

# CHAPTER-VI



## CHAPTER VI

### MINES AND MINERALS

#### 6.1 Tax administration

Assessment and collection of mining receipts are governed by the Mines and Minerals (Development and Regulation) (MMDR) Act, 1957; the West Bengal Minor Minerals (WBMM) Rules, 2002; the Bengal Public Demands Recovery (BPDR) Act, 1913; the Cess Act, 1880; the West Bengal Primary Education Act, 1973 and the West Bengal Rural Employment and Production Act, 1976.

Commerce and Industries (C&I) Department, Finance Department, Land and Land Reforms (L&LR) Department, Irrigation and Waterways (I&W) Department and the General Administration Department are associated with the assessment, levy and collection of mining receipts. All Departments are headed either by an Additional Chief Secretary or Principal Secretary/Secretary level officer and assisted by Director (s) and district level officers.

#### 6.2 Internal audit

There was no separate Internal Audit Wing (IAW) for the units related to mining receipts. As the mining activities are mainly regulated by Land and Land Reforms (L&LR) Department, the IAW of the L&LR Department is liable to conduct audit of the units involved in regulation of mining activities. The IAW of the L&LR Department was established with the objective of fulfilling accountability, obligations, complying with applicable rules and regulations, executing orderly and effective operations and safeguarding resources against loss. Performance of the IAW of L&LR Department has already been discussed in Paragraph No. 3.2 of this report.

#### 6.3 Results of audit

In 2015-16, test check of the records of 14 units relating to mining receipts showed underassessment of tax and other irregularities amounting to ₹ 26.19 crore in 136 cases, which fell under the categories given in Table 6.1.

Table 6.1

#### Results of audit

(₹ in crore)

Sl. No.	Categories	Number of cases	Amount
1.	Non/short assessment/realisation of price of minor/major minerals extracted unauthorisedly	58	6.28
2.	Non/short assessment/levy/realisation of royalty and cess	46	8.53
3.	Penalty for underperformance	14	5.22
4.	Other cases	18	6.16
<b>Total</b>		<b>136</b>	<b>26.19</b>

During the course of the year, the Department accepted underassessment and other deficiencies in 145 cases of ₹ 13.62 crore, of which 116 cases involving ₹ 12.63 crore were pointed out during the year 2015-16 and the rest in earlier years. An amount of ₹ 33.25 lakh was realised in 29 cases during the year.

A few illustrative cases involving ₹ 8.91 crore are discussed in the following paragraphs.

#### **6.4 Non/short recovery of price of brick earth**

Under Section 21(5) of Mines and Minerals (Development and Regulation) (MMDR) Act, 1957 and Rule 33(5) of the West Bengal Minor Minerals (WBMM) Rules, 2002, no person is entitled to undertake mining operations without a lease or valid permit. In the event of violation, apart from other penal actions like seizure, confiscation, eviction, imprisonment etc., the authority is empowered to recover either the minerals raised unlawfully or the price thereof. By an order passed in September 1984, the Board of Revenue, West Bengal fixed the market price of brick earth at ₹ 30 per 100 cft for 1981 with an increase of ₹ 1.50 per 100 cft each year.

During scrutiny of brick field registers and files in nine<sup>88</sup> DL&LROs between October 2014 and September 2015, Audit observed that in 401 cases<sup>89</sup>, 305 brick field owners had extracted 845.12 lakh cft of brick earth between 2011-12 and 2014-15 without valid permit, for which authorities were to recover ₹ 6.41 crore as price of brick earth. Audit, however, observed that in 278 cases, authorities did not recover price of brick earth of ₹ 4.44 crore from 199 brick field owners on extraction of brick earth of 583.65 lakh cft. In the remaining 123 cases, authorities had recovered ₹ one crore against the recoverable amount of ₹ 1.97 crore from 106 brick field owners on extraction of brick earth of 261.47 lakh cft. This resulted in non/short recovery of price of brick earth of ₹ 5.41 crore.

After this was pointed out, seven<sup>90</sup> DL&LROs accepted (between September 2014 and August 2015) audit observations in 309 cases involving ₹ 4.33 crore, but did not furnish report on realisation. In the remaining cases, DL&LROs did not furnish any/specific reply (June 2016). It may be mentioned here that out of the seven DL&LROs who accepted the audit observation, three DL&LRO<sup>91</sup> had accepted a similar observation appearing in the Report of the Comptroller and Auditor General of India (Report No. 5 of 2015), but did not take any remedial action and the violations persisted.

Government accepted the audit observations and intimated (October 2016) realisation of ₹ 83.20 lakh in 135 cases by three<sup>92</sup> DL&LROs. In the remaining cases they did not furnish specific details in respect of realisation.

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<sup>88</sup> Burdwan (E), Burdwan (W), Dakshin Dinajpur, Hooghly, Murshidabad, Nadia, North 24 Parganas, Paschim Medinipur and South 24 Parganas.

<sup>89</sup> One instance of non-payment of price of earth in any year constitutes one case.

<sup>90</sup> Burdwan (E), Burdwan (W), Dakshin Dinajpur, Murshidabad, Nadia, Paschim Medinipur and South 24 Parganas.

<sup>91</sup> Murshidabad, Paschim Medinipur and South 24 Parganas.

<sup>92</sup> Murshidabad, Paschim Medinipur and Nadia.

### 6.5 Non-realisation of penalty

In terms of Rule 21(1)(e) of WBMM Rules, 2002, the lessee shall extract and dispatch a minimum quantity of mineral from the leasehold area annually, as prescribed in the lease deed. In case there is any shortfall in the extraction and dispatch of the said minimum quantity without any satisfactory reason, penalty to the extent of twice the amount of royalty, that should have accrued in respect of the shortfall in quantity, shall have to be paid by the lessee.

Audit observed (between September 2014 and December 2014) from records of three<sup>93</sup> DL&LROs that 17 lessees in 20 cases extracted 55.24 lakh cft of sand against the minimum prescribed quantity of 143.16 lakh cft as per lease deeds. Reasons for short extraction of 87.92 lakh cft of sand were not found on record. However, DL&LROs did not levy and demand any penalty on such short extraction. This resulted in non-levy of penalty to the extent of ₹ 1.75 crore and consequent non-realisation thereof.

After this was pointed out, all DL&LROs accepted (September 2014 and December 2014) the audit observations and stated that demand notices would be issued to defaulters.

The cases were reported to the Government in October 2014 and January 2015, followed by reminders issued up to November 2016; their reply has not been received.

### 6.6 Non/short realisation of royalty and cess on minor minerals

Rule 27(1) of the WBMM Rules, 2002 provides that the district authority or any other officer authorised in this behalf by the State Government may grant quarry permit to any person to extract any minor mineral on pre-payment of royalty at prescribed rates. Further, under the provisions of the Cess Act, 1880 (as amended in 1984), West Bengal Primary Education Act, 1973 and West Bengal Rural Employment and Production Act, 1976, holders of quarry permits are liable to pay different types of cesses at prescribed rates on extraction of minor minerals.

During test check of records relating to brick fields, demand and collection registers and minutes of meetings of DL&LROs with the Brick Field Owners' Associations, Audit observed between September 2014 and September 2015 in seven<sup>94</sup> DL&LROs that in 108 cases, 60 brick field owners had extracted 175.31 lakh cft of brick earth between 2011-12 and 2014-15 without pre-payment of royalty and cess of ₹ 75.43 lakh. In other 206 cases, 149 brick field owners extracted 418.63 lakh cft of brick earth and paid royalty and cess of ₹ 70.37 lakh instead of ₹ 1.57 crore. Audit also observed in June 2014 in DL&LRO, Jalpaiguri that in 10 cases, 10 lessees of sand/stone extracted 10.71 lakh cft of sand/stone between 2011-12 and 2013-14 without pre-payment of royalty and cess of ₹ 12.32 lakh. DL&LROs did not initiate any action to realise the dues. This resulted in overall non/short realisation of royalty and cess of ₹ 1.75 crore in 324 cases from the brick field owners and the lessees of sand/stone.

<sup>93</sup> Burdwan (E), Burdwan (W) and Paschim Medinipur.

<sup>94</sup> Burdwan (E), Burdwan (W), Cooch Behar, Hooghly, North 24 Parganas, Paschim Medinipur and South 24 Parganas.

After this was pointed out, three<sup>95</sup> DL&LROs accepted (December 2014 and August 2015) audit observations in 96 cases involving ₹ 39.42 lakh and stated that concerned BL&LROs/SDL&LROs would be instructed to realise the dues. The report on recovery is awaited. In the remaining cases, DL&LROs did not furnish any/specific reply (October 2016).

Government accepted the audit observations and intimated (October 2016) realisation of ₹ 10.60 lakh in 25 cases by DL&LRO, Paschim Medinipur. In the remaining cases they did not furnish specific details in respect of realisation.

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<sup>95</sup> Burdwan (E), Paschim Medinipur and South 24 Parganas.