

CHAPTER – 4

MINING RECEIPTS

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4.1 Introduction

Minerals are classified as major minerals (iron ore, manganese, gold, etc.) and minor minerals (sand, granite, gravel, building stone, etc.). Mines are allotted/sanctioned for excavation of minerals in the form of Mining Lease⁴², Quarry Lease⁴³ and Trade Quarry⁴⁴. The levy and collection of royalty on minerals in the State is governed by the Mines and Minerals (Development and Regulation) Act, 1957, the Mineral Concession Rules, 1960, the Madhya Pradesh Minor Mineral Rules, 1996, Madhya Pradesh Minerals (Prevention of Illegal Mining Transportation and Storage) Rules, 2006, etc.

4.2 Tax Administration

The Mineral Resources Department functions under the overall charge of the Principal Secretary, Mining Resources, Government of Madhya Pradesh. The Director, Geology and Mining is the Head of the Department who is assisted by Deputy Directors at Headquarters and Regional Offices at Gwalior, Indore, Jabalpur and Rewa. The Collector is the administrative head at District level and Departmental officials like District Mining Officers (DMOs), Assistant Mining Officers (AMOs) and Mining Inspectors (MIs) assist him in discharge of his duties regarding revenue collection. The DMOs/AMOs and MIs are responsible for assessment, levy and collection of royalty and other mining receipts. DMOs/AMOs and MIs are authorised to inspect the mines, and review production and despatch of minerals. In all of the 51 districts, Mining Branches are working under the direction of Collectors.

4.3 Results of Audit

During the year 2017-18, 27 units (Office of Principal Secretary, Mineral Resources, Office of the Director, Geology and Mining, and 25 DMOs) out of 54 auditable units (50 per cent) of the Mineral Resources Department were covered for audit. Revenue generated by the Department during the year 2017-18 aggregated to ₹ 3,640.73 crore, out of which the audited units collected ₹ 1,052.81 crore (approx. 29 per cent). Audit noticed cases of revenue not realised/short realised and other irregularities involving ₹ 561.39 crore in 2,711 cases during 2017-18, which fall under the categories mentioned in **Table 4.1** below.

⁴² Mining Lease means a lease granted for the purpose of undertaking mining operations and includes a sub-lease granted for such purpose. It is granted for major minerals only.

⁴³ Quarry Lease means a mining lease for minor minerals.

⁴⁴ Trade Quarry means a quarry for which the right to work is auctioned.

Table 4.1
Results of Audit

Sl. No.	Categories	No. of cases	(₹ in crore)
			Amount
1.	Audit on “Mining Receipts from Major Minerals in Madhya Pradesh”	252	207.07
2.	Outstanding revenue not realised	33	86.64
3.	Dead Rent/Royalty not/short levied	295	24.29
4.	Contract Money not/short realised	132	6.39
5.	Rural Infrastructure and Road Development Tax on mines not/short levied	142	5.88
6.	District Mineral Foundation (DMF) contribution not/short realised	01	2.70
7.	Interest on belated payments not/short realised	134	2.61
8.	National Mineral Exploration Trust (NMET) Fund not realised	16	0.49
9.	Others (Penalty not levied, Stamp Duty and Registration Fees on lease agreements of mines not levied, etc.)	1,665	220.72
Total		2,670	556.79

These observations were communicated to the Government and the Department during the period from May 2017 to May 2019. Out of these cases, the Department accepted 658 cases involving ₹ 189.50 crore and assured to review 549 cases of ₹ 80.26 crore. However, the recovery of ₹ 27.87 lakh in 37 cases has been intimated by the Department (September 2019).

4.4 Follow up of previous Audit Reports

In the Audit Reports for the period from 2012-13 to 2016-17, Audit had pointed out various observations amounting to ₹ 450.03 crore in 63 paragraphs against which recovery of ₹ 3.46 crore only was effected by the Department in respect of these observations. Out of these 63 paragraphs, 20 paragraphs⁴⁵ were selected by the PAC between September 2016 and July 2018 for discussion. The PAC discussed 20 paragraphs of Audit Reports 2012-13 to 2015-16. The reply of the Department in respect of all paragraphs for Audit Reports 2012-13 to 2015-16 have been received through PAC.

The PAC has also given its recommendations and directions (27th Report, 2014-15; 390th Report, 2016-17; 393th Report, 2016-17 and 386th Report, 2016-17) on similar paragraphs of Audit Reports for the periods 2008-09, 2009-10, 2010-11 and 2011-12. The directions were –

- The Committee may be intimated after taking penal action against the delinquent officers for violating the procedures and Internal control system,
- The Committee may be intimated after taking of penal action by the Department against delinquent officers for non-recovery/suitable action on time,

⁴⁵ 2012-13 (09), 2013-14 (03), 2014-15 (04) and 2015-16 (04).

- The Department was to effect recovery within three months from the date of recommendation in all the cases,
- To check the repetition of similar irregularities in future and issue necessary orders which includes initiation of necessary action against the responsible officials.

Further, some recommendations were –

- Time limit was to be prescribed by the Department for recovery of pending dues and interest thereon,
- The Department was to take action for writing off the probable irrecoverable amount from the account besides recovering pending amount,
- Issue strict instruction in respect to non-recovery so as not to had such situation in future and ensure sufficient measures for securing financial interest.

The Department, however, has not complied with the recommendations. As per Shakhder Committee recommendations as accepted by GoMP, the replies of the Department on observations of CAGs' Audit Report are to be submitted within three months after laying of it in the Legislative Assembly, and action on it to be taken within six months on recommendations of PAC. However, the same is not being followed by the Department.

Audit findings of the audit on "**Mining Receipts from Major Minerals in Madhya Pradesh**" involving ₹ 207.07 crore and a few illustrative cases involving ₹ 10.69 crore highlighting important audit findings are mentioned in the following paragraphs. All observations were communicated to the Government and the Department.

4.5 Audit on "Mining Receipts from Major Minerals in Madhya Pradesh"

4.5.1 Introduction

The State of Madhya Pradesh is richly endowed with mineral wealth. Important major mineral reserves in the State include bauxite, coal, limestone, manganese ore, copper ore, iron ore, rock phosphate, diamond, etc. The Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act) and the rules framed thereunder govern the regulation of mines and development of major minerals. According to MMDR Amendment Act, 2015, all mining leases shall be granted for a period of 50 years. All mining leases granted before the commencement of the MMDR Amendment Act, 2015 shall also be deemed to have been granted for a period of 50 years. On the expiry of the lease period, the lease shall be put up for auction as per the procedure specified in the Act.

4.5.2 Audit Objectives

The Audit was conducted with a view to ascertain whether:

- The control systems existed and were effectively preventing leakages of revenue; and

- The provisions of the Act, Rules and Departmental instructions were complied properly to safeguard the Government revenue.

4.5.3 Audit Criteria

The audit criteria for the Thematic Audit have been derived from the following sources:

- Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act) and its Amendment Act, 2015 (MMDR Amendment Act);
- Mineral Concession Rules, 1960 (MC Rules 1960);
- The Minerals (other than Atomic and Hydrocarbons Energy Minerals) Concession Rules, 2016 (MC Rules 2016);
- Mineral Conservation and Development Rules, 1988 (MCDR);
- Madhya Pradesh Rural Infrastructure & Road Development Act, 2005 and Rules made thereunder;
- Indian Stamp Act, 1899;
- Madhya Pradesh Mineral Policy, 2010 (Mineral Policy); and
- Notifications and circulars issued by the Central/State Government and Directorate of Geology and Mining.

4.5.4 Scope and Methodology

The Audit was conducted between December 2018 and January 2019. There are 51 District Mining Units in the State, out of which major minerals are found in 21 districts. Out of these 21 units of major minerals having revenue receipts of ₹ 7,055.50 crore, Audit selected 13 units⁴⁶ on the basis of revenue receipts involving ₹ 6,461.30 crore and stratified random sampling method. In addition to the above, two apex units⁴⁷ were also selected for Audit for holistic assessment. The Audit covered a period of three years from 2015-16 to 2017-18 for scrutinising the records related to determination, levy and collection of revenue from major minerals.

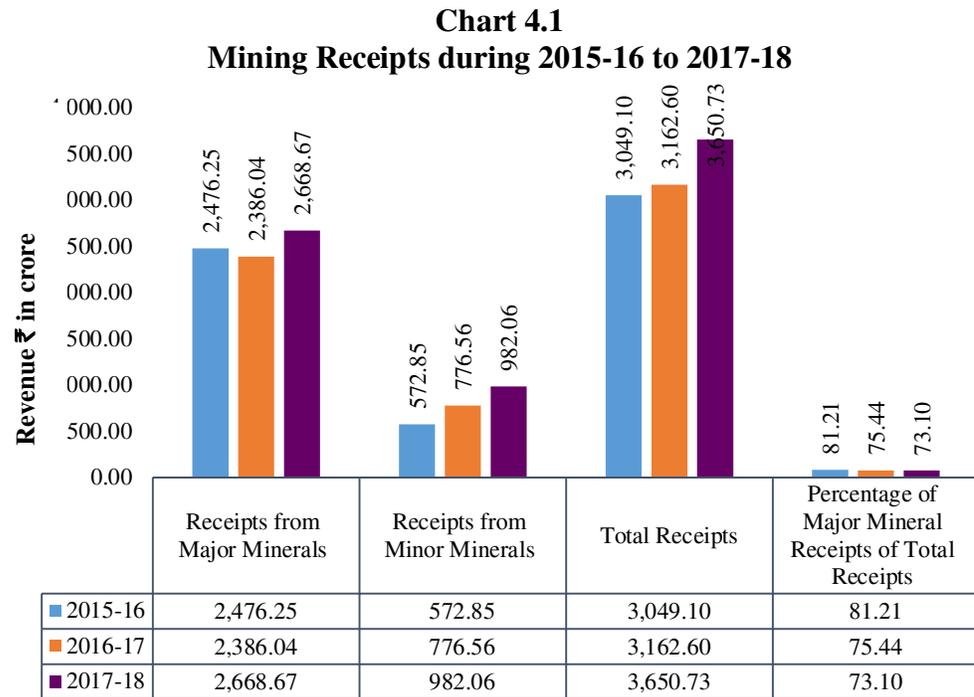
The scope and methodology of Audit was explained to the Principal Secretary of the Department in an Entry Conference held on 22 November 2018. On conclusion of audit, the draft report was forwarded to the Government and Department on 23 May 2019 and also discussed in the Exit Conference on 20 August 2019 with the Principal Secretary of the Department. The reply received (September 2019) from the Department have been suitably considered and incorporated in the respective paragraphs. However, the reply from the Government on the draft report has not been received.

⁴⁶ **DMO** Anuppur, Balaghat, Betul, Chhindwara, Damoh, Dhar, Jabalpur, Jhabua, Katni, Rewa, Satna, Singrauli and Diamond Officer (DO) Panna.

⁴⁷ Director, Geology & Mining and Principal Secretary, Mineral Resources Department.

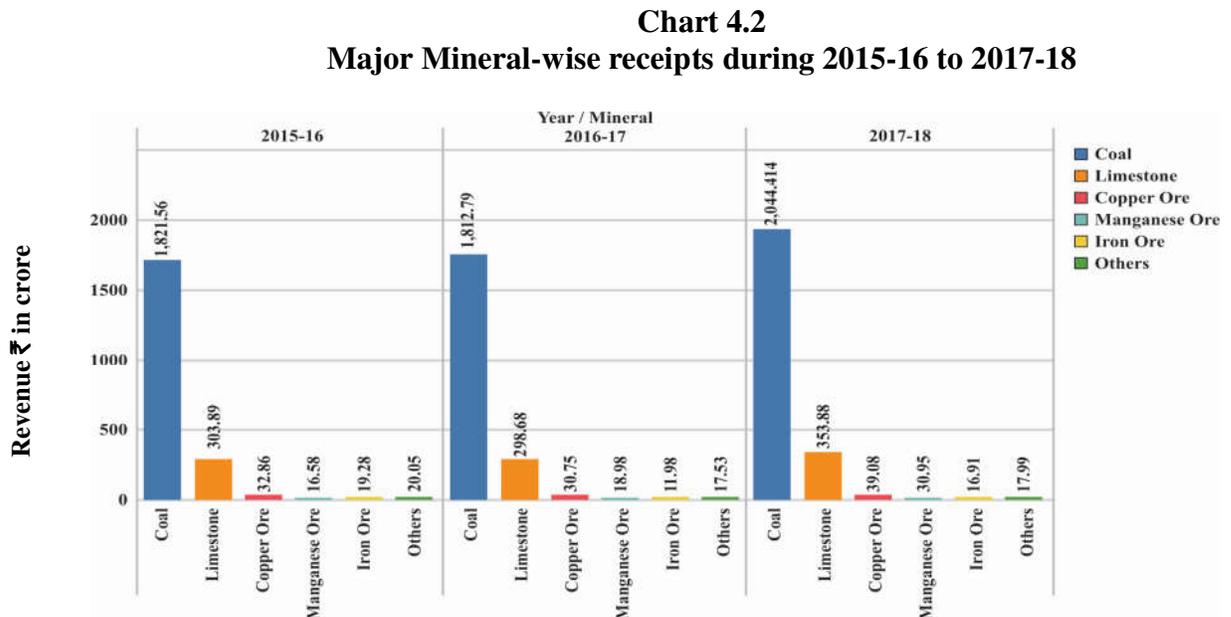
4.5.5 Trend of Receipts

Major minerals receipts mainly consist of royalty and other receipts, viz. application fee, dead rent, interest, license fee, penalty, surface rent, etc. Total receipts during the period 2015-16 to 2017-18 is given in **Chart 4.1** below:



Share of Mineral-Wise receipts of Major Minerals

Major mineral-wise share of the receipts, against the net mining receipts⁴⁸ of ₹ 6,908.15 crore⁴⁹ from major minerals during the period 2015-16 to 2017-18, is shown in **Chart 4.2** below:



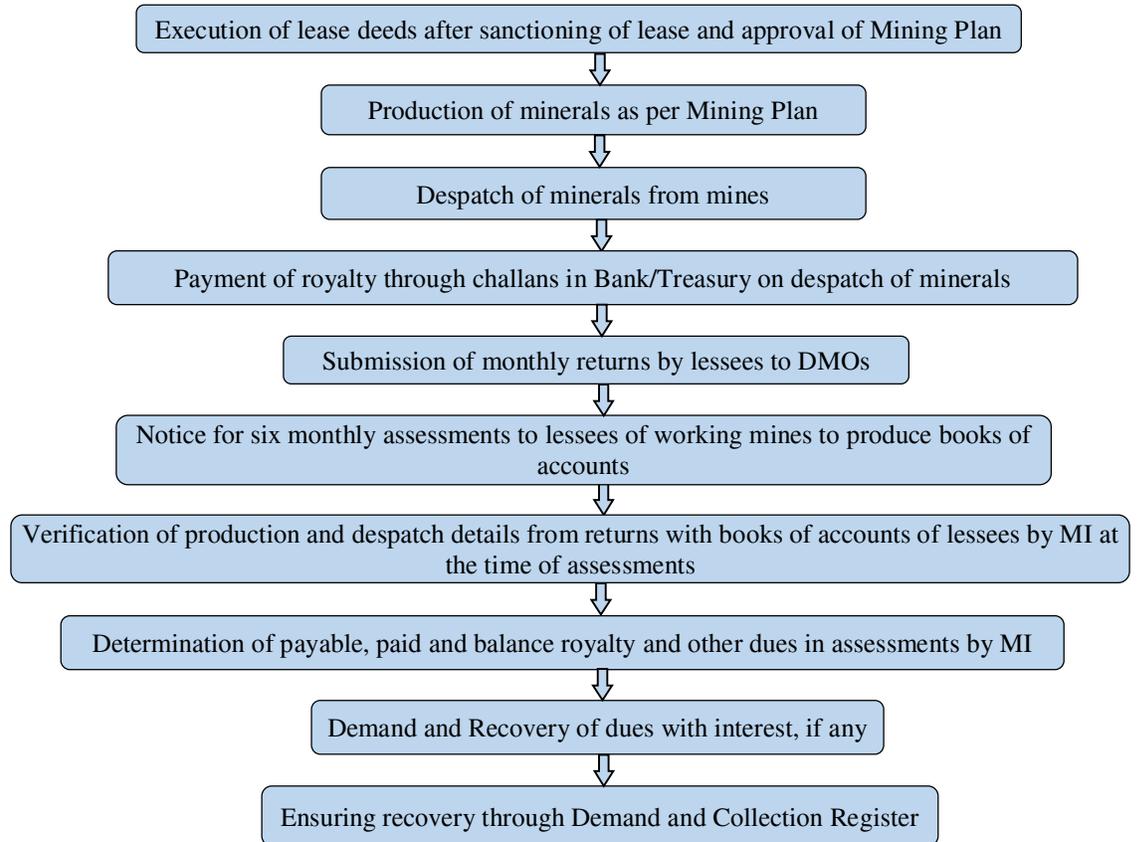
⁴⁸ 'Net receipts' excludes application fee, interest, license fee, penalty, surface rent, etc.

⁴⁹ Information furnished by the Directorate of Geology and Mining.

It may be seen from the above chart that the Government earned 82 *per cent* of its mining receipts of major minerals from coal, whereas the other major minerals together contributed only 18 *per cent* revenue.

Process of collection of Revenue

The flow chart of assessment, levy and collection of revenue in the Department is given below:



Audit Findings

The system and compliance deficiencies noticed during audit are given in the ensuing paragraphs:

4.5.6 Internal Control Mechanism

Internal control system and monitoring mechanisms are safeguards that are put in place by the Department to provide assurance that its activities are implemented efficiently and to ensure that adequate precautions have been taken against non/short collection or evasion of revenue. Reasonable assurance provided by such internal controls strengthens accountability of public authorities and ensures prevention of leakage of revenue.

While reviewing the records related to levy and collection of mining receipts, Audit noticed that the internal control system and monitoring mechanisms were inadequate to the extent as follows.

4.5.6.1 Absence of Departmental Manual

It is necessary for any organisation to have a Departmental Manual clearly indicating the methods and procedures which are to be applied while discharging its functions. The efficiency of an organisation, to a large extent, depends on evaluation of adequate process & procedures and the ability of its employees to follow them.

Audit noticed that the Department did not have any Departmental Manual detailing the functions and responsibilities of the staff at various levels. In the absence of Departmental Manual, the functions and responsibility of various functionaries of the Department could not be ensured.

During the Exit Conference (August 2019), the Department stated that preparation of Departmental Manual was under process.

Inadequate Inspections

Departmental inspections play a vital role in ensuring proper functioning of the organisation. The deficiencies noticed are discussed in succeeding paragraphs:

4.5.6.2 Inspections by Departmental officers

Audit noticed (December, 2018) that although the Department had prepared a Roster for annual inspections by Departmental officers during 2015-16 and 2017-18 for all 51 District Mining Units and one Diamond Office, the Director intimated (December, 2018) that the Department had not maintained any records regarding the conducting of the inspections as planned in the Roster. It could not be ensured therefore whether the Department had actually conducted any inspection of subordinate offices at all as planned in the Roster. It could also not be checked whether any Inspection Reports had been issued or not, as there was no certainty of records about inspection itself having been done or not.

Further, it was noticed (between December 2018 and January 2019) that out of 13 test-checked units, inspections by higher authorities were not found conducted for the audit period except one inspection in DMO Betul, but the Inspection Report of this inspection was not available.

Lack of proper inspections by higher authorities of the Department resulted in inadequate monitoring of the functioning of the subordinate offices. As a result, issues of procedural lapses and non-compliance of provisions of Acts and Rules remained undetected, as discussed in succeeding paragraphs.

During the Exit Conference (August 2019), the Department accepted that in the absence of Inspection Reports, the compliance of inspections could not be ensured and assured that Inspection Reports would be called for from the officers concerned. However, in the detailed reply (September 2019), the Department stated that due to shortage of officers and engagement of the existing officers in other urgent works, the inspections could not be completed as per Roster and further stated that appropriate action would be taken in this regard.

4.5.6.3 Inspection by Mining Inspectors

As per the instructions issued by the Director, Geology and Mining, Madhya Pradesh in June 1977, the Mining Inspectors (MIs) are required to inspect mines in their area once in every six months during each year, to ensure that:

- terms and conditions as laid down in the lease deeds are observed by the lessees;
- the leased area is properly demarcated by boundary pillars;
- lessee maintains all the necessary records up-to-date and submits periodical returns; and
- illegal mining is checked, etc.

It was also instructed that the MI has to submit the Inspection Report to the Collector. The inspection of MI will not be considered complete until the Inspection Report is submitted to the Collector.

Audit noticed (between December 2018 and January 2019) that in 13 test-checked units during the audit period, there was a shortfall of 3,935 (89 *per cent*) inspections of MI in 736 mines, as shown in **Table 4.2** below:

Table 4.2
Shortfall of inspection of Mining Inspectors

Year	Total number of mines in test-checked units	Total Inspections to be conducted as per norms	Number of inspection done as per information furnished to Audit	Number of Inspection Reports available	Short fall in number of inspections
2015-16	736	1,472	185	6	1,287
2016-17	736	1,472	146	3	1,326
2017-18	736	1,472	150	11	1,322
Total		4,416	481	20	3,935

It can be seen in the above table that only 481 inspections were conducted during the period as per information furnished by 12 DMOs and one DO. However, there were only 20 Inspection Reports found available in four DMOs⁵⁰ against these 481 inspections. Further, it was noticed that 17 out of 20 Inspection Reports were not found submitted in the prescribed format.

As per information furnished by the Directorate, against the sanctioned strength of 112 MIs, there were 101, 98 and 98 MIs working during 2015-16, 2016-17 and 2017-18 respectively. The shortage of MIs against sanctioned strength is only 12.5 *per cent* whereas the shortfall in inspections of mines by the existing MIs is 89 *per cent*. This shows that even the available MIs were not conducting inspections as per prescribed norms.

Further, the scrutiny of available Inspections Reports of MIs revealed certain deficiencies as given below:

⁵⁰ Dhar, Katni, Rewa and Satna.

- The leased areas were not demarcated by boundary pillars. Hence, whether the mining operations were being carried out inside or outside the leased area was not clear;
- Production and despatch/sale registers were not maintained;
- Mining operations were not carried out as per Mining Plan/Rules;
- Periodical returns were not submitted to IBM & Department; and
- Weighing machines were not installed at the leased area.

The above irregularities are possibly happening in other mines also. If inspections were done for all the mines, the full quantum of deficiencies would have come to the notice of the Department, enabling the Department to control irregular mining activities or ensure proper assessments and collection of revenue. Lack of inspections by MIs against the prescribed norms can have the following adverse impacts:-

- Mining and exploration activities are not being carried out in lawful manner as per provisions of Acts and the Rules;
- The quantity of minerals excavated and despatched are not being properly entered in the production/dispatch registers as well as in *khatouni*, resulting in loss of royalty. More importantly, the Department does not even know how much of royalty is due to it; and
- The illegal mining activities were not being detected in time and prevented, causing damage to environment and livelihood of nearby inhabitants, as well as loss of royalty to Government.

During Exit Conference (August 2019), the Department stated that the reason for inadequate inspection of mines is attributed to less number of posts of Mining Inspectors in proportion to the number of mines. However, in detailed reply (September 2019), the Department stated that the MIs have been warned for non-conducting of inspections and the DMOs have been directed to issue show cause notice to the MIs concerned for negligence of duties.

The reply is not acceptable as the Mining Inspectors already working in the units neither conducted the inspections of mines as per norms and submitted the Inspection Reports to the Collector as required, nor any action was taken by the DMO/Collector concerned for non-conducting of inspections. The Departmental authorities also failed to inspect the test-checked District Mining Offices during 2015-16 to 2017-18 to evaluate their functioning and adequacy of internal controls. The very fact that Departmental procedures/norms were not being followed at any level, suggest complete failure of internal controls in the Department.

4.5.6.4 Absence of Internal Audit

Audit noticed that the Department did not have any Internal Audit Wing (IAW) and therefore internal audit was not conducted in any of the 13 test-checked units during the audit period.

The Department stated that IAW has not been formed in the Department due to shortage of manpower. Although Audit has pointed out this issue in previous Audit Reports, no action has been taken by the Department till date.

In the absence of IAW, the various checks to be exercised by the functionaries of the Department relating to assessment, levy and collection of revenue, maintenance of basic records, supervision and monitoring of mining activities, etc. could not be ensured by the Department.

During Exit Conference (August 2019), the Department stated that the proposal is included in the Departmental restructuring.

Lack of monitoring

4.5.6.5 Submission of Periodical Returns

According to Rule 45 of MCDR, 1988, every lessee is required to file (online from April 2016) a monthly and a yearly return to the Indian Bureau of Mines (IBM), indicating the details of mineral-wise opening stock, production, despatch, closing stock, royalty, etc. and copies of returns shall also be submitted to the State Government.

Audit noticed that during the audit period, no register for monitoring the receipt of returns from the lessees had been maintained in any of the test-checked units. Further, audit scrutiny of 295 out of 371 lease files in 10 DMOs⁵¹ showed that only 2,569 monthly and 78 annual returns were found submitted against the required 5,923 monthly and 494 annual returns due for submission by lessees of 173 mining leases in these units. Thus, 3,354⁵² (57 per cent) monthly returns and 416⁵³ (84 per cent) annual returns were not found submitted to the Department as shown in **Appendix VIII**.

Since the DMOs did not exercise periodical check of receipt of returns, they remained unaware of non-submission of periodical returns and also failed to initiate any action against such lessees for the same. In the absence of the basic records such as *khatouni*⁵⁴ and prescribed returns by the lessees, it was not possible to verify the quantity of minerals excavated by the lessees, and the DMOs were not in a position to assess the payable and outstanding royalty of these lessees.

However, Audit feels that apart from the absence of periodical returns, non-maintenance of *khatouni* and non-finalisation of assessments led to non/short assessment of correct revenue as discussed in para in 4.5.8 and 4.5.9 below. Moreover, lack of inspection by MIs also puts the whole exercise of periodical check of returns under a cloud as both are closely interrelated. Such complete lack of monitoring at all levels raises serious doubts regarding the reason as to why this is so. In such an environment of lax monitoring, possibility of serious cases of illegal mining and loss of royalty cannot be wished away in Audit

During Exit Conference (August 2019), the Department stated the process of submission of returns to the Department through *e-khanij* portal is in progress. However, in detailed reply (September 2019), the Department stated that the information regarding production and dispatch of minerals are being entered in *e-khanij* portal by lessees from April 2017.

⁵¹ Anuppur, Balaghat, Betul, Chhindwara, Damoh, Dhar, Jabalpur, Jhabua, Rewa and Satna.

⁵² 986, 1,153 and 1,215 monthly returns respectively for the years 2015-16, 2016-17 and 2017-18.

⁵³ 120, 146 and 150 annual returns respectively for the years 2015-16, 2016-17 and 2017-18.

⁵⁴ Demand and Collection Register is known as '*khatouni*'.

The reply of the Department is not acceptable as all monthly and annual returns for the year 2017-18 have not been submitted by the lessees.

4.5.7 Review of cases of idle and inoperative mines

According to Rule 28(1) of MCR 1960 and Rule 20(1) of MCR 2016, if any lessee does not commence mining operations within two years from the date of execution of lease deed or the operation is discontinued for a continuous period of two years after commencement of such operations, the State Government shall, by an order, declare the mining lease as lapsed. Further, as per the provisions of Madhya Pradesh Mineral Policy 2010, the Monitoring Committee constituted under the chairmanship of Chief Secretary was to monitor and review necessary clearances to be issued in minimum period required for exploitation after grant of lease.

Audit observed (December 2018) that in the Directorate, out of a total of 809 mining leases, 459 leases (57 per cent) were reported as idle (2017-18). But no records were found to have been maintained showing the reasons for these mines being idle, nor any on the actions taken by the Department on such leases. Audit also noticed that the Department did not constitute the Committee as per provisions *ibid*. In the absence of a Monitoring Committee, the Department failed to review and monitor the cases of idle mines to enable the lessees to obtain Environment Clearance/Consent to Operate/Mining Plan from authorities concerned. It is a violation of the provisions of Madhya Pradesh Mineral Policy 2010.

Further, during test-check of records in DMOs, Audit noticed (December 2018 and January 2019) that in five DMOs⁵⁵, in 183 out of 316 inoperative mining leases, proposals for cancellation were sent to the Government/Directorate between 2006 and 2017 due to discontinuation of mining operations. These cases were still pending for disposal at the Government/Directorate level for a period ranging from one to 12 years. In the remaining seven DMOs⁵⁶ and DO, Panna, Audit noticed that they maintained the information regarding idle/active mines but reasons and period of inoperative mines were not maintained by the DMOs.

The failure in monitoring the cases of idle/inoperative mines on the part of the Department/Government resulted in blockage of revenue. Had these leases been re-allotted to other willing bidders, the Government could have earned revenue in the form of royalty, dead rent, Stamp Duty and Registration Fees. However, in the absence of records, the amount of revenue blocked could not be worked out in Audit either.

During Exit Conference (August 2019), the Department accepted the audit observation and assured that now the Department will cancel these leases aggressively and put them up for auction as per Auction Rules 2015. However, in detailed reply (September 2019), the Department stated that leases of inoperative mines have already been cancelled in cases where there were no valid reasons for discontinuing mining operations.

⁵⁵ Betul, Dhar, Katni, Rewa and Satna.

⁵⁶ Anuppur, Balaghat, Chhindwara, Damoh, Jabalpur, Jhabua and Singrauli.

The reply of Department is not acceptable as no records were provided to Audit in support of cancellation of leases of idle/inoperative mines.

4.5.8 Maintenance of Demand and Collection Register

According to the instructions (September 2005) of the Directorate, the DMOs are required to maintain the Demand and Collection Register (*khatouni*) which should contain the details of surface rent, dead rent, amount paid, quantity extracted and despatched, royalty due, royalty paid, interest, challan number, date of payment, etc. of every mining lease. Therefore, *khatouni* is a vital record to detect outstanding and paid amount from any lessee and to monitor day-to-day progress of demand, collection and arrears of revenue. It was also instructed that the DMOs have to examine the *khatouni* every week and ensure that daily entries have been made correctly and properly.

Audit observed that in the selected 13 units, *khatouni* had not been maintained in 10 DMOs/DO⁵⁷ and had not been updated in three DMOs⁵⁸. There was no system to monitor the proper maintenance of *khatouni* and its timely submission to the higher authorities as control/check mechanism. Non-maintenance of records by the DMOs is also a consequence of non-inspection by higher authorities.

Non-maintenance of *khatouni* makes the entire exercise of assessment, levy and collection of mining dues *ad hoc*. As a result, Audit could not verify the correctness of details of extraction and despatches of minerals, royalty due and paid by the lessees and also the status of demand notices issued to lessees for various mining dues. Even the Department would face the same problems in assessing realisable dues in the absence of *khatouni-s* and this leaves immense scope for both illegal mining, as well as evasion of royalty.

The laxity in maintenance of *khatouni* indicates a serious risk which makes it impossible to verify production and despatch of minerals, accurately assess the royalty payable, paid and outstanding royalty due from lessees. Absence of *khatouni* is a major control failure which not only severely compromises the revenue prospects of Department, but can also result in over extraction of minerals without the Department even being aware of it, or in a position to control it. Various instances where the Department has suffered from reduced revenue primarily due to non-maintenance of *khatouni* are discussed in para 4.5.11, 4.5.12, 4.5.13, 4.5.14 and 4.5.15 below.

During Exit Conference (August 2019), the Government accepted the facts and stated that maintenance of *khatouni* is important in terms of standing instructions, hence, it would be maintained. However, in detailed reply (September 2019), the Department stated that from April 2017, the lessees have to pay advance royalty through Electronic Transit Pass (ETP) before despatching minerals and thus, the information regarding payable and paid royalty is available on the *e-khanij* portal.

The reply of the Department is not acceptable in terms of standing instructions for maintenance of *khatouni* as the present online system (*e-khanij*) does not

⁵⁷ DMO Anuppur, Balaghat, Betul, Chhindwara, Damoh, Dhar, Jabalpur, Jhabua, Singrauli and DO Panna.

⁵⁸ Katni, Rewa and Satna.

provide an overall position of outstanding dues of lessees. Further, the Department has not yet introduced ETP for mines which use minerals for captive use.

4.5.9 Non-finalisation of assessment

As per the instructions issued by the Directorate in September 2005, assessment of royalty of every lessee shall be done once in every six months, i.e. in July (for January to June) and in January (for July to December) and the process of assessment should be completed within one month from the date of completion of six monthly periods. Further, para 3.8 of Madhya Pradesh Mineral Policy 2010 stipulates that a process shall be initiated by the Department for auditing of mines generating revenue of ₹ five crore or more by Chartered Accountants.

In the selected DMOs, Audit noticed (between December 2018 and January 2019) that there were no registers maintained for monitoring the timely assessments of records of lessees. Therefore, Audit could not ascertain the status of assessments and notices issued by DMOs to lessees for assessment of records. Audit scrutiny of case files of 12 DMOs/DO⁵⁹ revealed that assessments of records were not done by the DMOs/DO as per the above instructions. There were shortfall in assessments ranging from 39 per cent to 70 per cent during audit coverage period as shown in **Table 4.3:**

Table 4.3
Shortfall of periodical assessments

Assessment Year	No. of leases in 12 DMOs/DO	No. of assessments due	No. of assessments done	No. of assessments not done	Percentage of shortfall
2015	262	524	321	203	39
2016	263	526	313	213	40
2017	263	526	157	369	70
Total		1,576	791	785	

In the absence of assessments of records, coupled with lack of inspections by MIs and Departmental authorities, non-submission of periodical returns, and non-maintenance of *khatouni* (refer to para 4.5.6.2, 4.5.6.3, 4.5.6.5 and 4.5.8 *ante*), the DMOs/DO were not in a position to verify the correctness of extraction/ despatches of minerals and royalty paid by the lessees. Consequently, no reasonable assessment could be ensured by the DMOs/DO.

Further, Audit observed that as per the provisions *ibid*, the Department had not initiated the process for auditing by Chartered Accountant for mines generating revenue of ₹ five crore or more. The Department did not even have any information regarding mines which were generating revenue of ₹ five crore or more.

Due to non-completion of timely assessments, the Department was not in a position to verify the correctness of extraction/despaches of minerals and amount of due/ paid royalty by the lessees. As a result, leakage of revenue, if any, can neither be prevented, nor assessed.

⁵⁹ **DMO** Anuppur, Balaghat, Betul, Chhindwara, Damoh, Dhar, Jabalpur, Katni, Rewa, Satna, Singrauli and **DO** Panna.

During Exit Conference (August 2019), the Government assured to explore the auditing by Chartered Accountant for mines generating revenue more than ₹ five crore or more. However, in detailed reply (September 2019), the Department stated that due to shortage of DMO/AMO/MI in the Department, the assessments are not being completed on time and efforts would be made to complete the pending assessment cases within one month through special drive.

4.5.10 Non-utilisation of high resolution satellite data to detect illegal mining

As per Madhya Pradesh Mineral Policy, 2010, high-resolution satellite data shall be used to detect illegal mining. Grid-based maps will be made compulsory at the time of sanctioning/renewing mining leases to ensure accurate location of the mining areas. Further, the Government of India, Ministry of Mines had launched the Mining Surveillance System (MSS) in the country in October 2016 for major minerals to detect illegal mining. The Central Government had also asked all the State Governments to implement MSS for minor minerals by digitizing all minor mineral leases by December, 2016.

Audit noticed (December 2018) in the Directorate that there were a total of 97 cases of illegal mining of major minerals, involving penalty of ₹ 1.47 crore, registered by the Department from October 2016 to March 2018. Further, the Department intimated that the MSS, which was introduced in the State from 15 October 2016, received only 50 triggers (46 in 2016-17 and four in 2018-19), suspecting illegal mining activities. Out of these, only one case of deviation was confirmed by the Department upon verification of these 50 triggers, and that too was an unrelated case w.r.t. illegal mining, being a case of illegal storage of Fireclay at private land.

Audit observed that the MSS did not receive triggers for the 97 actual cases registered by the Department. Moreover, 49 of the 50 triggers received by the MSS were found false upon physical verification by DMOs. This indicates that either the Mining Surveillance System has failed to detect the actual illegal mining cases registered by the DMOs or there were flaws in the inspections at the local level.

The above assertion is further proved by the fact that the state-wise information received from the Indian Bureau of Mines, GoI regarding triggers generated by MSS show that illegal mining was detected only in 47 out of 296 triggers (2016) and in four out of 52 triggers (2018) upon field verifications by State Governments concerned.

Further, Audit noticed that there were 673, 878 and 1,005 cases of illegal mining of minor minerals, involving penalty of ₹ 8.30 crore, registered during the years 2015-16, 2016-17 and 2017-18 respectively. This shows an increasing trend in illegal mining cases of minor minerals. However, the Department has not implemented the MSS for minor minerals in the State though it was supposed to have been implemented by December, 2016.

Due to non-detection of illegal mining cases by MSS, the very purpose of the system has been defeated and the Department has also failed to introduce a system for arresting the increase of illegal mining activities of minor mineral in the State.

During Exit Conference (August 2019), the Government accepted the facts and stated that the MSS has not yet fully evolved and requires further improvement. Further, in detailed reply (September 2019), the Department stated that the process of implementation of MSS for minor minerals is in progress.

Other Non-compliance issues

The test-check of records of 390 out of 736 mining leases (53 *per cent*) in 13 selected DMOs/DO revealed irregularities in 252 cases having financial implication of ₹ 207.07 crore pertaining to audit coverage period. These are recurring irregularities found across several units and are discussed in the succeeding paragraphs.

4.5.11 Non/Short realisation of royalty

According to the provisions of the MMDR Act, every lessee in respect of mining lease shall pay royalty in respect of the minerals removed or consumed by him from the leased area at the rate being specified in Second Schedule in respect of that mineral.

- Audit observed (between December 2018 and January 2019) from scrutiny of monthly returns, assessments and case files of mining leases in nine DMOs/DO⁶⁰ that in 38 mining leases, the lessees had paid royalty of ₹ 67.83 crore against the payable royalty of ₹ 83.31 crore for the period 2013 to 2018. The failure was on the part of the DMO concerned in verification of the returns with other relevant records and to initiate recovery process for outstanding dues from the lessees. This resulted in short realisation of royalty of ₹ 15.48 crore as shown in **Appendix IX**.

According to the second Schedule of MMDR Act, royalty for Iron ore, Manganese and Bauxite is leviable at the rates of 15 *per cent*, five *per cent* and 25 *per cent* respectively on the average sale price on *ad valorem* basis published by the IBM.

- In two DMOs⁶¹, Audit noticed that in seven mining leases, the DMOs levied royalty of ₹ 53.90 lakh instead of ₹ 82.44 lakh leviable on average sale price, as published by IBM on minerals and shown in **Table 4.4**.

⁶⁰ DMO Anuppur, Balaghat, Chhindwara, Dhar, Jabalpur, Katni, Rewa, Satna and DO Panna.

⁶¹ Chhindwara and Jabalpur.

Table 4.4
Short levy of royalty

(₹ in lakh)

Sl. No.	DMO/ No. of cases	Mineral	Quantity (MT)	Royalty leviable	Royalty levied	Short levied
1	Chhindwara/ 02	Manganese	7,425.16	49.51	31.86	17.65
2	Jabalpur/ 05	Iron ore	19,926.395	22.72	18.16	4.56
		Bauxite	1,717.025	10.21	3.88	6.33
Total	07 cases			82.44	53.90	28.54

The DMOs failed to verify the current average sale price published by the IBM while finalising the assessment of records, resulting in short realisation of royalty of ₹ 28.54 lakh.

According to the notification issued by Ministry of Coal (May 2012), the rate of 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, levies and other charges.

- Audit scrutinised (December 2018) records of DMO, Singrauli and found that M/s Northern Coal Limited (NCL) had paid royalty of ₹ 1,007.22 crore on despatch of 6,58,27,208.44 MT of coal during 2015-16 for eight mining leases. From the cross-verification of sale value of coal from the Commercial Tax Department, Audit noticed that as per the audited account submitted by the lessee in Commercial Tax Department, the sale price of coal was ₹ 8,350.13 crore and the royalty leviable on it was ₹ 1,169.02 crore at the rate of 14 *per cent* on the sale price. Further, it was also noticed that the assessments of these lessees were not done by the DMO since January 2015. Thus, due to failure of the DMO to assess the sale of coal from the books of accounts with monthly returns filed by the lessee, there was short realisation of royalty amounting to ₹ 161.80 crore.

The point wise views of the Department during Exit Conference (August 2019) are as under:

- (i) Accepted the audit observations and stated that it has recovered 91 *per cent* against ₹ 15.48 crore outstanding royalty pointed out by Audit. It was also stated that appropriate action would be taken in the other cases.
- (ii) Stated that the balance royalty would be re-assessed and recovered on the basis of actual Average Sale Price for the month.
- (iii) Stated that final decision regarding raising of demand would be taken after examination.

In detailed reply (September 2019), the Department stated that ₹ 68.89 lakh against outstanding royalty ₹ 15.48 crore has been recovered. However, challans in support of above recovery have not been provided by the Department despite requisitioned by audit. It was also stated that appropriate action would be taken in the other cases. Regarding short realisation of royalty of ₹ 161.80 crore, the Department replied that audit did not deduct crushing charges and incentives from the sale value of coal.

The reply is not acceptable as audit has taken the net value of coal shown in the audited accounts of the lessees after deduction of excise duty, taxes, royalty and other levies.

4.5.12 Non-realisation of Dead Rent on mining leases

As per provisions of MMDR Act, dead rent is payable to the State Government every year by the holder of a mining lease, at the rates prescribed in Schedule III of the Act in respect of all areas included in the lease. The Mineral Resources Department, GoMP issued (September 1995) a circular containing that the dead rent should be deposited in advance for the whole year on or before 20th January every year.

- Audit observed (between December 2018 and January 2019) that in 116 cases out of 240 mining leases test-checked in nine DMOs⁶², the lessees had not paid the dead rent of ₹ 6.70 crore for the period between 2014 and 2018. This resulted in non-realisation of dead rent of ₹ 6.70 crore as shown in **Appendix X**. Due to non-maintenance of *khatouni* (refer to para 4.5.8 *ante*), the DMOs failed to monitor the dues of dead rent from these lessees, and no action was taken for levy of dead rent in spite of the availability of information of idle mines with DMO concerned.
- Further, in DMO Chhindwara, Audit noticed that the lessee M/s Western Coal Fields Limited possessed an area of 9,874.934 hectare for 46 idle mines. The DMO assessed dead rent of ₹ 2.96 crore for these leases during the period between January 2014 to December 2016. Against this assessed dead rent, the lessee had paid only ₹ 1.94 crore while the actual leviable dead rent was ₹ 5.26 crore as per revised rate⁶³ with effect from September 2014. Non-verification of revised rate of dead rent by DMO at the time of assessment of records resulted in short realisation of dead rent of ₹ 3.32 crore.

During Exit Conference (August 2019), the Government accepted the audit observations and agreed to recover the dues of dead rent.

In detailed reply (September 2019), the Department stated that it has recovered ₹ 2.34 crore against ₹ 6.70 crore outstanding Dead Rent pointed out by audit. However, challans in support of above recovery have not been provided by the Department despite requisitioned by audit. It was also stated that appropriate action would be taken in other cases.

4.5.13 Interest on belated payments was not levied

According to Rule 64A of MC Rules, 1960 read with Rule 49 of MC Rules, 2016, the State Government may charge simple interest at the rate of 24 *per cent* per annum on belated payment of any rent, royalty or fee from the 60th day of the expiry of the date fixed by Government, until such payment is made.

⁶² Balaghat, Betul, Chhindwara, Damoh, Dhar, Jabalpur, Katni, Rewa and Satna.

⁶³ Rates prior to September 2014 ₹ 1,000 per hectare and revised to ₹ 2,000 per hectare from September 2014.

Audit observed (between December 2018 and January 2019) in seven DMOs/DO that in 52 mining leases out of 163 test-checked mining leases, the lessees had deposited royalty of ₹ 40.45 crore for the period 2008 to 2017 with a delay ranging between nine days to eight years which resulted in non-realisation of interest of ₹ 6.33 crore as shown in **Table 4.5**.

Table 4.5
Non-levy of interest on belated payments of mining dues

(₹ in lakh)						
Sl. No	Name of unit	Period	No. of cases	Amount deposited	Period of delay in days	Interest leviable
1	DMO Rewa	2017-18	5	958.17	71 to 187	86.32
2	DMO Satna	2017-18	4	807.98	89 to 558	80.21
3	DMO Chhindwara	2014-15 to 2016-17	31	283.71	11 to 429	28.48
4	DMO Anuppur	2015-16 to 2017-18	3	81.84	88 to 145	7.03
5	DMO Jabalpur	2008-09 to 2016-17	2	14.63	323 to 2879	7.90
6	DMO Katni	2016-17	6	1,883.25	341	422.26
7	DO Panna	2014-15 to 2015-16	1	15.57	9 to 137	0.64
Total			52	4,045.15		632.84

The DMOs/DO concerned failed to charge interest on belated payment of royalty from the lessees according to provisions of Rules *ibid*.

During Exit Conference (August 2019), the Department accepted the audit observations and agreed to recover the amount of interest due.

4.5.14 Non/Short realisation of National Mineral Exploration Trust (NMET) Fund

Provisions of the MMDR Act stipulates that the holder of mining lease shall pay to the National Mineral Exploration Trust (NMET), a sum equivalent to two *per cent* of the royalty paid. Further, as per circular issued (January 2016) by the Mineral Resources Department, GoMP, the NMET contribution is applicable with effect from 12 January 2015.

- Audit noticed (between December 2018 and January 2019) in eight DMOs⁶⁴ that in 90 out of test-checked 162 mining leases, the lessees had paid NMET contribution of ₹ 22.72 crore against the payable amount of ₹ 25.97 crore for the audit period covered. This resulted in short realisation of NMET contribution of ₹ 3.25 crore as shown in **Appendix XI**.
- Further, it had been observed earlier (May 2017) by Audit⁶⁵ that 24 leases of Western Coalfields Limited (WCL) out of 70 test-checked leases, had deposited only an amount of ₹ 15 lakh in NMET Fund, instead of ₹ 45.59 lakh due. As a result, revenue amounting to ₹ 30.59 lakh was not/short realised.

⁶⁴ Anuppur, Balaghat, Betul, Jabalpur, Jhabua, Katni, Rewa and Satna.

⁶⁵ During the test-check of records of DMO, Chhindwara, for the period from April 2016 to March 2017.

Due to failure on the part of DMOs concerned in finalisation of assessment cases and non-maintenance of *khatouni* (refer to para 4.5.8 and 4.5.9 *ante*), the DMOs could not detect non/short payment to NMET Fund.

During Exit Conference (August 2019), the Government stated that the amount of NMET dues would be recovered. In detailed reply (September 2019), the Department assured of the same again.

4.5.15 Non/Short realisation of Rural Infrastructure and Road Development Tax

According to the provisions of MPRIRD Act and notification of GoMP (September 2005), the Rural Infrastructure and Road Development (RIRD) Tax is leviable at the rate of five *per cent* of “annual value of mineral bearing land” where production of Major minerals are being carried out, and at the rate of ₹ 4,000 per hectare per annum on such mineral bearing land where there is no production of Major minerals for two consecutive years or more. Further, as per Rules made thereunder, the DMO is required to maintain a register in Form-I, containing the details of demand, collection and balance of RIRD Tax.

- Audit observed (between December 2018 and January 2019) in 11 DMOs⁶⁶ that in cases of 109 out of 230 mining leases covering an area of 11,912.54 hectares, the lessees had not paid RIRD tax of ₹ 5.28 crore, as payable during audit period, as shown in **Appendix XII**.

Non-maintenance of prescribed register of demand, collection and balance of RIRD tax and non-finalisation of the assessments of RIRD tax of lessees resulted in non/short realisation of RIRD tax of ₹ 5.28 crore in the above cases.

During Exit Conference (August 2019), the Government stated that appropriate action would be taken to recover the RIRD Tax of ₹ 5.28 crore. In detailed reply (September 2019), the Department stated that action was being taken to issue demand notices to the lessees concerned.

Other important observations

The succeeding observations are found in lesser number of units, but the irregularities/deviations resulted in loss of State revenue. The financial implication involved in these observations is ₹ 4.31 crore.

4.5.16 Non/Short realisation of Stamp Duty and Registration Fees

According to Sections 8-A(3) of the MMDR Amendment Act, 2015, all mining leases granted before the commencement of this Act, shall be deemed to have been granted for a period of 50 years. As per the provisions of the Act and instructions issued by the Directorate from time to time, in the cases of extension of lease period or revision of Mining Plan/Environment Clearance (EC) for extended quantity of production, execution of supplementary agreement is required for every lessee.

⁶⁶ Balaghat, Betul, Chhindwara, Damoh, Dhar, Jabalpur, Jhabua, Katni, Panna, Rewa and Satna.

According to the Article 38 (b) of Indian Stamp (Madhya Pradesh Amendment) Act, 2015, Stamp Duty was leviable at the rate of 0.75 per cent for the whole amount payable on instruments of mining lease. Besides, as per Indian Registration Act, 1908, Registration Fee shall be levied at the rate of 75 per cent of Stamp Duty. Further, according to instructions issued by the Department (August 2011), Stamp Duty and Registration Fee (SD&RF) is leviable on royalty calculated on the basis of quantity of minerals to be extracted, as given in the revised EC or Mining Plan, whichever is higher.

Audit observed that:

- In three cases of mining leases in three DMOs⁶⁷, the supplementary agreements were not executed by the lessees for revised Mining Plan/EC of extended quantity of production and by one lessee for extended period of mining lease. Thus, due to failure of DMOs in execution of supplementary agreement in these three cases, the Government was deprived of revenue of ₹ 2.69 crore in the form of SD&RF, as shown in **Appendix XIII**.
- In DMO, Chhindwara, one lessee had executed (November 2016), the supplementary agreement for extended period of lease on the basis of royalty payable on Average Sale Price (ASP) of Manganese at ₹ 5,916 instead of ₹ 10,359 as published by IBM, and the lessee had paid SD&RF of ₹ 0.98 crore as against the leviable amount of ₹ 1.71 crore.

Thus, the DMO failed either to execute supplementary agreement of lease deed on the basis of correct ASP of mineral or refer the case to Collector of Stamps for correct determination of SD&RF. This resulted in short realisation of Government revenue of ₹ 0.73 crore in the form of SD&RF, as shown in **Appendix XIV**.

- Audit observed (December 2018), in DMO, Jabalpur that two lessees had executed supplementary agreement for extended period of mining lease. But the royalty for determining the SD&RF was not calculated on the basis of production of minerals given in the revised Mining Plan. The lessees paid SD&RF of ₹ 0.26 crore, as against the leviable amount of ₹ 1.15 crore according to the quantity of production given in the Mining Plan.

The failure of the DMO in determining the correct amount of royalty resulted in short levy of SD&RF of ₹ 0.89 crore, as shown in **Appendix XV**.

During Exit Conference (August 2019), the Government stated that appropriate action would be taken. In detailed reply (September 2019), the Department stated that action was being taken to issue demand notices to the lessees concerned.

4.5.17 Conclusion

- The Department does not have any IAW or Departmental Manual. In the absence of these, various checks and balances to be exercised by various functionaries of the Department for assessments, levy and collection of revenue, etc. could not be ensured;

⁶⁷ Jabalpur, Katni and Satna.

- The control mechanism instituted by the Mineral Resources Department for levy, assessment and collection of mining receipts had various deficiencies. Monitoring of vital areas, such as maintenance of Demand and Collection Register, submission of monthly and annual returns by the lessees, and non-assessments of records were deficient, rendering the system vulnerable to leakage of revenue. The existing lacunae also made the Department vulnerable to existence of large-scale illegal mining, without any ability to assess its extent, or stop it;
- Due to inadequate inspection of mines as per prescribed norms, it could not be ensured that terms and conditions laid down in lease deeds were observed by the lessees and extraction of minerals was carried out as per approved Mining Plan. This too made the Department vulnerable to illegal mining, and unable to check it, if it happened. The provisions of the Act, Rules and Departmental instructions were not enforced properly by the DMOs to safeguard the revenue;
- The Mining Surveillance System failed to detect and to prevent the illegal mining cases in the State as most of the triggers received in the system were found to be false alarms.

4.5.18 Recommendations

The Government may:

- The Department should prepare a Departmental Manual detailing the functions and responsibilities of officers and staff at various levels;
- The Department should set up an IAW to strengthen the internal control mechanism and enables an organisation to assure itself that the prescribed systems are functioning reasonably well;
- Ensure compliance to provisions regarding periodical inspections of District Mining Offices by higher authorities, the inspections of mines by Mining Inspectors and to submit Inspection Reports to the Collector within the stipulated period in prescribed format/check list. Compliance to these may be strictly monitored;
- Ensure the mandatory maintenance of *khatouni* and consider regular submission to the Collector and the Directorate at prescribed intervals, for effective monitoring and evolve an online mechanism in this regard;
- Evolve a mechanism to ensure timely review, cancellation and disposal of idle/inoperative mining lease cases and resettlement of these leases for augmentation of revenue;
- Initiate comprehensive measures to ensure that Government revenue is assessed and levied correctly and to prevent leakage of revenue; and
- Prescribe appropriate penalty against the officials concerned for non-maintenance of basic records.

Audit observations of Compliance Audit

4.6 Rural Infrastructure and Road Development Tax and penalty not realised

Fifteen mining lessees of idle mines had not paid Rural Infrastructure and Road Development Tax of ₹ 1.08 crore. Besides, penalty of ₹ 3.25 crore was also not imposed, resulting in short realisation of revenue of ₹ 4.33 crore, including penalty.

According to the Madhya Pradesh Rural Infrastructure and Road Development Act, 2005 and notification of September, 2005, Rural Infrastructure and Road Development Tax at the rate of ₹ 4,000 per hectare per year in the case of idle mines was to be levied on lessees holding mining leases of major mineral. Further, in the case of working mines, Rural Infrastructure and Road Development tax shall be levied at the rate of five *per cent* of “annual value of mineral bearing land⁶⁸” on such mineral bearing land where production of major minerals are being carried out. Every lease holder has to deposit the tax by the last day of each quarter in terms of Rule 7 of the Act. In case of non-payment of tax, the competent authority shall, under section 4(2), impose penalty not exceeding three times the tax payable. According to sub-section 5 of section 4, the competent authority shall recover the amount of tax and penalty, if not paid, as the arrears of land revenue.

Audit observed (between May 2017 and March 2018) that in four DMOs⁶⁹, 14 lessees⁷⁰ holding 15 mining lease, out of 122 test-checked, had not paid Rural Infrastructure and Road Development Tax amounting to ₹ 1.08 crore for the period April 2016 to March 2017. Besides, penalty of ₹ 3.25 crore had also not been imposed on the defaulting lessees. This resulted in short realisation of revenue of ₹ 4.33 crore including penalty (**Appendix XVI**). Though Department intimated (April 2019) that collection of Rural Infrastructure and Road Development tax was being monitored time to time through video conferencing at the Directorate level, yet the DMOs concerned failed in timely collection of RIRD tax and penalty. The Department should examine this issue in other DMOs and recover the due revenues from all defaulting lessees.

⁶⁸ In relation to a financial year, means one-half of the value of mineral produced from mineral bearing land during the two years immediately preceding that financial year, the value of mineral being that as could have been fetched by the entire production of mineral during the said two immediately preceding years, had the owner of such mineral bearing land sold such mineral at the price or prices excluding the amount of tax, fee, duty royalty, crushing charge, washing charge, transport charge or any other amount as may be prescribed, that prevailed on the date immediately preceding the first day of that financial year.

⁶⁹ Chhindwara, Damoh, Satna and Shahdol.

⁷⁰ DMO Chhindwara: M/s Reliance Company, M/s Jai Prakash Associates Ltd. and M/s J.P. Corporation Ltd.; DMO Shahdol: Altratek Cement, Raj Minerals, Budwa Minerals and Agrawal and Singh Minerals; DMO Damoh: Prakash Dubey, Matang Singh Badhawa, Sneh Salila Hazari, and Sarita Singh; DMO Satna: Ajay Kumar Pathak, Kanhaiyalal Keshri, and Kamlakar Chaturvedi.

Similar observations had been pointed out in Audit Reports from 2012-13 to 2016-17, but Department has not issued any instruction/circular regarding maintenance of Demand and Collection Register to watch the recovery and prevent recurrence of similar observations.

Audit reported the matter to the Government (between September 2017 and August 2018). During the Exit Conference (April 2019), the Department has intimated that appropriate action would be taken and intimated to audit.

However, no recovery has been intimated to Audit (May 2019).

4.7 Contract Money on trade quarries was not realised/short realised

The Department recovered Contract Money of only ₹ 0.95 crore for agreement of six trade quarries, against recoverable amount of ₹ 3.22 crore. As a result, Contract Money of ₹ 2.27 crore was not realised/short realised.

According to Rule 37(1) of M.P. Minor Mineral Rules, 1996 (MM Rules 1996), and condition No. 5(1) and 9 of the Standard Contract Agreement for trade quarry, every contractor has to pay Contract Money to the State Government on the scheduled date. If the Contract Money remains unpaid for more than one month, the contract may be cancelled and quarry may be re-auctioned. Consequently, upon re-auction of the quarry, if the Government sustains any loss, the same will be recovered from the defaulting contractor as arrears of land revenue, but before doing so, notice would be issued to the contractor to deposit amount of overdue within 30 days.

Audit test-check of the case files of 22 trade quarries in four DMOs⁷¹, for the period from April 2015 to March 2017, revealed that five contractors⁷² holding six trade quarries had paid Contract Money amounting to ₹ 0.95 crore against the payable amount of ₹ 3.22 crore. As a result, Contract Money amounting to ₹ 2.27 crore was not realised/short realised (**Appendix XVII**). The DMOs should have initiated action of cancellation of these trade quarries after one month from the scheduled date. However, no action was found initiated in accordance with the relevant rules to cancel the auction of trade quarries and re-auction them.

Similar observations had been pointed out in Audit Reports from 2012-13 to 2016-17, but the Department failed to prevent recurrence of such irregularities.

Audit reported the matter to the Government (between December 2017 and May 2018). During the Exit Conference (April 2019), the Department intimated that appropriate action would be taken and intimated to audit. So far, the Department has intimated the recovery of ₹ 1.95 crore in four cases (August 2019).

⁷¹ Anuppur, Guna, Indore and Narsinghpur.

⁷² DMO Anuppur: Jaiprakash Shivdasani; DMO Guna: Satyendra Raghuvanshi; DMO Narsinghpur: M/s Sharma Associates; DMO Indore: Virendra Singh Solanki and Sewaram Khemani.

4.8 Dead Rent not realised or short realised

The District Collectors failed to recover ₹ 1.51 crore towards Dead Rent from 157 lessees.

According to Rule 30 (1) (a) of MM Rules 1996, every lessee of a quarry lease/mining lease has to pay Dead Rent every year at prescribed rates in respect of all areas included in the lease, provided that where the lessee becomes liable to pay royalty for any mineral removed or consumed, he shall be liable to pay either such royalty or the Dead Rent in respect of that area, whichever is greater.

The condition no. 26 of the above Rules, further provides that where lessees of quarry leases fail to pay yearly Dead Rent by the prescribed date, the District Collector/Additional Collector are required, after issue of adequate notice, to determine the lease and forfeit the whole or part of the security deposit or in the alternative receive from the lessees such penalty for the breach not exceeding four times the amount of the said half yearly Dead Rent as the lessor may fix.

Audit scrutinised individual case files, challans, and correspondence files of 20 DMOs⁷³ for the period from April 2013 to March 2017 which revealed that in 154 quarry lessees, out of 1,019 test-checked, and in three mining lessees, out of 12 test-checked, the DMOs concerned had failed to adhere to provision of Act the *ibid*, which resulted in short-realisation of Dead Rent of ₹ 1.51 crore (**Appendix XVIII**).

Audit reported the matter to the Government (between May 2017 and May 2018). During the Exit Conference (April 2019), the Department intimated that appropriate action would be taken and intimated to audit. So far, the Department has intimated the recovery of ₹ 30.10 lakh in 29 cases of quarry lease only (June 2019).

Similar observations were pointed out in Audit Reports from 2012-13 to 2016-17 but the Department has not evolved a mechanism to check the persistence of such irregularities.

4.9 Stamp Duty and Registration Fees not realised due to non-execution of supplementary deed for extended period of mining leases

Stamp Duty and Registration Fees amounting to ₹ 1.01 crore was not realised in 13 mining leases.

Article 38(b) of Schedule I-A of the Indian Stamp (Madhya Pradesh Amendment) Act, 2015 (effective from 14 January 2016) stipulated that for the mining lease of any term, including an under lease or sub-lease and any agreement to let or sub-let or any renewal of lease, Stamp Duty equivalent to 0.75 per cent of the whole amount payable or deliverable under such lease shall be leviable. Further, as per Article II of the Indian Registration Act,

⁷³ Anuppur, Barwani, Bhind, Chhindwara, Damoh, Guna, Hoshangabad, Indore, Khandwa, Khargone, Narsinghpur, Panna, Rewa, Sagar, Satna, Sehore, Seoni, Sidhi, Tikamgarh and Ujjain.

1908, for registration of leases, Registration Fee shall be levied at the rate of three-fourth of the value of the Stamp Duty.

Audit test-checked (November 2017) records of two DMOs⁷⁴ for the period from April 2016 to March 2017 and found that Department extended the lease period of these leased mines up to 50 years. Further, it was observed that 13 cases out of the 27 cases of mining lease test-checked, the DMOs concerned did not executed the supplementary deed with these lessees for extended period and registered them with Registration and Stamps Department. However sanction for extension were granted to lessees by the collector concerned. This resulted in short levy of Stamp Duty and Registration Fee amounting to ₹ 1.01 crore (**Appendix XIX**).

Audit reported the matter to the Government (July 2018). During the Exit Conference (April 2019), the Department intimated that appropriate action would be taken and intimated to audit. So far, the Department has intimated the recovery of ₹ 28.99 lakh in three cases only (June 2019).

4.10 Royalty on mining lease was not/short realised

Nine lessees had paid royalty of ₹ 1.12 crore on mining lease, against payable royalty of ₹ 2.04 crore, for consumption/transportation of minerals. As a result, royalty of ₹ 92.63 lakh was not/short realised.

According to Section 9(i) of the MMDR Act, every lessee of a mining lease has to pay royalty in respect of minerals removed or consumed by him from the leased area, at the rates specified in the Schedule II of the Act.

Audit test-checked the records of five District Mining Offices⁷⁵ and observed that nine lessees of major minerals, out of 82 test-checked, had paid royalty of ₹ 1.12 crore against the payable amount of ₹ 2.04 crore for the period April 2016 to March 2017. The DMOs concerned did not issue demand notices in these cases. It shows that the provisions in the Act were not enforced by the designated authorities in the interest of revenue collection. The Department may have also stopped issuing electronic transit passes to defaulters. As a result, royalty of ₹ 92.63 lakh was either not realised or short realised (**Appendix XX**).

Further, it was also noticed that in DMO, Dhar, assessment orders were being prepared on the basis of records made available by the lessees themselves and not on the basis of documents required to be maintained by the DMO.

Audit pointed out the matter to the Government (between May 2018 and July 2018). During the Exit Conference (April 2019), the Department intimated that appropriate action would be taken and intimated to audit. However, nothing has been further intimated to Audit thereafter.

⁷⁴ Rewa and Satna.

⁷⁵ Dhar, Katni, Narsinghpur, Rewa and Sagar.

4.11 Interest on belated payments not realised/short realised

Failure of DMOs to recover interest on belated payments of Contract Money/Dead Rent from 72 lessees resulted in short realisation of revenue of ₹ 64 lakh.

4.11.1 Delayed payment of contract money on trade quarries

According to Rule 37(1) of the MM Rules 1996 and condition No. 5 (1) of contract agreement, contractors of trade quarry leases are required to pay contract money on or before the dates indicated in their contract agreement, failing which the contractor is liable to pay, in addition to the contract money, interest at the rate of 24 *per cent* per annum till the default continues.

Audit test-check of case files of two DMOs⁷⁶ for the period April 2016 to March 2017 revealed that five trade quarry lessees, out of 14 test checked, had delayed payments of contract money of ₹ 8.82 crore by 28 to 209 days beyond expiry of the stipulated date. The DMOs recovered interest of only ₹ 3.22 lakh for belated payment of contract money for agreement of trade quarries against recoverable amount of ₹ 56.36 lakh. As a result, revenue of ₹ 53.14 lakh was not realised/short realised (**Appendix XXI**).

Audit pointed out the matter to the Government (between April 2018 to May 2018). During the Exit Conference (April 2019), the Department intimated that appropriate action would be taken and intimated to audit. However, nothing has been further intimated to Audit thereafter.

4.11.2 Delayed payment of dead rent in quarry leases

According to Rule 30 (1) (d) of MM Rules 1996, every lessee of quarry lease is required to pay Dead Rent or Royalty under sub rule (a) and (b) to the State Government on or before the twentieth day of the first month of the year, failing which the lessee is liable to pay interest at the rate of 24 *per cent* per annum till the default continues, besides being liable for any penal action that can be taken under the rules.

Audit scrutiny of case files of quarry leases in 12 DMOs⁷⁷ for the period from 2014-15 to 2016-17 revealed that 67 quarry lessees, out of 724 test-checked, delayed payment of Dead Rent by 19 to 598 days. The Department did not levy interest of ₹ 10.86 lakh on belated payment of Dead Rent of ₹ 78.81 lakh. Thus, the DMOs failed to recover interest of ₹ 10.86 lakh on belated payments of Dead Rent (**Appendix XXII**).

Audit pointed out the matter to the Government (between May 2018 and July 2018). During the Exit Conference (April 2019), the Department has intimated that appropriate action would be taken and intimated to audit. However, the Department has intimated the recovery of ₹ 4.01 lakh in 15 cases only so far (June 2019).

⁷⁶ Anuppur and Narsinghpur.

⁷⁷ Anuppur, Barwani, Bhind, Bhopal, Chhindwara, Guna, Hoshangabad, Indore, Khargone, Sagar, Seoni and Tikamgarh.

Most of the audit observations are of a nature that may reflect similar errors/omissions in other units of the concerned State Government Department, but were not covered in the test check conducted during the year. The Department/Government may therefore like to internally examine all other units with a view to ensuring that they are functioning as per requirement and rules.

