

CHAPTER-2: MINING RECEIPTS

2.1 Tax administration

Management of mineral resources is the responsibility of both the Central and the State Governments in terms of entry 54 of the Union list (List I) and entry 23 of the State list (List II) of the Seventh Schedule of the Constitution of India. Government of India (GoI) enacted the Mines and Minerals (Development and Regulation) Act, 1957 (amended in January 2015) which lays down the legal framework for regulation of mines and minerals other than petroleum and natural gas. In exercise of the powers conferred by the Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act, 1957) various Rules have been framed by the GoI and the State Government from time to time. GoI framed the Mineral Concession Rules (MCR), 1960. The State Government is empowered under the MMDR Act to make rules to regulate and grant mining lease in respect of minor minerals. Accordingly, the Chhattisgarh Minor Mineral Rules (CMMR), 2015 was framed.

Prospecting and mining operations can be undertaken only with a licence or mining lease granted under the Rules. Mining receipts comprise mainly of application fees for lease/permit/prospecting licence, royalty, cess, dead rent¹, surface rent, fines and penalties, interest for belated payment of dues etc. Mining lessees are required to pay royalty before dispatch of the minerals from the leased area.

The Principal Secretary, Mineral Resources Department, is the head at the Government level and the Director, Geology and Mining (DGM) is the head of the Department at the Directorate level and is responsible for administration and implementation of the Mining Acts and Rules. Under the Directorate, there are three Regional offices one each at Bilaspur, Jagdalpur and Raipur headed by the Joint Directors (Regional Heads) which are responsible for prospecting, survey and sampling of minerals in the State.

Mining offices are located in each District under the direct control of the concerned District Collector. There are 27 Deputy Directors Mineral Administration (DDMAs)/ District Mining Officers (DMOs)/Assistant Mining Officers (AMOs) who assist the District Collector. 50 Mining Inspectors (MIs) posted in District Mining Offices are responsible for assessment and collection of revenue, prevention of illegal excavation and dispatch of minerals and other activities leading to leakage of revenue from the areas under their control. Besides this, there is a Flying Squad to prevent theft of minerals and evasion of royalty, which reports to DGM.

¹ Dead rent is the minimum royalty payable per year. When royalty payable exceeds the dead rent deposited, the lessee shall pay royalty over and above the dead rent

2.2 Internal Control

2.2.1 Internal Audit

The Department has an Internal Audit Wing (IAW) headed by Deputy Director (Finance and Administration) under whom three auditor posts are sanctioned.

Details on internal audit are mentioned in **Table 2.1:**

Table 2.1: Details of Internal Audit

Year	Total no. of offices	Sanctioned Strength ² for internal audit	Men- in-Position (No.)	No. of Offices planned for internal audit	No. of Offices audited	No. of IRs issued	Money value involved (₹)
2012-13	30	04	02	13	10	10	NIL
2013-14	30	04	02	13	13	13	NIL
2014-15	30	04	02	07	07	07	NIL
2015-16	30	04	03	16	16	16	NIL
2016-17	30	04	03	14	14	14	NIL
Total				63	60	60	NIL

(Source: Information furnished by DGM)

Though there was shortage of staff in IAW, the Department was able to conduct audit of all the offices planned for internal audit from 2013-14 onwards and in all 60 IRs were issued during the period 2012-13 to 2016-17. Further, Audit noticed that in the nine³ districts, IAW had pointed out pending assessment cases of major and minor minerals in their inspection reports between 2012-13 and 2016-17. Despite this, no remedial action was taken to complete the assessments by the DDMA/DMOs.

The Department stated (November 2017) that the Internal Audit Wing was being monitored by the Joint Director (Finance). The irregularities were corrected on the spot as soon as it was pointed out by IAW.

The reply is not acceptable as during the audit in the nine test checked districts, Audit found that in 90 cases, assessments of major mineral leases were not done.

2.2.2 Inadequate number of inspections by Mining Inspectors

As per instructions of the DGM, Chhattisgarh issued in May 2008, the Mining Inspector (MI) is required to inspect all major and minor mines in his jurisdiction once in every six months to ensure that the terms and conditions as laid down in the lease deed are observed by the lessee such as non-extraction of minerals outside the leased area, number of labourers employed inside the mines, records are maintained satisfactorily, quantity of the minerals produced per day and the leased area is properly demarcated.

Audit observed shortages of Mining Inspectors against the Sanctioned strength as detailed in **Table 2.2:**

² Including Deputy Director (Finance and Administration)

³ DDMA, Korba and Raigarh; DMO, Balodabazar, Balrampur, Bilaspur, Dantewada, Janjgir-Champa, Kanker and Surguja

Table 2.2
Details of sanctioned posts and Men-in-position of Mining Inspectors

Year	Sanctioned posts of Mining Inspectors	Men-in-position	Shortfall	
			No.	Percentage
2012-13	21	14	7	33.33
2013-14	21	14	7	33.33
2014-15	23	15	8	34.78
2015-16	23	18	5	21.74
2016-17	23	20	3	13.04

Audit observed that apart from the shortfall against the sanctioned strength, even the existing Mining Inspectors did not inspect adequate number of leases. Audit test check of records in nine⁴ DDMA's/DMOs revealed that for the period 2012-13 to 2016-17, against the target, only 37 to 53 per cent (369 out of 886) of mining leases, and 18 to 39 per cent (2,061 out of 7,988) of quarry leases were inspected.

The Department accepted (November 2017) the audit observation.

2.3 Results of audit

Audit test checked records of nine⁵ out of 17 units of the Mineral Resources Department in 2016-17. Besides, eight⁶ district mining offices were also audited between April 2017 and June 2017. Revenue generated by the Department during 2015-16 and 2016-17 aggregated to ₹ 3,709.52 crore and ₹ 4,141.47 crore of which the audited units collected ₹ 569.36 crore and ₹ 3,228.45 crore respectively. Audit found irregularities amounting to ₹ 2,616.51 crore in 1,819 cases, as detailed in **Table 2.3**:

Table 2.3: Results of audit

Sl. No.	Category	(₹ in crore)	
		No. of cases	Amount
1.	Non-assessment/underassessment of royalty and interest	38	32.51
2.	Non/short levy of dead rent and interest	106	5.14
3.	Short levy/recovery of Stamp duty and Registration fees	60	48.08
4.	Non-levy of land revenue on land covered under mining areas	780	158.37
5.	Short realisation of contribution to National Mineral Exploration Trust	41	13.74
6.	Non/short realisation of Infrastructure Development and Environment cess	328	86.66
7.	Other irregularities ⁷	466	2,272.01
Total		1,819	2,616.51

⁴ DDMA, Korba and Raigarh; DMO, Balodabazar, Balrampur, Bilaspur, Dantewada, Janjgir-Champa, Kanker and Surguja

⁵ DMOs Balod, Bastar, Bilaspur, Durg, Kanker, Raipur, Rajnandgaon, Surguja and DGM, Raipur

⁶ DDMA, Korba and Raigarh; DMO, Balodabazar, Balrampur, Bilaspur, Dantewada, Janjgir-Champa and Kanker

⁷ Other irregularities include non-realisation of Surface rent, non-realisation of annual fee on Storage permit, etc.

The Department accepted 321 cases involving ₹ 41.40 crore and recovered ₹ 1.44 crore in two cases. In the remaining cases, Audit is pursuing the matter with the Department.

During 2016-17, the Department effected recovery of ₹ 1.04 crore in 12 cases relating to audit objections contained in previous Audit Reports and Inspection Reports. Out of the recovered amount, ₹ 1.01 crore pertains to Audit and Inspection Reports prior to 2011-12.

2.4 Follow up of previous Audit Reports

In the Audit Reports for the period from 2011-12 to 2015-16, Audit had pointed out various observations amounting to ₹ 22.26 crore in nine paragraphs against which Department accepted observations involving ₹ 14.94 crore and recovered ₹ 2.86 lakh. Out of these nine paragraphs, three paragraphs were selected by the Public Accounts Committee (PAC) of which one paragraph of Audit Report 2015-16 was discussed in August 2017.

The Stand Alone Report for the year ended 31 March 2011 featuring the Performance Audit on "Assessment, levy and collection of revenue from major and minor minerals" highlighted irregularities in management of leases, unauthorised excavation, non/short assessment and realisation of royalty, misuse of transit pass etc. The discussion is yet to be completed.

The PAC has already given recommendations and directions in 2011-12 (93rd recommendation) for the Audit Report 2006-07 to the Department to take strict action against officials who were not following the rules and provisions and issue warning so that there is no recurrence of mines remaining inoperative.

The Mineral Resources Department informed (September 2018) that action was initiated against the concerned officials responsible for inoperative mines in compliance to the PAC's recommendations and directions. However, it did not evolve a mechanism to ensure that mines do not remain inoperative. Audit noticed that 30 mines were inoperative (as on 31 March 2017) in nine⁸ units.

2.5 Royalty not levied on invoice value of middling and reject sold

Failure of the DGM to put in place a mechanism to obtain details of the sale quantity, grade and invoice value of coal/middling/reject, led to short levy of royalty of ₹ 9.86 crore.

MCR, 1960 provides that middling⁹ or reject removed from the lease area is liable for payment of royalty when they are sold or consumed on any later date. As per Government of India (GoI) notification dated 10 May 2012 royalty on coal shall be at the rate of 14 *per cent ad valorem* on price of coal as reflected in the invoice excluding taxes. Further, under MCR, 1960, interest is leviable at 24 *per cent* per annum on delayed payment of royalty.

⁸ DDMA, Korba and Raigarh; DMO, Balodabazar, Balrampur, Bilaspur, Dantewada, Janjgir-Champa, Kanker and Surguja

⁹ Middling/reject coals are generated as by-products of the washing/beneficiation process.

Ministry of Coal (GoI) allotted (December 2003) M/s Sarda Energy and Industries with coal block¹⁰ under DDMA, Raigarh exclusively for captive need of sponge iron plant and captive power plant (CPP). The lessee had established coal washery and used washed coal for captive consumption. Subsequently, GoI permitted (February 2014) the lessee to sell upto 4.96 lakh Metric Ton (MT) of middling and 1.35 lakh MT of reject, following which, the lessee sold middling and reject at prices ranging from ₹ 1,595 to ₹ 2,000 and ₹ 895 to ₹ 1,000 per MT respectively between May 2014 and March 2015.

Audit noticed from the monthly returns available in DDMA, Raigarh that between May 2014 and March 2015, the lessee had dispatched 15.80 lakh MT of coal (towards both captive consumption and sales), which included middling, reject, washed coal and ROM¹¹. The lessee paid royalty on the whole quantity of coal for the grade¹² of coal (declared by the coal controller as G-12, G-14 and G-17 for the location) at the basic price of ₹ 890, ₹ 740 and ₹ 540 per MT respectively treating all as ROM (as prescribed under the Rules). The dispatched quantity included 4.87 lakh MT middling and 1.24 lakh MT reject coal which was sold (between May 2014 and March 2015) to various firms. Though the firm showed quantity of middling and reject in the return, the lessee did not furnish sale value of middling and reject as it was not required as per the format of the monthly return. Consequently, DDMA charged royalty on the basic price of ROM declared by the Coal India Limited and not on the actual sale price in respect of middling and reject.

As sale price of middling and reject were not available in the records of DDMA, Raigarh and the same was not provided to Audit despite request, Audit considered sale price of middling and reject available with the DDMA for the month of October 2014 and applied it on the quantity of middling and reject sold by the lessee to work out royalty payable. Audit calculated the total royalty payable on 6.11 lakh¹³ MT of middling and reject as ₹ 13.04 crore. The firm had already paid royalty taking these as ROM of ₹ 6.19 crore¹⁴. Thus, assessment (April 2015) of middling and reject sold by the lessee as ROM by the DDMA resulted in short levy of royalty amounting to ₹ 6.85 crore and interest thereon amounting to ₹ 3.01 crore¹⁵ was also leviable.

In March 2015, the lessee surrendered the lease to Ministry of Coal (GoI). As per the return of March 2015, 4.12 lakh MT of coal was remaining at the mine, which was subsequently either sold or transferred to the plant with permission from the Coal Controller.

¹⁰ Gare Palma IV/7 coal block in 335.76 hectare land for lease period 25.10.2005 to 24.10.2035

¹¹ The coal that comes directly from a mine. While most of the ROM is washed and middling and reject separated, some ROM in raw form is also despatched.

¹² Coal is graded on the scale of G1 to G17 on the basis of Gross Calorific Value of the coal; G1 being the highest grade and G17 being the lowest grade

¹³ 4.87 lakh MT middling and 1.24 lakh MT reject= 6.11 lakh MT

¹⁴ Average royalty = ₹ 124.6 (G-12)+ ₹ 103.6 (G-14)+ ₹ 75.6 (G-17)/3= ₹ 101.27; 6.11 lakh MT* ₹ 101.27= ₹ 6.19 crore

¹⁵ Interest payable= ₹ 6.85 crore x 22/12 (month) x 0.24 (rate of interest) = ₹ 3.01 crore

Further, Audit noticed that as per the chemical analysis conducted by Regional Office Bilaspur and Central Institute of Mining and Fuel Research (CIMFR), Bilaspur in June 2014 and March 2014 the middling and reject were of G-17 to G-15 i.e., graded coal. Moreover, the company sold the middling at a much higher rate ₹ 2,000 per MT than the basic price of G-15 grade of coal during the period which was ₹ 680 per MT indicating that the middling were in fact high grade coal. Hence, the coal stated to be middling/reject were in fact not middling /reject but graded coal. Thus, possibility of sale of graded coal on the pretext of middling and reject cannot be ruled out.

Following the GoI notification dated 10 May 2012, the State DGM should have ensured either by introducing a separate return (as the returns prevailing did not provide for showing the invoice value) or by adopting some other method/system that all lessees furnish the details of the quantity and invoice value of all coal/middling/reject, if any sold by the lessee at any time.

The Department accepted (November 2017) the audit observation and stated that the royalty on middling and reject would be re-assessed on the basis of applicable rate of 14 *per cent* on the basic price reflected in the invoice. The Department assessed and recovered (May 2018) royalty of ₹ 1.43 crore for the period 2012-13 to 2015-16. Audit requisitioned month-wise assessment details for verification of calculation of royalty, which however, are yet to be furnished (August 2018).

Recommendation:

The Department should (i) furnish the records requisitioned by Audit, (ii) consider modifying the format of monthly returns so that details of quantity and prices of middling/reject coals sold are also mentioned in the returns; (iii) ensure recovery of royalty as per applicable rates on the basic price reflected in the invoice.

2.6 Short levy of Stamp duty and Registration fees

DMO failed to realise differential amount of Stamp duty and Registration fees of ₹ 19.45 crore on lease agreements in four cases of revision of mining plan or delayed declaration of average sale price of iron ore by IBM.

As per instructions (March 1993) of Government of Madhya Pradesh, as applicable to Chhattisgarh, Stamp duty (SD) and Registration fees (RF)¹⁶ are calculated on the basis of mineral to be extracted as shown in the application of mining lease or estimated production given in the mining plan, whichever is higher. GoCG order (November 2011) stipulates that if a lessee revises mining plan after execution of lease deed, the lessee should pay the differential SD and RF as per the new mining plan. Further, in the case of iron ore, the lessee should undertake to levy on the difference arising in SD and RF due to publication of average sale price of a particular month by the Indian Bureau of Mines (IBM).

Audit test check of records revealed short realisation of Stamp duty and Registration fees of ₹ 19.45 crore in cases of four lease agreements which are detailed below:

¹⁶ SD is leviable at the rates prescribed under the Indian Stamp Act from time to time. RF is leviable at 75 per cent of SD.

(i) Audit test check of records of DMO, Kanker (May 2017) revealed that consequent to revision of mining plan in March 2016, a lessee M/s Bajrang Power and Ispat Ltd., was required to pay SD of ₹ 2.16 crore¹⁷ and RF of ₹ 1.62 crore¹⁸. However, the DMO failed to issue demand notice to the lessee to deposit the differential SD of ₹ 79.03 lakh and RF of ₹ 59.27 lakh as per the revised mining plan. This resulted in non-levy of SD and RF amounting to ₹ 1.38 crore.

The Department accepted (November 2017) the audit observation.

(ii) Audit test check of records in DMO, Kanker revealed that three lease deeds were executed (between October 2014 and August 2016) in the case of two¹⁹ lessees with prevailing rates of royalty of the previous month on which SD amounting to ₹ 9.99 crore and RF of ₹ 7.66 crore was paid on estimated quantity of 13.49 lakh MT per year of iron ore as mentioned in the mining plan. However, as per average sale price published by IBM, SD of ₹ 20.41 crore and RF of ₹ 15.31 crore was leviable. However, the DMO failed to issue demand notice to the lessees to pay the differential amount of SD and RF resulting in short levy of SD and RF amounting to ₹ 18.07 crore.

The Department accepted (November 2017) the audit observation.

2.7 Non/short realisation of dead rent

Failure of eight DDMA/DMOs to review the Demand and Collection Register periodically and issue demand notices led to non/short realisation of dead rent and interest amounting to ₹ 1.07 crore from 36 lessees of mining/quarry leases.

Under the MMDR Act 1957 and CMMR 2015, mining and quarry lessees are required to pay dead rent in advance for the whole year, failing which, interest at the rate of 24 per cent per annum is leviable from the sixtieth day of the expiry of the due date.

Audit test check of lease case files in eight²⁰ district mining offices revealed that in 18 out of 196 cases the lessees of mining/quarry leases did not pay dead rent amounting to ₹ 47.41 lakh for the years 2011 to 2017. Similarly, another 18 lessees paid short dead rent amounting to ₹ 40.14 lakh for the years 2012 to 2017. The interest thereon worked out to ₹ 19.78 lakh till March 2017. Failure of DDMA/DMOs to review the Demand and Collection Register (*Khatoni*) periodically and issue demand notices to recover outstanding dead rent and interest thereon resulted in non/short realisation of dead rent and interest amounting to ₹ 1.07 crore.

The Department accepted (November 2017) the audit observation.

¹⁷ Average annual production of five years=18,38,481 MT/5 = 3,67,696 MT;
SD = 3,67,696 MT x ₹ 235 (rate of royalty) x 5 times x 5 per cent (SD rate)=
₹ 2,16,02,140

¹⁸ RF = ₹ 2,16,02,140 x 75 per cent = ₹ 1,62,01,605

¹⁹ M/s Godawari Power and Ispat Limited (138.96 hectare lease for 50 years); M/s Jaiswal Neco Industries Ltd. (25 hectare lease for 50 years and 14.40 hectare leases for 30 years)

²⁰ Balodabazar, Balrampur, Bilaspur, Dantewada, Janjgir-Champa, Korba, Raigarh and Surguja (Ambikapur)

2.8 Non-levy of land revenue on land covered under mining areas

Seven DDMA/ DMOs did not levy land revenue of ₹ 177.60 crore on 694 mining leases for the period April 2012 to March 2017.

As per Chhattisgarh Land under Mining Leases Quarry Leases Assessment Rules, 1987 (amended in December 2011) land revenue on lands under mining areas is leviable at differential rates between ₹ 1,000 and ₹ 25,000 per hectare.

Audit test check of lease files of major minerals and quarry leases in seven districts²¹ revealed that the DDMA/DMOs did not levy the land revenue on land covered under 694 mining leases during the period April 2012 to March 2017. This resulted in non-realisation of land revenue amounting to ₹ 177.60 crore.

The Mineral Resources Department stated (November 2017) that since this was an issue of land revenue, the matter was related to Revenue and Disaster Management (RDM) Department.

The reply is not acceptable, since, as per the Rules, the Mineral Resources Department was responsible for collecting the land revenue in mining areas.

Recommendation:

The Mineral Resources Department should review and collect all land revenue pertaining to lands under mining areas in all districts.

2.9 Short realisation of contribution to National Mineral Exploration Trust (NMET)

Five DDMA/DMOs collected ₹ 15.67 crore towards the NMET as against realisable amount of ₹ 21.73 crore leading to short realisation of ₹ 6.06 crore.

The MMDR Act, 1957 (as amended in January 2015) stipulates that the holder of a mining lease or prospecting licence-cum-mining lease shall pay to the Trust, a sum equivalent to two *per cent* of the royalty paid. Following the notification for establishment of the Trust by GoI in August 2015, the DGM instructed (February 2016) Collectors to ensure payment to the Trust retrospectively from January 2015.

Audit test check of records in five²² DDMA/ DMOs revealed that an amount of ₹ 1,086.64 crore was received as royalty from major minerals during the period January 2015 to March 2017. Against two *per cent* of royalty amounting to ₹ 21.73 crore realisable towards NMET, only ₹ 15.67 crore was realised, resulting in short realisation of ₹ 6.06 crore to the Trust.

The Department accepted (November 2017) the audit observation.

²¹ Balodabazar, Balrampur, Bilaspur, Janjgir-Champa, Korba, Raigarh and Surguja (Ambikapur)

²² DDMA, Balodabazar, Raigarh and DMOs, Balrampur, Kanker and Surguja (Ambikapur)

2.10 Non/short realisation of Infrastructure Development and Environment cess

Seven DDMA/DMOs did not realise/short realised the Infrastructure Development and Environment cess amounting to ₹ 42.30 crore on the quarry and mining leases.

Under the provisions of Chhattisgarh (*Adhosanrachna Vikas evam Paryavaran*) *Upkar Adhiniyam*, 2005, infrastructure development and environment cess are separately leviable on land covered under mining leases at the rate of ₹ five on each tonne of annual dispatch for coal mining leases and at the rate of five *per cent* upto 15 June 2015 and 7.5 *per cent* from 16 June 2015 on the amount of royalty payable annually for minor mineral leases.

A para on non-levy of Infrastructure Development and Environment Cess was featured in the CAG's Audit Report no. 4 of the year 2012. Following this, Revenue and Disaster Management (RDM) Department clarified (February 2016) to the Secretary, Mineral Resources Department that as per the Act the cess should be levied on quarry leases also.

The details of dispatch of minerals and royalty leviable are available in the Mineral Resources Department and the amount of cess is levied on royalty/dispatch of minerals. As such, following the clarification letter the DGM should have developed a system to realise the cess in coordination with RDM Department.

Audit test check of mining lease case files in seven districts²³ revealed that the concerned DDMA/DMOs failed to realise Infrastructure Development Cess and Environment Cess amounting to ₹ 41.90 crore on royalties of ₹ 363.55 crore realised from quarry lease holders during the period 2012-13 to 2016-17²⁴. Further, Audit test check of mining lease files of DDMA, Raigarh revealed that at the time of expiry of major mineral lease (March 2015) a lessee²⁵ had unpaid arrears of Infrastructure Development and Environment cess amounting to ₹ 11.19 lakh. On expiry of the lease period, the lessee dispatched 2.89 lakh MT of closing stock between April 2015 and June 2015. The DDMA however failed to recover Infrastructure Development and Environment cess of ₹ 28.95 lakh on the disposal of closing stock and arrears of ₹ 11.19 lakh. This resulted in short realisation of cess amounting to ₹ 42.30 crore.

The Mineral Resources Department stated (November 2017) that the issue was related to RDM Department. The reply is not acceptable as the Mineral Resources Department has complete details of quantity of minerals dispatched and royalty paid in respect of a lessee. Since the Infrastructure Development and Environment cess is leviable on dispatch of mineral and royalty paid, the Department can effectively realise the cess. Further, in reply to the paragraph 4.3 of the CAG report for the year ended March 2011, the Secretary, Mineral

²³ Surguja, Balodabazar, Balrampur, Bilaspur, Janjgir-Champa, Korba and Raigarh

²⁴ Except Balodabazar and Janjgir-Champa where cess amounting to ₹ 1.81 crore for 2016-17 was realised.

²⁵ M/s Sarda Energy and Minerals Ltd

Resources Department had assured (February 2016) the State PAC to levy and recover the Infrastructure development cess and Environment cess.