface rent, non / short-recovery of interest and irregularities of miscellaneous nature involving ₹ 12,544.63 crore in 886 cases.</p> <p>The Department accepted underassessment and other deficiencies involving mining receipts of ₹ 6,090.64 crore in 206 cases, pointed out by audit during the year 2012-13 and an amount of ₹ 1.49 crore was recovered in five cases.</p>
Highlights	<p>In this Chapter Audit present a Performance Audit on “Working of Steel and Mines Department” with money value of ₹ 5,414.45 crore and other illustrative cases of ₹ 232.54 crore from the audit observations noticed during the test check of records relating to assessment and collection of mining receipts in the offices of the Director of Mines, Odisha (DMO), Deputy Directors of Mines (DDMs) and Mining Officers (MOs) where provisions of the Acts / Rules were not adequately adhered to.</p> <p>It is a matter of concern that similar omissions have been pointed out by audit repeatedly in the Audit Reports for the past several years, but the Department has not taken adequate corrective action.</p>
Conclusions	The Department needs to revamp its revenue recovery machinery to ensure recovery of non-realisation, undercharge of royalty / fees etc. pointed out by audit, more so in those cases, where it has accepted audit contentions.

6.1.1 Non-tax revenue administration

Assessment and collection of mining receipts are regulated by the Mines and Minerals (Development and Regulation) (MMDR) Act, 1957, the Mineral Concession (MC) Rules, 1960 and Mineral Conservation and Development (MCD) Rules, 1988 and Odisha Minerals, Prevention of Theft, Smuggling and Illegal Mining and Regulation of Possession, Storage, Trading and Transportation (OM) Rules 2007 framed thereunder. The above Act / Rules are administered by Director of Mines, Odisha under the overall supervision of Principal Secretary to the Government in the Department of Steel and Mines. He is assisted by headquarters staff and Deputy Directors of Mines and Mining Officers at the Circle levels who are the Assessing Authorities (AAs) of mining receipts like royalty, fees and fines etc. on raising and removal of minerals.

6.1.2 Trend of receipts

Actual receipts from mining during the years 2008-09 to 2012-13 along with the Total non-tax receipts during the same period are exhibited in the following table.

(₹ in crore)						
Year	Budget estimates	Actual receipts	Variation excess (+)	Percentage of variation	Total non-tax receipts of the State	Percentage of actual receipts vis-à-vis total non-tax receipts
2008-09	1,250.00	1,380.60	130.60	10.45	3,176.15	43.47
2009-10	1,550.00	2,020.76	470.76	30.37	3,212.20	62.91
2010-11	2,556.48	3,329.25	772.77	30.23	4,780.37	69.64
2011-12	3,804.63	4,571.57	766.94	20.16	6,442.96	70.95
2012-13	5,000.00	5,695.70	695.70	13.91	8,078.03	70.51

Source : Finance Accounts

The receipts from mining have been steadily increasing over the years and accounted for a major source (70.51 *per cent*) of the total Non-Tax Revenue of the State in 2012-13. The Department attributed the reason for increase to enhancement of the rate of royalty of iron ore, chromite etc.

6.1.3 Analysis of arrears of revenue

Department could not furnish the extent of arrear of revenue as on 31 March 2013 due to non-finalisation of the Demand Collection Balance (DCB) for the year 2012-13, indicating that did not take prompt action for realisation of the dues. **Audit recommends that the Department finalise the DCB position and take action for realisation of dues.**

6.1.4 Impact of audit

Revenue impact

During the last five years 2007-08 to 2011-12 Audit pointed out non/ short-levy and non / short-realisation of royalty, dead rent, surface rent, interest etc., with revenue implication of ₹ 2,929.97 crore in 1,180 cases. Of these, the Department accepted audit observations in 865 cases involving ₹ 2,018.05 crore and recovered ₹ 9.16 crore in 210 cases.

The Department recovered only 0.45 *per cent* of the amount accepted by it during last five years.

Audit recommends that the Department recover at least the amounts, involved in accepted cases at the earliest.

6.1.5 Results of audit

During 2012-13, a Performance Audit on “Working of Steel and Mines Department” was conducted and records maintained in offices of the Commissioner-cum-Secretary to Government, Director of Geology, Director of Mines, Odisha, Mining Officers and Deputy Directors of Mines were test checked and Audit pointed out non/short-levy of royalty, dead rent/surface rent, non/short recovery of interest, illegal/unauthorised mining and other irregularities involving ₹ 12,544.63 crore in 886 cases relating to revenue receipts of the Department.

During the year 2012-13, the Department accepted under assessment and other deficiencies of ₹ 6,090.64 crore in 206 cases under revenue receipts pointed out in 2012-13 and realised ₹ 1.49 crore in five cases relating to objection raised in the year 2008-09.

6.2 Performance Audit on working of Steel and Mines Department

Highlights

State specific Mineral Policy envisaging a long term strategy for conservation and development of minerals in the State was absent.

(Paragraph 6.2.8)

Absence of specific time limit for processing and disposal of application for Prospecting Licence/Mining Lease/Renewal of Mining Lease and Lapsed proposal of non operating mines at various levels resulted in delayed disposal of applications and consequent impact on revenue.

(Paragraphs 6.2.9.1 & 6.2.9.2)

Provisions of Acts and Rules were not observed while granting mining leases in three cases.

(Paragraph 6.2.9.3)

Due to ineffective monitoring mechanism, transfer of Mining Leases without consent of the State Government remained unnoticed.

(Paragraph 6.2.10.1)

Grant of permission for operation of mines in violation of the Act/Rules led to irregular extraction of minerals.

(Paragraphs 6.2.10.2 & 6.2.10.3)

Irregular removal/storage of 47.42 lakh MT minerals valued at ₹ 552.50 crore remained undetected for years.

(Paragraph 6.2.11.1)

Due to incorrect assessment, there was short levy of royalty of ₹ 273.23 crore.

(Paragraph 6.2.12.1)

6.2.1 Introduction

Odisha occupies a prominent place in the mineral map of the country. Abundant reserves of high grade iron, bauxite, chromite and manganese ores along with other minerals such as coal, limestone, dolomite, tin, nickel, vanadium, gemstone, lead, graphite, etc. are available in the State.

Minerals are classified into two groups, namely, major minerals and minor minerals. Minor minerals include building stones, gravels, ordinary clay, ordinary sand other than sand used for prescribed purposes and any other mineral which the Central Government may, by notification in the Official Gazette, declare to be a minor mineral. Minerals not classified as minor minerals are treated as major minerals. It includes coal, iron, chromite, manganese, bauxite, limestone etc.

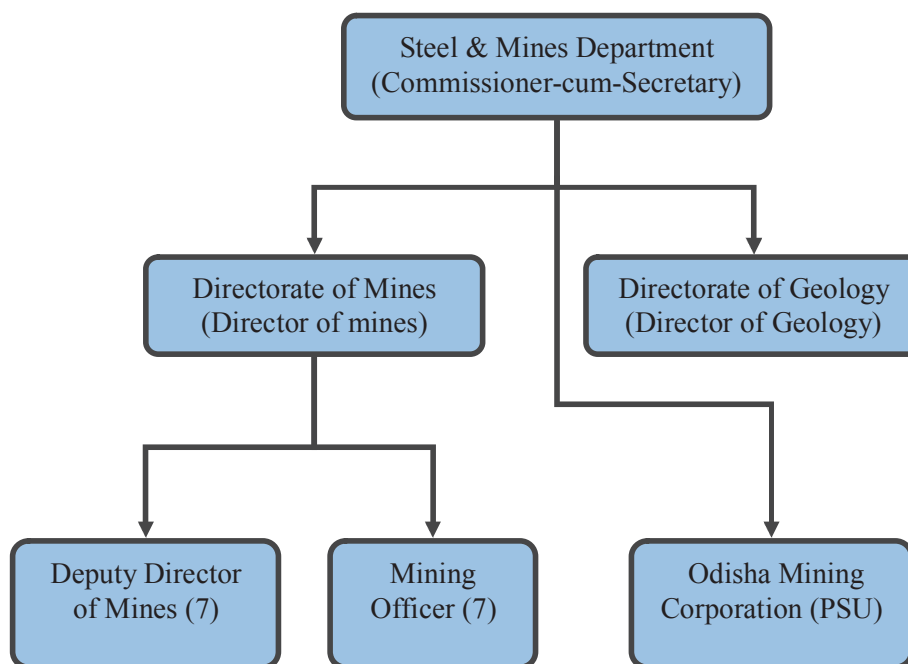
Grant of leases, licenses and levy of royalty for major minerals are governed under the provisions of Mines and Mineral (Development & Regulation) Act, 1957 and the Rules framed thereunder. Minor minerals are regulated under Odisha Minor Mineral Concession Rules, 2004. When decorative stones and minor minerals occur in the leasehold areas of major minerals it is the

responsibility of the Directorate of Mines. Other minor minerals are administered by the Revenue & Disaster Management Department.

Steel and Mines Department under the regulatory powers, works for the development of the mineral resources of the State. Main functions and activities of the Department are systemic survey and assessment of the mineral deposits of the State, their exploitation, administration of mines and mineral concessions, enforcement measures for prevention of illegal mining and smuggling of minerals, assessment and collection of mining revenue, study of the impact of mining operations on environment and research and development for meeting the needs of mineral based industries in the State. Director of Mines administers mines and minerals of the State for proper utilisation of its abundant mineral resources and collection of mining revenue. Its main function includes processing of applications for mineral concession, matters relating to execution of mineral concession. Director of Geology takes up the mineral investigation programme to augment the mineral resources of the State.

6.2.2 Organisational setup

The Steel and Mines Department is the administrative department and is currently headed by the Commissioner-cum-Secretary to Government. Two Directorates of the Department i.e. Mines and Geology are headed by the Director of Mines and Director of Geology respectively. The Director of Mines, Odisha (DMO) is assisted by the Joint Director of Mines at Headquarters and Deputy Directors of Mines (DDM) and Mining Officers (MO) at the field level. Director of Geology is assisted by Joint Directors of Geology at the field level. The Department has one Public Sector Undertaking (PSU) under its control. Organisational chart of the department is as follows.



6.2.3 Audit objectives

Performance Audit (PA) on Working of Steel and Mines Department, Odisha was conducted to ascertain whether:

- Grant of Permit, License and lease for extraction of minerals were transparent and in consonance with applicable Policies, Acts and Rules;
- Extraction of mineral was as per approved mining plan, covenants of lease and relevant rules and regulations;
- Overall physical performance in terms of extraction witnessed achievements envisaged in targets;
- Mines were operated as per rules and environmental regulations and transportation of mineral was in compliance with laid down procedures/rules;
- Levy and collection of royalty, dead rent, surface rent, penalty and interest were in consonance with the Act and Government instructions; and
- Internal controls and monitoring mechanism at all levels were commensurate with the activities of the Department.

6.2.4 Audit criteria

Audit criteria were sourced from following Acts and Rules.

- Mines and Minerals Development & Regulation (MMDR) Act, 1957;
- Mineral Concession Rules (MC Rules), 1960;
- Mineral Conservation & Development Rules (MCDR), 1988;
- Environment Protection Act, 1986;
- Air (Prevention & Control of Pollution) Act, 1981;
- The Water (Prevention & Control of Pollution) Act, 1974;
- Odisha Minor Mineral Concession Rules (OMMC Rules) 2004;
- Odisha Minerals (Prevention of Theft, Smuggling & Illegal Mining & Regulation of Possession, Storage, Trading and Transportation) Rules, (OM Rules) 2007;
- Indian Stamp (IS) Act, 1899;
- Indian Registration (IR) Act, 1908 and
- Executive instructions issued from time to time by the Central Government, State Government and Director of Mines, Odisha.

6.2.5 Scope and methodology of Audit

Performance Audit on working of Steel and Mines Department covered the period from 2007-08 to 2011-12. Field audit was undertaken during May to September 2013. Audit test checked records in Steel & Mines Department, Directorate of Mines and seven¹ out of 14 mining circle offices selected by stratified random sampling based on quantum of revenue collected during 2011-12. Further, records of Directorate of Geology pertaining to mineral

¹ DDM Joda, DDM Koira, DDM Jajpur Road, DDM Rourkela, DDM Sambalpur, MO Keonjhar, MO Berhampur.

reserves explored, investigated and recommended for grant of mineral concession were also examined. The data obtained from Indian Bureau of Mines (IBM), Commercial Tax Department, and Registration Offices were cross checked with records of the department. Odisha Mining Corporation, the only PSU under the Department is in the status of a lessee. Its activities as a mining lease holder were scrutinised.

Entry conference was held on 25 May 2013 where audit objectives, criteria, scope etc. were discussed and the audit findings were discussed in the Exit Conference held on 6 January 2014. Replies of the Government (April 2014) have been duly incorporated in the report.

6.2.6 Acknowledgement

We acknowledge the co-operation of the Department in providing necessary information and records to audit and for furnishing compliance to the audit observations.

6.2.7 Audit observations

6.2.7.1 Reserve of Minerals and Production

Reserve of some important major minerals and production during 2007-08 to 2011-12 are given in the table below.

(In lakh MT)

Mineral	Estimated reserve	Production				
		2007-08	2008-09	2009-10	2010-11	2011-12
Coal	6,63,073.00	896.86	977.87	1,054.89	1,110.95	1,051.20
Iron ore	59,302.00	745.05	771.95	796.79	728.10	660.86
Bauxite	18,105.00	46.86	47.35	48.79	48.57	50.46
Limestone	17,830.00	28.31	30.71	27.09	38.09	31.35
Chromite	1,900.00	32.84	27.94	34.08	43.03	37.93
Manganese	1,900.00	7.06	9.51	6.04	6.29	5.43

Source: Directorate of Geology and Directorate of Mines

Government attributed (January 2014) the decrease in production of minerals in 2011-12 except Bauxite in comparison to that of 2010-11, to suspension of mining operations for want of statutory clearances or violation of Mining Acts and Rules and capping placed by State Government since 2011-12 on despatch of mineral.

6.2.7.2 Collection of revenue

Mining revenue collected under different components during 2007-12 was as under:

Component-wise collection of mining revenue								(₹ in crore)
Year	Royalty		Dead Rent	Surface Rent	Trading Licence fees	Penalty	Others	Total
	major minerals	minor minerals						
2007-08	967.53	111.89	1.73	0.05	5.17	3.00	36.69	1,126.06
2008-09	1,216.59	142.59	1.72	0.06	4.09	5.94	9.61	1,380.60
2009-10	1,791.49	202.65	2.75	0.05	5.67	10.65	7.50	2,020.76
2010-11	3,034.93	231.89	4.27	0.07	5.10	11.68	41.31	3,329.25
2011-12	4,287.17	255.70	5.75	0.05	4.51	2.54	15.85	4,571.57

Source: Directorate of Mines and Finance Accounts

Surface Rent, Trading Licence Fee and others showed a fluctuating trend during 2008-12 whereas the penalty realised reduced from ₹ 11.68 crore (2010-11) to ₹ 2.54 crore (2011-12). Government attributed reduction in penalty from offence cases to reduction in incidence of illegal mining and theft cases as there were frequent raids by the enforcement staff.

Government stated that due to conduct of frequent raids by the Circle offices and Enforcement Squads the incidents of theft and illegal mining had drastically been reduced thereby resulting in reduction of penalty amount. During 2007 to 2012, 18.35 lakh² MT minerals were seized in 1,167 cases with ₹ 61.49 crore being price of mineral realised as penalty. However, the reply could not be verified as records pertaining to year wise raids scheduled to be conducted and those actually conducted were not furnished to audit.

6.2.8 Non-finalisation of State specific Mineral Policy

National Mineral Policy 1993 and 2008 emphasized the role of State Governments in mineral development, survey and exploration, maintaining inventory of mineral resources, strategy on mineral development, research and development, etc. Audit scrutiny of records relating to formulation of State Mineral Policy revealed that a committee for formulation and finalisation of the said policy prepared draft State Mineral Policy in 2005 and was further modified in 2007 and 2010. Even after a lapse of seven years, the State Mineral Policy is yet to be finalised.

The Government, in reply, stated that a high power committee had been formed in February 2011 to look into the matter. However, the fact remained that a State specific Mineral Policy could have further helped in framing a long term strategy for conservation and development of minerals and boosting investors' confidence in mining sector.

6.2.9 Grant of permits/licences/mining leases

6.2.9.1 Pendency of PL/ML applications

Rule 63 A of MC Rule 1960, requires the Government to dispose applications for grant of PL within nine months and ML within 12 months from date of its receipt. Under Section 9 and Section 22 of MMDR Act, an application for the grant of PL/ML shall be made to the State Government through an authorised officer.

As per circular issued by the State Government in May 1966, applications are received by concerned Collectors and processed by Circle Offices who will obtain orders of the Collector for forwarding the same to the DMO and submission to the Government for final decision.

The pendency of Prospecting Licence (PL) and Mining Lease (ML) applications for 2007 to 2012 was as under:

² Iron 18,19,045.122 MT, Manganese 15,418.120 MT, Coal 294.790 MT and Bauxite 270 MT.

Name of the Circle	Number of applications									
	Pending as on 1 st April 2007		Received during 2007-12		Total		Forwarded to Director of Mines		Pending as on 31 st March 2012	
	PL	ML	PL	ML	PL	ML	PL	ML	PL	ML
Keonjhar	362	691	312	128	674	819	57	124	617 ³	695 ⁴
Rourkela	0	29	258	121	258	150	247	120	11	30
J.K.Road	29	50	84	32	113	82	8	2	105	80
Sambalpur	49	7	211	35	260	42	22	5	238	37
Berhampur	0	0	6	8	6	8	3	7	3	1
Total	440	777	871	324	1,311	1,101	337	258	974	843

Source: Data furnished by Department

Audit noticed that in five out of seven Circles the pendency of PL applications increased from 440 to 974 and ML applications increased from 777 to 843 over a span of five years and in respect of other two⁵ circles, DMO and Government did not furnish the required information.

Government replied that the applications were pending for want of reports from Forest and Revenue authorities. However, the fact remained that applications for PL/ML were not timely disposed of.

6.2.9.2 Disposal of applications for renewal of mining lease

According to Rule 24A (1) and (6) of MCR 1960, application for the renewal of a mining lease shall be made at least twelve months before the date on which the lease is due to expire. In the event of non-disposal of the application before expiry of the original lease the lease shall be deemed to have been extended for a further period till Government passes order thereon.

An application for renewal of a mining lease shall be made to the State Government through the Collectors and processed by the Circle Offices who

will obtain orders of the Collector for forwarding the same to the DMO and submission to the Government for final decision.

Audit noticed that in three⁶ circles 17 RML applications out of 52 applications received between 2007 and 2012 were forwarded to DMO and remaining 35 applications were pending at the Circle level. Other four⁷ Circles did not furnish the information.

Position of disposal of RML applications between 2007 and 2012 was also not furnished by DMO and Government. However, on scrutiny of records in Directorate of Mines, Audit noticed that 111 RML applications received between 1992 to 2011 were forwarded to Government during 2008 to 2011 which were yet to be finalised by way of grant/rejection although the original lease period was already over and these mines were working under deemed extension provision without execution and registration of lease deeds.

³ Government in January 2014 revised the figure to 688.

⁴ Government in January 2014 revised the figure to 624.

⁵ DDM, Joda, DDM, Koira.

⁶ J.K. Road, Keonjhar and Rourkela.

⁷ Joda, Sambalpur, Koira and Berhampur.

The Government in reply stated that committees have been constituted to examine the RML applications and expedite the process for statutory clearances for early disposal of the cases.

6.2.9.3 Irregularities in grant of Mining Lease

Under Section 11 of MMDR Act, a ML is to be granted to a PL holder if he has applied for the lease within three months after the expiry of PL and has undertaken prospecting operation to establish mineral resources in such land and has not committed any breach of the terms and conditions of PL. As per Section-2 of the FC Act, forest land cannot be used for non-forest purpose without prior approval of the Central Government. Further, as per guidelines on FC Act if a project involves forest as well as non-forest land, work should not be started on non-forest land without approval of the Central Government.

An application for ML is required to be disposed of within one year from the date of receipt.

During scrutiny of records in selected circles, DMO and the Department, Audit noticed that in two⁸ Circles three MLs were granted and executed between 2007 and 2012 irregularly. The discrepancies noticed were as follows:

- (i) One ML under Joda Circle for lease of 47.219 hectare which included forest area of 26.89 hectare was granted in January 2009 against the application of November 1998 and the lease deed was executed in November 2009. Audit noticed that lessee was granted Prospecting Licence (PL) for two years from April 1998, but carried out prospecting operation in the area without obtaining approval from MoEF which was a breach of licence condition. Further the ML application was entertained though the application was submitted before expiry of PL period (February 2000). Besides above, lease was granted for iron and manganese though total quantity of manganese was extracted during the PL period and no reserve of manganese was available in the leased area.
- (ii) In one case, under Joda Circle, one ML for 4.84 hectare of forest area was granted in September 2008 which was applied in February 1986 and lease deed was executed in January 2010. The lessee did not obtain approval of MoEF for the total forest area included in the lease in spite of clarification (June 2008) of Forest and Environment Department not to grant lease and execute lease deed without prior approval. Further, ML application was entertained before expiry of PL period (July 1986) and ML granted despite submission of incomplete prospecting report.
- (iii) In another case under Sambalpur Circle, ML for 25.046 hectare was granted in April 2007 and lease deed was executed in November 2007 though lessee applied for ML in October 1995 i.e. before expiry of PL period (October 1996).

The Government in their reply did not furnish reasons for such lapses.

⁸ Joda and Sambalpur.

6.2.9.4 Non realisation of differential SD & RF

As per notification (January 2012) of the Department, at the time of execution and registration of ML, stamp duty shall be assessed by calculating the anticipated royalty basing on the highest annual production planned in the mining plan/mining scheme submitted by the lessee. These guidelines shall also be made applicable to the leases already executed wherever the applicant paid less SD.

Audit scrutiny of lease files in three⁹ out of seven Circles revealed that in five ML grant cases, registered between 2005 and 2011, Stamp Duty (SD) and Registration Fee (RF) of ₹ 61.39 lakh was levied and collected on the basis of average annual production quantity. However, on the basis of highest annual production disclosed in the mining plan/mining scheme, amount leviable worked out to

₹ 156.27 lakh. This resulted in non-levy of differential SD and RF of ₹ 94.88 lakh. The Circles did not reassess these cases to realise the differential SD and RF and also DMO and Government did not review the cases for levy and realisation of the amount.

Government in reply stated that demand notice was issued between July 2013 and January 2014 of which ₹ 6.78 lakh was realised (April 2014).

6.2.9.5 Delay in terminating non-operating leases

Under Rule 28 of MCR, where mining operations are not commenced within a period of two years from the date of execution of the lease, or is discontinued for a continuous period of two years after commencement of such operations, the State Government shall, by an order, declare the ML as lapsed and communicate the declaration to the lessee.

Proposals to terminate non-operating leases are forwarded by Circle Offices on obtaining orders of the Collector for forwarding the same to the DMO and submission to the Government for final decision.

Audit scrutiny of records in four¹⁰ Circles, revealed that though in 56 cases no mining operation was carried out for more

than two years after execution of lease or were discontinued for a continuous period of two years after commencement of mining operation, concerned Circles submitted the proposals to terminate these leases with a delay of one to 34 years.

At DMO and Government level no information was furnished on non-operating leases for the year 2007 to 2012. However, Audit noticed that 76 proposals to terminate non-operating leases forwarded by DMO between 2007 and 2011 were yet to be disposed by the Government. Thus, there was delay in processing the proposals at Circle and Government level.

The Government replied that there was a provision in the rules on the basis of which the State Government may consider the case under certain reasonable grounds and the lapsing proposals were being examined. However, the reply

⁹ Berhampur, Joda and Sambalpur.

¹⁰ Jajpur Road, Joda, Koira and Sambalpur.

does not justify such large period of pendency in view of the provision of MCR that provides for termination of mining leases not working for more than two years.

6.2.10 Extraction of minerals

6.2.10.1 Transfer of Mining leases

Under Rule 37 of MCR, the lessee shall not without the previous consent in writing of the State Government, assign, sub-let, mortgage, or in any other manner, transfer the mining lease, or any right, title or interest therein or enter into or make any bonafide arrangement, contract or understanding whereby the lessee will or may be directly financed to a substantial extent by, or under which the lessee's operations or undertakings will or may be substantially controlled by any person or body of persons other than the lessee. The State Government may determine any lease at any time if the lessee has, in opinion of the State Government committed any breach of any of the above provisions.

Audit scrutiny of 18 cases relating to transfer of MLs registered in two¹¹ Registration Offices, between 2003 and 2012, eight lessees without previous consent of the State Government made arrangements, by registration of documents titled as Partnership (one case) / General Power of Attorney (seven cases) for transfer of interest and operational rights in respect of seven MLs over 639.553 hectare with iron, manganese, lime stone and quartzite minerals, by which operation of their

mines would be substantially controlled by a person other than the lessee. However, department did not have a mechanism in place to detect such cases. The registering authorities also did not ensure prior approval of Government for registration of such deeds. Thus, department failed to notice such irregular transfers of mining leases and take suitable action to comply with provisions of Rules.

In reply, Government stated that four lessees had violated the rules, in two cases no lease was granted and one case was under examination. However, the reply is silent about the action initiated against lessees. In one case, no reply was furnished.

¹¹ DSR, Khordha and DSR, Keonjhar.

6.2.10.2 Irregular working of mines

Under Section 8 (2) of MMDR Act a mining lease may be renewed for a period not exceeding 20 years. Under sub Rule 3, if the State Government is of the opinion that in the interest of mineral development it is necessary to do so, it may, reasons to be recorded, authorise 2nd and subsequent renewal for further periods not exceeding 20 years in each case. Rule 24A (3) provides that for second and subsequent renewal of a mining lease, the State Government shall seek a report from IBM as to whether it would be in the interest of mineral development to grant the renewal of the mining lease. Under Rule 24A (6) of the MCR introduced in September 1994, in the event of non-disposal of application for RML made by a ML holder to the State Government twelve months before the date of expiry of the lease, the period of lease shall be deemed to have been extended by a further period till the State Government passes order thereon. Also, under Rule 31(2), the date of commencement of the period for which a mining lease is granted shall be the date on which a duly executed deed is registered. Further, under Section 21 (5) of MMDR Act, whenever any person raises, without any lawful authority, any mineral from any land, the State Government may recover from such person the mineral so raised, or, where such mineral has already been disposed of, the price thereof, and may also recover from such person, rent, royalty or tax. Again, as per Section 2 of FC Act, forest land cannot be used for any non-forest purpose without prior approval of Central Government.

Scrutiny of lease files, monthly returns and royalty assessment files of 14 MLs revealed that in five cases mining operation was carried out, on the basis of Temporary Working Permission (TWP) issued by the State Government, without obtaining prior approval from GoI for working in forest area, working in renewal period without valid lease deed and operation of mine by a company other than the lessee.

The nature of irregularity is detailed below:

(i) Jajpur Road Circle, Chromite ore, 107.240 hectare (forest area of 101.850 hectare):

- Original lease was valid till 1988. Pending finalisation of application of 1st RML (1987) the State Government permitted operation of mines in broken up forest area by granting TWP up to November 1997 ignoring instruction of MoEF in August 1989 to stop issuing TWP.
- 1st RML was approved by GoI in 1996 with stipulation that before grant of 1st RML State Government should ensure the compliance to amended provisions of MMDR Act and Rules framed thereunder and other applicable Act and Rules including FC Act. As lessee failed to obtain clearance from MoEF on forest land State Government issued (2003) show cause notice for rejection of RML but did not pursue the same and instead of cancellation of the lease, allowed the lessee to operate mine during 1st RML (upto February 2008) in violation of FC Act.

- The above lessee applied for 2nd renewal in February 2007 i.e. before twelve months of expiry of 1st RML considering 20 years from the expiry of original lease. However, lease deed for 1st RML though granted retrospectively in 2009 was not executed and registered (due for grant in 1988 for 20 years upto 2008) and report from IBM on grant was sought for by the State Government in December 2013. In absence of valid lease deed, working of mine from 2008 onwards under deemed extension provision (treating it as 2nd RML period) lessee continued mining operation and extracted 8.70 lakh MT of ore during 2000-12 which was in violation of provisions of the Act. However, department did not take any action to stop mining operation and to demand ₹ 294.08 crore towards price of mineral.

After Audit pointed out this, Government, stated that the lessee was asked (January 2014) to deposit ₹ 294.08 crore. However, particulars of realisation were awaited (April 2014).

(ii) Koira Circle, Iron and Manganese ore, 1,212.470 hectare (forest area of 1,205.940 hectare):

- Original lease was valid till April 1985. Pending finalisation of application of 1st RML (1984), department allowed lessee to operate mine in broken up forest area during 1st RML period (1985 to 2005) on the basis of TWP granted by the State Government without obtaining prior approval from GoI. However, different spells for which TWP granted by State Government were not on record. Thus, allowing operation of mine during 1st RML period (upto April 2005) violated the provisions of FC Act.
- Application for grant of 2nd renewal was submitted (April 2004) by the lessee before twelve months of completion of 1st RML (considering it as if granted for 20 years from the expiry of original lease). However, 1st RML was not granted, lease deed was not executed and registered. Report from IBM on grant was also not sought for by the State Government. Thus, there was no valid lease deed with lessee for 2nd renewal. Hence extraction of 120.82 lakh MT of minerals during the period April 2005 to March 2012, valued at ₹ 1,566.62 crore was in violation of provisions of the Act. However, Department allowed lessee to operate mine from 2010 onwards (treating it as 2nd RML period) and did not demand the price of mineral so raised and take steps for suspension/cancellation of lease.

Government stated that demand notice was issued for ₹ 1,718.09 crore (October 2012) for the period from 2000-01 to 2009-10. However, this amount was demanded based on report of a departmental committee formed (July 2010) for verification of excess production of minerals during last ten years and reply is silent about mineral extracted between April 2010 and March 2012 for ₹ 645.86 crore being price of mineral.

(iii) Koira Circle, Iron and Manganese ore 2,486.383 hectare, (forest area of 2,347.673 hectare)

- Original lease was valid till January 1990. Pending finalisation of application of 1st RML (1989) for 20 years from 1990 onwards lessee was allowed to operate mine upto 1995 on the basis of TWP granted by the State Government and continued thereafter without obtaining prior approval from GoI for diversion of forest land. Diversion of 395.639 hectare (part of forest area) was approved by MoEF in January 1998. Thus, allowing mining operation without diversion of total forest land during 1st RML period (1990 to 2010) was in violation of FC Act.

- Application for grant of 2nd renewal was submitted (September 2007) by the lessee before twelve months of expiry of 20 years from completion of original lease (considering 1st RML period as 20 years). However, 1st RML was not granted and lease deed was not executed and registered. Report from IBM on grant was not obtained (sought for in December 2013). Thus, there was no valid lease deed with lessee for 2nd renewal. Lessee extracted 57.72 lakh MT mineral during April 2010 to March 2012, valued at ₹ 1,232.34 crore in violation of provisions of the Act. However, instead of suspension/cancellation of lease department allowed lessee to operate mine.

Government stated that ₹ 3,990.26 crore was demanded (October 2012) for the period from 2000-01 to 2009-10. However, this amount was demanded based on report of a departmental committee formed (July 2010) for verification of excess production of minerals during last ten years and reply is silent about mineral extracted between April 2010 and March 2012 for ₹ 1,232.34 crore being price of mineral.

(iv) Joda Circle, Iron ore 74.870 hectare, (forest area of 71.035 hectare):

- Original lease was valid till September 1987. Pending finalisation of application of 1st RML (1986) department allowed the lessee to operate the mine in broken up forest area from 1989 to December 1995 on the basis of TWP granted by the State Government without obtaining prior approval from GoI and allowed operation of mine thereafter.

- Diversion of 27.10 hectare (out of 71.035 hectare) of forest land was approved by MoEF in August 1997. Thus without approval for diversion of total forest land, department allowed mining operation during 1st RML period which was in violation of FC Act.

- Application for grant of 2nd renewal was submitted (August 2006) by the lessee before twelve months of 20 years from the completion of original lease considering 1st RML period as 20 years. However, 1st RML was not granted and lease deed was not executed and registered. Report from IBM on grant was not sought for. Thus, there was no valid lease deed with lessee for 2nd renewal (2007 onwards). However, instead of suspension/cancellation of lease department allowed lessee to operate mine from 2007 onwards (treating it as 2nd RML period) which was in violation of provisions of the Act and also did not demand price of mineral of 57.34 lakh MT extracted during September 2007 to March 2012 for ₹ 922.59 crore.

Government stated that show cause notice was issued in 2011 for recovery of ₹ 646.03 crore towards price of mineral extracted during the period 2000-01 to 2009-10. However, this amount was demanded based on report of a departmental committee formed (July 2010) for verification of excess production of minerals during last ten years and reply is silent about mineral extracted between April 2010 and March 2012 for ₹ 572.36 crore.

(v) Joda Circle, Iron Ore, 365.026 hectare:

- Lease was granted in 1986. Based on findings of a committee set up by the Government (July 2011), Government issued show cause notice (September 2011) to the lessee for undertaking mining operation by company other than the lessee.
- Lessee admitted that mining operation was carried out by another company up to March 2011 which was violation of Section 4 of MMDR Act. However, department was not aware of such irregular operation till July 2011 and did not demand ₹ 2,814.36 crore towards price of 239.57 lakh MT Iron ore extracted during 2003-04 to 2010-11 (calculated by Audit as per available production data).

Government in reply stated that show cause notice was issued (October 2011 and 2012) for realisation of ₹ 3,872.62 crore for the period from 2000-01 to 2009-10. However, this amount was demanded based on report of a departmental committee formed (July 2010) for verification of excess production of minerals during last ten years and reply is silent about 46.88 lakh MT of mineral extracted during 2010-11 for ₹ 845.24 crore.

In four cases (ii to v), demand/show cause notice issued by State Government pertained to price of mineral against excess quantity produced by lessees exceeding the statutory limits during 2000-01 to 2009-10. Hence there is immediate need to review all lease cases and take action to ensure compliance with provisions of relevant Act and Rules.

6.2.10.3 Extraction of minerals not covered under mining plan and other statutory clearances

As per Rule 22A of MCR and Rule 9 and 10 of MCDR, mining operations in any area shall be done in accordance with an approved mining plan/mining scheme. It was judicially opined in *M.C. Mehta vs. Union of India*, AIR 2004 SC 4016 Supreme 685 that mining operation cannot be commenced forthwith merely on approval of mining plan and mining scheme. A mining lease holder is also required to comply with other statutory provisions such as Environment (Protection) Act, Air (Prevention and Control of Pollution) Act, Water (Prevention & Control of Pollution) Act and FC Act. Under Section 21 (5) of MMDR Act, whenever any person raises, without any lawful authority, any mineral from any land, the State Government may recover from such person the mineral so raised, or, where such mineral has already been disposed of, the price thereof, and may also recover from such person, rent, royalty or tax.

As per the executive instruction issued by the Department in August 1974, each lessee shall furnish a monthly return to the Circle offices in prescribed form showing details of production and despatch taking the extract from the register maintained by him for that purpose. Audit scrutiny of lease files and returns in six Circles revealed that, between 2007 and 2012, the lessees extracted minerals¹²

without/in excess of approved mining plans and other statutory clearances as detailed below.

(i) Under three¹³ circles in 10 mines, 429.17 lakh MT of minerals valued at ₹ 912 crore was extracted without approved mining plan/without environmental clearance/clearance from SPCB or exceeding the limits stipulated under those clearances, but Department did not issue notice to suspend the mining operation.

(ii) Under two¹⁴ Circles in 57 mines, 564.28 lakh MT minerals was extracted without approved mining plan/without environmental clearance/clearance from SPCB or exceeding the limits stipulated under those clearances for which show cause notices were issued during October and November 2012 after a lapse of 65 to 68 months.

Under Rourkela Circle in one case, 264.55 lakh MT of coal valued at ₹ 1,565.38 crore was extracted without approved Mining Plan during 2007 to 2011, but the Mining Plan was approved post facto in March 2011. No action was taken by the Department to recover the price of minerals.

Thus, Circle offices allowed operation of mines without having requisite clearances or in violation of stipulations provided in clearances though extraction data were supplied by lessees and maintained by them. DMO and Government also failed to timely notice such irregular operation of mines and

¹² Iron and manganese, chromite, dolomite and coal.

¹³ Keonjhar, Koira, and Sambalpur.

¹⁴ Joda and Keonjhar.

initiate action for and seizure and confiscation of minerals so raised and realisation of price.

The Government, in reply, stated that show cause/demand notices were issued up to March 2010 by the concerned Circles. However, the fact remained that Department failed in ensuring lawful extraction by initiating timely action.

6.2.10.4 Auction of Stone quarries

Under Rule 27 (1) of the OMMC Rules 2004, the Tahasildar shall seek a report from the concerned Deputy Director/Mining Officer on geological point of view with regard to the suitability of the rock for decorative purposes in case of applications for stone quarry and the report is to be furnished within two months of receipt of intimation. Otherwise it would be deemed that Deputy Director/Mining Officer has no objection for grant of quarry lease or its renewal.

Lease of decorative stone is administered by Steel and Mines department whereas that of ordinary stone is administered by Revenue and Disaster Management Department.

Audit obtained information on grant of Stone quarries from Tahasildar, Berhampur and Kanisi under the jurisdiction of MO, Berhampur and found that

during 2007 to 2012, in 358 cases these stone quarries were settled on annual lease/auction without seeking report of MO, Berhampur before grant/renewal of such quarry lease. No action was also taken by the Mining Circle to notice such cases.

In the absence of report from the mining authorities, nature and quality of the stones could not be ensured. In such circumstances, there is scope for loss of revenue in form of royalty and improper use of the valuable mineral as the royalty of decorative stone is much higher than that of ordinary stone.

Government replied that the Tahsildars had started obtaining NOC from mining authorities. The cases pointed out in Audit would be examined by the MO Berhampur for initiating appropriate action.

6.2.11 Despatch of ores/minerals

6.2.11.1 Unlawful Stacking of minerals

Under Section 9(2) of the MMDR Act 1957, the holder of a ML shall pay royalty in respect of any mineral removed or consumed by him. Under Section 21(4) of the Act, whenever any person raises, transports or causes to be raised or transported, without any lawful authority, any mineral from any land, shall be liable to be seized by an officer or authority specially empowered in this behalf and shall be confiscated and disposed of. Further, as per Section 2 of FC Act, forest land cannot be used for non-forest purpose without prior approval from GoI.

6.2.11.1(a) During scrutiny of the enquiry report (August 2011) of State Level Enforcement Squard (SLES) and other connected records in Jajpur Road Circle, Audit noticed (June 2013) that a lessee had stacked 5.56 lakh MT of iron ore in a forest area outside the lease area for which de-reservation

proposal was not finalised by MoEF, GoI. Transit permit or transit pass was also not issued by the Mining Authorities for removal of the ore from the lease hold area to stacked place (Baliparbat). Hence transportation and storage of the minerals was unlawful and the above stock of minerals valued at ₹ 149.60 crore (royalty ₹ 13.60 crore and price ₹ 136.00 crore) should have been seized and confiscated. But the DDM neither seized nor raised demand for realisation of price of the mineral.

Government in reply stated that demand notice was issued (July 2013) to the lessee, amount was not realised (April 2014).

6.2.11.1(b) Audit scrutinised (March 2013) lease files of a lessee in Joda Circle and noticed that Senior Inspector of Mines, Joda during his inspection of mines (November 2011) found that 41.86 lakh MT Iron ore fines valued at ₹ 402.90 crore were stored outside the lease hold area and the same was not reflected in the monthly returns furnished by the lessee. As such storing was unlawful, the mineral should have been seized, confiscated and disposed of for realisation of Government revenue. However, Audit observed that no action was taken by DDM to confiscate the minerals till the date of audit though the lessee furnished compliances (August & December 2011) to the show cause notices issued for aforesaid irregularities.

Government stated that show cause notice was issued (July 2013) to the lessee by DDM and further action would be taken after field verification. However, no action was taken to seize and dispose of the mineral for realisation of the price. (April 2014).

6.2.11.2 Removal of ore in excess of the permitted quantity

Under Rule 27 of MCR, the lessee shall keep accurate and faithful accounts showing the quantity and other particulars of all minerals obtained and despatched from the mine and to furnish a return to MO/DDM taking the extract from the register maintained by him for that purpose. Further as per Rule 10(8) of OM Rules, 2007 the MO/DDM shall issue a permit for removal/transportation of minerals. Under Section 21(4) of the Act, whenever any person raises, transports or causes to be raised or transported, without any lawful authority, any mineral from any land, shall be liable to be seized, confiscated and shall be disposed of.

On scrutiny of records, pertaining to permit, returns and production despatch register of five lessees in three¹⁵ Circles, Audit noticed that during 2008-09, lessees despatched 67.82 lakh MT mineral on payment of royalty against removal permit obtained for 30.59 lakh MT minerals. Thus, 37.23 lakh MT of mineral valued at ₹ 75.16 crore despatched was not covered under valid permits.

MO/DDM failed to detect such discrepancies on scrutinizing the returns and initiate action to seize and confiscate mineral dispatched not covered under valid permits. DMO also did not issue any instruction for reconciliation of mineral dispatched against permits issued and monitor it.

¹⁵ Jajpur Road, Joda and Sambalpur.

After audit pointed this out, Government stated that show cause notices were issued by DDM Jajpur Road and in other cases permit returns of the mines concerned were under scrutiny by concerned DDMs and final compliance would be submitted after verification of records. Final reply is awaited (April 2014).

6.2.11.3 Grant and regulation of Licence for trading

Under Rule 3 of OM Rules, 2007 no person shall carry on the business of buying, possessing, storing, selling, supplying, distributing or delivering for sale or processing of minerals at any place except under and in accordance with the terms and conditions of a trading licence. Under Rule 7, the licensee is required to furnish monthly returns in prescribed forms within 1st week of the subsequent month and obtain No Objection Certificate from Odisha State Pollution Control Board. Under Rule 10, the licensee shall obtain permission for removal or transport of the materials under prescribed Transit Pass (TP) obtained from the Competent Authority. Under Rule 9 Competent Authority may, at any time during the tenure of the licence, suspend and cancel the licence for breach of any of the terms and conditions of the licence.

6.2.11.3(a) Any unlawful act on the part of the licensee attracts Section 21 of the MMDR Act for levy of penalty.

Audit scrutinised 139 cases of grant of trading licence under six¹⁶ Circles and noticed the following deficiencies:

Under three circles¹⁷ 10 licensees stored minerals without

obtaining consent to operate from the State Pollution Control Board, Odisha during the period from 2008 to 2012.

No action was taken to suspend and cancel 14 licenses for trading of minerals in three¹⁸ Circles though they did not furnish monthly returns.

Contrary to licence conditions, in four¹⁹ Circles, seven trading licences were granted without ensuring that consent in the name of the applicant was obtained in support of his place of business from port authority for export of Iron ore.

Though the department was required to enforce pollution control measures and ensure genuine source of procurement, store and sale by licensees for regulating mineral trading activities in the State which could not be ensured.

The Government in reply (January 2014) admitted the audit observation.

¹⁶ Jajpur Road, Joda, Sambalpur, Koira, Keonjhar and Rourkela.

¹⁷ Jajpur Road, Joda, Sambalpur.

¹⁸ Jajpur Road, Joda, Sambalpur.

¹⁹ Jajpur Road, Joda, Koira, Rourkela.

6.2.11.3(b) Non-reconciliation of export sale

Audit obtained the data on despatch of ore from annual performance report furnished by one licensee to DDM Joda for 2008-09. On cross-check of the same with the data on export obtained from Paradeep Port Authority, Audit noticed that the licensee disclosed 9,32,872 MT to DDM whereas as per Port Authority 9,40,072 MT of Iron ore was despatched. Thus, export of 7,200 MT of Iron ore valued at ₹ 1.05 crore was suppressed by the licensee for which the price of the ore was to be realised under Section 21(4) of the MMDR Act. The department failed to reconcile the export of ore in coordination with Port Authority and take action for realisation of price of mineral.

After this was pointed out the Government in reply stated that due to lack of a system to match the figures with the Railways and Ports such discrepancies could not be detected. It would be seamlessly integrated soon. Government further replied that the DDM concerned raised demand of ₹ 1.05 crore against the licensee and realisation was awaited (April 2014)

6.2.11.3(c) Handling loss of minerals

Act and Rules for administration of minerals do not provide for allowing any loss of mineral in transit or in course of handling. Audit scrutiny of the details of procurement and despatch of minerals for the period October 2008 to September 2010 furnished (October 2011) by one licensee under Joda Circle, revealed that 18,870.670 MT of iron ore valued at ₹ 1.91 crore was shown as transit and handling loss in the month of March 2010 & September 2010. Such loss is required to be treated as unlawful dispatch. However, DDM, Joda could not detect such loss of mineral on scrutinising returns and realise price of mineral.

The Government in reply stated that demand for ₹ 1.91 crore was raised for realisation of the amount.

6.2.12 Assessment and collection of revenue

6.2.12.1 Short-levy of royalty on ad-valorem basis

As per the guidelines prescribed under Rule 64D of MCR 1960 the State-wise average value for different minerals published by IBM in the 'Monthly Statistics of Mineral Production' shall be the bench mark for computation of royalty. The State Government shall add twenty per cent to this bench mark value which shall be reckoned to be the sale price for computation of royalty. This guideline was modified in 10.12.2009 by Ministry of Mines, GoI by which the rate of royalty was to be calculated on the sale price of mineral published by IBM.

Royalty on ad-valorem basis was to be worked out by adding 20 per cent to the average value of minerals published by the IBM. After the notification of 10 December 2009 royalty on ad-valorem basis was to be charged on average sale price of the minerals published by IBM. During

scrutiny of assessment records, Audit noticed that department worked out royalty taking into account average value of minerals adopting it as average sale price of mineral though the same was not published by IBM up to January 2011. It did not add 20 per cent to the average value published by the IBM to arrive at the sale price for working out the royalty. This resulted in short levy of royalty of ₹ 273.23 crore in 33 cases under four²⁰ Circles involving iron, chromite and manganese mineral.

After audit pointed it out, DMO instructed (December 2013) concerned Circle Offices to re-assess the cases by adding 20 per cent to the average value published by IBM. However, Government in reply (January 2014) stated that the levy was as per the price published by IBM and IBM had clarified that there was no difference between "average value" published from 10 December 2009 to January 2011 and "average sale price" published thereafter. However, as per amended guidelines of Ministry of Mines, GoI issued on 10 December 2009, sale price of minerals was to be published by IBM by calculating from the weighted average price per tonne of Pit Mouth Value of mineral, but IBM had not done so.

6.2.12.2 Short levy of royalty on sized coal

As per notification dated 10 August 2007 of GoI, Ministry of Coal, royalty of coal shall be calculated with one fixed component (grade-wise rate of royalty) and one variable component being five per cent of basic Pit head price of ROM coal as reflected in the sale invoice excluding taxes, levies and other charges. Under rule 64 B (1) of MCR 1960, in case of processing of run-of-mine mineral within the leased area, royalty shall be chargeable on the processed mineral removed from the leased area.

During check of assessment records in Sambalpur Circle, Audit noticed that one Coal mine of M/s Mahanadi Coalfields Ltd (MCL) despatched 48.62 lakh MT of sized coal (sized to less than 100mm) during April 2010 to March 2012 and paid

²⁰ Jajpur Road, Joda, Keonjhar and Koira.

royalty at the rate applicable to ROM coal. However, sizing charge at the rate of ₹ 61 per MT was not included in the price of said coal to arrive at the variable component for computation of royalty. Due to non-inclusion of the sizing charge in the price of sized coal there was short-levy of royalty of ₹ 1.48 crore.

The Government in reply stated that DDM, Sambalpur issued show cause notice in July 2013 for ₹ 1.48 crore, however details of realisation are awaited (April 2014).

6.2.12.3 Discrepancy in despatch figures reported by the lessees

Under Rule 45 of MCD Rules each lessee shall submit monthly and annual return in the prescribed form. Under Rule 52 each lessee shall simultaneously submit copy of returns to the State Government.

(i) Audit scrutinized statement regarding dispatch of minerals furnished by DMO and obtained copy of details of despatch from mines head as reflected in annual returns on despatch furnished to IBM in respect of nine lessees under three²¹ Circles, for the years 2007 to 2012 and found that the figures were at variance. Value of minerals (7.45 lakh MT) not disclosed by lessees in the return furnished to DMO worked out to ₹ 156.07 crore.

(ii) Similarly Audit obtained details of sales of iron ore made by six lessees under two²² Circles from the Commercial Tax Department and compared the same with despatch figures supplied by DMO and found that there were discrepancies leading to suppression of despatch figure furnished to DMO. Value of minerals (58.63 lakh MT) sold in excess of that disclosed to DMO by four lessees worked out to ₹ 696.15 crore.

Due to lack of reconciliation of the figures between IBM, Commercial Tax Department with returns furnished to Mining authorities in respect of quantity of mineral despatched, audit could not ascertain whether royalty was collected on the minerals. Hence, there is a need for periodical reconciliation of the despatch quantities furnished by lessees to different organisations to arrive at the correct figure of despatch to avoid loss of revenue.

The Government in reply stated that the cases are under examination and appropriate action would be initiated.

6.2.12.4 Non-disposal of seized minerals

As per guidelines prescribed in November 2008, immediately after seizure of minerals by different Circle offices, the same shall be handed over to OMC for lifting to their stock yard for storing, processing and sale.

During scrutiny of records on seized minerals in three²³ Circles, Audit noticed that as of March 2012, minerals like iron ore, manganese ore, coal etc. of 46,411.082 MT seized by the Department in the earlier

period were lying for disposal. This resulted in non-realisation of ₹ 6.29 crore being value of the minerals based on the IBM price of March 2012 and spot auction price (for coal). Age wise analysis of seized minerals was not furnished

²¹ Jajpur Road, Joda and Koira.

²² Joda and Koira.

²³ Rourkela, Koira and Keonjhar.

to audit. Information on seized minerals though called for was not furnished by four²⁴ Circles.

The Government, in reply, stated that the circle offices had taken up the issue with the OMC through repeated correspondences. However, the fact remained that no initiative was taken at the Government level for disposal of the materials though OMC being a PSU works under the overall control of the Department.

²⁴ Jajpur Road, Joda, Sambalpur and Berhampur.

6.2.13 Internal Control Mechanism

The Internal Control Mechanism is intended to provide reasonable assurance of proper enforcement of laws, rules and departmental instructions. It also helps in creation of reliable financial and management information systems and safeguards Government revenue.

6.2.13.1 Infrastructure and manpower in check posts and weigh bridges

State Government framed OM Rule, 2007 based on Section 23C of the MMDR Act, 1957. As per the Rule, with a view to check the transport and storage of minerals raised without lawful authority and to check the quality and quantity of minerals transported from lease hold areas depot, the Government may set up check post(s) and weighbridge(s) at any place within the State.

Audit test checked records relating to rationalisation of weigh bridges and check posts and found that Government in July 2009 formed a committee to make a quick study of the existing system of weightment and check gate management

including manpower and establishment of additional weigh bridges for cent per cent supervision of weightment and to arrest theft of mineral in the State. Director of Mines in his proposal (November 2009) suggested installation of 16 new weigh bridges, operation of 11 defunct weigh bridges, posting of additional 251 Check Gate Clerk and 251 Check Gate Peon in Government as well as private weigh bridges managed by the lessees. However, steps taken for installation/renovation of weigh bridges and filling up the vacancies were not on record (August 2013). In the absence of adequate check posts and weigh bridges with required manpower neither could theft of minerals be checked nor could cent per cent supervision of weightment be ensured.

After this was pointed out, Government, in reply, stated that the existing check gates and weigh bridges have been synchronised to electronics system, more focus has been given for transportation of minerals through railway and steps were being taken to recruit check gates clerks/peon and propose to establish new check gates and weigh bridges.

6.2.13.2 Inspection of mines.

As per the instructions of DMO (July 1987), the DDMs/ MOs are required to inspect all the working leases at least once in six months, non-working leases once in a year and large mines at least once in each quarter. The inspection reports are required to be submitted to the Directorate by 15th of the month following the month of inspection.

Information furnished by one Circle (Joda) revealed that during the period from 2007-08 to 2011-12, 76 and 65 inspections were conducted in respect of working and non-working mines respectively against 536 and 237 number of inspections prescribed as per the norms. The percentage of annual inspection of working mines ranged

between 11 and 21 whereas percentage of annual inspection of non-working mines ranged between 22 and 32 of the norms prescribed by DMO. Thus the

frequency of inspection was inadequate. Three²⁵ Circles did not furnish information and three²⁶ Circles furnished incomplete information.

Non-inspections of mines could lead to illegal mining and unauthorised extraction/transportation of minerals which would affect the State revenue adversely.

The Government in reply stated that the Circles were conducting inspection regularly. However, no details in support of inspection conducted by the Circles were furnished.

6.2.13.3 Internal Audit

There are two Internal Audit Wings, one functioning under the Department and the other functioning under the DMO. During test check of records in Steel & Mines Department Audit noticed the following deficiencies.

During the period from 2007-08 to 2011-12, 34 units were programmed for audit and 15 units were audited pertaining to 14 mining circles.

Out of 82 paras with money value of ₹ 370.61 crore, 12 paras with money value ₹ 3.97 crore were settled leaving 70 paras with money value of ₹ 366.64 crore pending for settlement at the end of March 2012.

Similarly test check of activities of Departmental Audit Wing functioning under the Administrative control of DMO revealed that -

During 2007-08 to 2011-12 only 12 units were programmed for audit and completed.

Out of 67 paras with money value of ₹ 137.59 crore, 5 paras with money value ₹ 5.96 crore were settled leaving 62 paras with money value of ₹ 131.63 crore pending for settlement as of March 2012.

Thus, there was lack of proper planning and short fall in auditing of field units programmed for and inadequate follow up action of ARs issued in respect of both internal audit units functioning in the Department.

After Audit pointed it out, Government, in reply, stated that due to shortage of staff adequate coverage in internal audit could not be made.

6.2.14 Conclusion

Performance Audit revealed a number of deficiencies in enforcement of the provisions of MMDR Act and Rules made thereunder. State specific Mineral Policy envisaging a long term strategy for conservation and development of minerals in the State was absent. Deficiencies were noticed in the system of grant of mining lease, operation of mines as well as levy and collection of mining receipts. Time frame prescribed for disposal of ML/RML/PL applications was not adhered to by the State Government and this led to large pendency of cases with consequential adverse impact on revenue. Non-operating mining leases were not promptly terminated and transfer of lease cases were not watched. Cases of irregular mining without forest clearance, operation of mines without environmental clearance, non-adherence to mining plan stipulations remained undetected. Required check on transport of minerals

²⁵ Koira, Rourkela and Sambalpur.

²⁶ Berhampur, Jajpur Road and Keonjhar.

was not exercised effectively. Inspections of mines were not conducted regularly. The internal audit wing was weak and ineffective. Seized minerals were not disposed of promptly. These deficiencies resulted in leakage, non-levy, short-levy, short-realisation, blockage of revenue and unlawful mining operation in the State.

6.2.15 Recommendations

Government may:

- Consider prescribing time limit for disposal of Prospecting Licenses/Mining Lease/Renewal of Mining Lease applications by each authority involved in the process of granting licenses /leases etc.;
- Institute a mechanism to ensure timely termination of non-operating mines and to detect illegal transfer of mining leases;
- View with concern irregular grant of ML, unlawful operation of mines, incorrect assessment of revenue and ensure regular inspection of mines;
- Consider prescribing time limit for disposal of seized minerals and
- Internal audit may be conducted regularly and observance of Rules/provisions of Act ensured.

6.3 Audit observations

Audit scrutinised the records maintained in the office of the DMO, DDMs and MOs where noticed cases of non/short levy of royalty, unlawful raising of minerals, and loss of revenue as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out by Audit. Government may consider issuing instructions for effective internal control mechanism to prevent recurrence of such omissions.

6.4 Non-observance of the provision of Acts/Rules

MMDR Act, 1957, MC Rules, 1960, MCD Rules, 1988 read with the notifications and instructions of the State/Central Governments issued from time to time provide for assessment, levy and realisation of

- *the cost of minerals unlawfully raised without any valid lease as well as over and above the production level of 1993-94 and in excess of the permissible limit when it is already disposed of;*
- *the cost of minerals unlawfully extracted, removed, transported etc, by seizure and disposal of same under orders of competent Court of Law;*
- *royalty at prescribed rates against different grades of minerals from the leaseholders of mines;*
- *royalty on unprocessed mineral in case of processing of mineral other than Run-of-Mine (RoM) minerals; and*
- *interest for delayed payment of mining dues.*

Non-observance of the above provisions are mentioned in following paragraphs:

6.4.1 Irregular raising, despatch and retention of minerals without valid lease

Under Section 4(1) of the MMDR Act, no person shall undertake any mining operations in any area, except under and in accordance with the terms and conditions of a mining lease, granted. Further, under Section 21(4) (4A) and (5) any mineral raised without any lawful authority may be seized by the competent authority for final confiscation and disposal of the same. Whenever any person raises, without any lawful authority, any mineral from any land, the State Government may recover from such person the mineral so raised, or, where such mineral has already been disposed of, the price thereof, and may also recover from such person, rent, royalty or tax. Moreover, under Rules 24A(1)(6) and (10) of MC Rules, an application for the Renewal of Mining Lease shall be made to the State Government, at least twelve months before the date on which the lease is due to expire, through the Competent Authority specially authorised. If an application for the RML made within the prescribed time is not disposed of by the Government before the date of expiry of the lease, the period of the lease shall be deemed to have been extended by a further period till the Government passes order thereon. As per Rule 31 of the MC Rules the lease deeds are to be registered within six months from the date of grant of lease.

During test check of ML/RML file, monthly returns and assessment files in the office of the Deputy Director of Mines (DDM) Joda, Audit noticed (March 2013) that lease of two mines were granted for 20 years (1 February 1964 up to 31 January 1984) to one lessee. The first RMLs were conditionally granted in December 1986 for 20 years up to 31 January 2004. The lessee did not comply with the terms and condition of such RML orders which included furnishing of

the mining plans and surveyed maps and descriptions within three months from the date of such orders to the Collector.

However, in violation of the provisions of MCR, lease deeds were executed by the lessee before the expiry of the first RML on 31 January 2004 and even up to the date of audit (March 2013). Thus, the mining operations made by the lessee during January 1987 to January 2004 was not covered under the deemed extension provision and became irregular.

In the absence of data on details of minerals irregularly raised by the lessee during January 1987 to January 2004, Audit could not calculate the extent of non-realisation of price of minerals for that period.

Further applications (31 December 2003) for second RMLs were not filed by the lessee before 12 months of expiry of leases (31 January 2004) nor was the delay condoned by the Department. Hence the deemed extension provision was also not applicable to both the mines beyond December 1986 and working of both the mines from February 2004 onwards was without any authority. Hence, cost of 21.42 lakh MT iron ore and 188.5 MT manganese ore valued at ₹ 176.43 crore, despatched during 2004-2011 was required to be recovered by the

Department from the lessee. Besides, the Department did not seize 1.30 lakh M.T. of iron ore and 251.2 MT of manganese ore valued at ₹ 24.88 crore unlawfully raised and lying as closing stock at the mines sites, for their eventual disposal.

Audit also observed that Government granted Temporary Working Permits (TWPs) along with permissions for removal of ores and issued Transit Permits (TPs) on several occasions during February 1984 to June 1994, although the lessee had no legitimate right to operate the mines beyond December 1986.

After Audit pointed this out, the DDM, Joda stated that the reply furnished by the lessee to the show-cause notice would be examined and after finalisation, appropriate action would be taken.

Audit reported the matter to the DMO in May 2013 and the Government in August 2013. The Government replied (November 2013) that DDM, Joda has raised demand for an amount of ₹ 201.32 crore in respect of Mines in October 2013.

6.4.2 Non-levy of royalty on low-grade Chromite fines shown as loss during beneficiation

Under Section 9 (2) of the MMDR Act, holder of an ML shall pay royalty in respect of any mineral removed or consumed by him from the leased area at the rate specified in the second Schedule of the Act. In respect of Lumps and Fines of chromite minerals, the rates of IBM are prescribed for three grades containing chromite contents up to 40, 40-52 and above 52 *per cent* for calculation of *ad-valorem* royalty thereon.

During scrutiny of assessment records with monthly returns and permission file of a lessee in the office of the DDM, Jajpur Road, it was noticed (February / March 2013) that 9.05 lakh MT chromite fines with chrome content below 40 *per cent* were issued by the company up to March 2011 to their Chrome Ore Beneficiation Plant (COBP) for production of high grade chrome concentrate. During 2011-12, in course of beneficiation of these ores, 4.16 lakh MT of chromite ore with chrome content up to 25 *per cent*, was termed as tailings (non-saleable sub-grade ore) and shown as loss by the company. The AA, while assessing the royalty on chromite ore, did not levy royalty of ₹ 13.84 crore on the above which resulted in loss of revenue to the Government.

After Audit pointed this out, the DDM, Jajpur Road stated that action would be taken after scrutiny of records.

Audit reported the matter to the DMO in May 2013 and the Government in June 2013. The replies were not received (April 2014).

6.4.3 Short assessment of royalty on iron ore

Under Section 9 of MMDR Act, holder of an ML shall pay royalty in respect of any mineral removed or consumed at the rate specified in the Second Schedule of the Act. As per Rule 64 B (1) of the MC Rules in case of processing of Run-of-Mines (ROM) minerals within the leasehold area, royalty is chargeable on the processed minerals removed from the leased area. Thus, where the ore fed to crusher unit was not ROM i.e. mineral ore not containing foreign material, royalty is to be charged on unprocessed mineral i.e. mineral extracted from the same.

During test check of assessment files, monthly returns and removal permission of a lessee in the office of the DDM, Joda, Audit noticed (March 2013) that the lessee despatched minerals obtained on crushing +65 *per cent* Fe lumps as inputs with no loss towards tailings/rejects/ wastes in its production-cum-beneficiation process.

However, 0.24 lakh MT of +65 *per cent* Fe fines and 4.46 lakh MT of - 65 *per cent* Fe fines despatched between April 2010 and October 2010 on payment of royalty at the rates applicable for fines, (less than that of lumps) was produced from + 65 Fe lumps. The royalty paid was accepted by the AA, and this resulted in short realisation of royalty of ₹ 9.12 crore. Further, audit noticed that the lessee despatched 3.01 lakh MT²⁷ of Iron ore between May 2004 and March 2010 without the month wise details. Hence, the Department may verify the factual position and levy royalty at appropriate rate under intimation to audit.

Audit reported the matter to the DMO in June 2013 and Government in July 2013. The Government stated (October 2013) that the DDM, Joda raised demand for ₹ 9.12 crore (July 2013) against the lessee and realisation of amount is awaited (April 2014).

6.4.4 Non-levy of interest on belated payment of royalty

Under Rule 64A of the MC Rules, 1960, for belated payment of royalty, simple interest at the rate of 24 *per cent* on the unpaid amount is chargeable from the sixtieth day of the expiry of the due date of payment of such royalty.

During test check of assessment file, monthly returns of royalty and treasury challan of four²⁸ Mining Circles, Audit noticed (January and March 2013) that in eight cases royalty of ₹ 140.17 crore, payable by the licensees during the period from September 2009 to December

2011, was belatedly paid between March 2011 and April 2012 and the delay ranged from one to 775 days. But the concerned DDM/MO did not levy interest for the delay in payment of the dues. This resulted in non-levy of interest of ₹ 5.92 crore on the concerned lessees.

After Audit pointed this out, the Government stated (February 2014) that demand notices for the entire amount have been issued to the concerned lessees between July 2013 and January 2014 for realisation of the amount.

²⁷ 50405.7 MT of +65 *per cent* Fe plus 250446.278 MT of -65 *per cent* Fe.

²⁸ DDM, Joda, MO, Keonjhar, DDM, Koira and DDM, Sambalpur.

6.4.5 Short-levy of royalty on steam coal

The GoI, Ministry of Energy, Department of Coal (MoE,DoC), in their notification of 16 July 1979, clarified that ROM coal comprises of all sizes of coal as it comes out of the mine without any crushing or screening. The fraction of ROM coal as is retained on a screen, when subject to screening or is picked out by a fork-shovel during loading, is called steam coal. The ad-valorem variable part of royalty is levied as per the price chart notified by Coal India Ltd (CIL) from time to time in addition to the fixed part of royalty.

During test check of the monthly returns, wagon loading statements and assessment orders of a lessee²⁹ in the office of the DDM, Talcher, Audit noticed (February 2013) that the lessee dispatched 27.38 lakh MT of 'F' grade coal of + 100 mm size

between April and December 2011 from their coal mine. Coal of + 100 mm size was to be categorised as steam coal, since such size is obtained by segregation through a screening process. Hence royalty as applicable to steam coal was leviable on coal of + 100 mm size. The AA, while assessing royalty adopted the rate applicable to ROM coal which resulted in short levy/realisation of royalty of ₹ 2.11 crore.

After Audit pointed this out, DDM, Talcher stated (February 2013) that action would be taken to demand differential royalty against the lessee after verification of records.

Audit reported the matter to the DMO in May 2013 and the Government in July 2013. The replies were not received (April 2014).

6.4.6 Short-levy of royalty on 'B' Grade E-auction Coal

As per notification dated 1 August 2007 of the GoI, Ministry of Coal (MoC), royalty on coal shall be a combination of specific amount and variable *advalorem* amount which is five *per cent* of pit head price of ROM coal as reflected in the invoice excluding taxes levies and other charges. CIL revised the basic price of 'B' grade coal from ₹ 1,290 to ₹ 3,990 with effect from 27 February 2011. Accordingly, the rate of royalty per tonne of 'B' grade coal was revised from ₹ 194.50 (₹ 130 plus five *per cent* of ₹ 1,290) to ₹ 329.50 (₹ 130 plus five *per cent* of ₹ 3,990) from that date. As per the scheme of e-auction coal introduced by the GoI, MoC through their OM dated 18 October 2007, coal companies are allowed to fix an undisclosed reserve price not below the notified price.

During test check of assessment records along with monthly returns of a lessee³⁰ in the office of the DDM, Talcher, Audit noticed (February 2013) that between March and October 2011 the

lessee despatched 0.28 lakh MT of 'B' grade coal on the basis of e-auction and paid royalty at the rate of ₹ 194.50 per MT which was less than the revised and notified rate of ₹ 329.50 per MT. This resulted in short realisation of royalty

²⁹ Mahanadi Coal Fields Limited (MCL).

³⁰ Talcher Colliery of Mahanadi Coalfield Ltd. (MCL).

of ₹ 24.34 lakh. The above lapse was not noticed by AA, while assessing royalty for the aforesaid period.

Audit reported the matter to the DMO and Government in June 2013. The Government stated (September 2013) that the DDM, Talcher raised demand of ₹ 24.34 lakh (July 2013) against lessee. Final compliance was not received (April 2014).

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