

**CHAPTER – VI**  
**MINING & GEOLOGY**  
**DEPARTMENT**





## CHAPTER-VI: MINING & GEOLOGY DEPARTMENT

### 6.1 Administration

The Mining and Geology Department, Meghalaya is entrusted with management and regulatory tasks for mining and mineral development in the State, conservation of resources and environment, safety and health of workers, restoration of mine degraded areas and rehabilitation of affected people. Coal and limestone are the major minerals of the State. The major source of mining receipts is collected from mining of these minerals in the form of royalty, application fee, dead rent, fines/penalties, *etc.* from the lessees. The collection of tax is governed by the Mines & Minerals (Development & Regulation) Act, 1957, the Mineral Concession Rules, 1960 and the Meghalaya Minerals Cess Act, 1988.

The Principal Secretary to the Government of Meghalaya, Mining and Geology Department is overall in charge of the Department at the government level. The Director of Mineral Resources (DMR) is the administrative head of the Department. At the district level, the Divisional Mining Officers (DMOs) have been entrusted with the collection of royalty and cess on minerals and issuing of permits.

### 6.2 Results of Audit

Test check of the records of three units relating to Mining Department during 2017-18 revealed short realisation of revenue and other irregularities involving ₹342.14 crore in 23 cases which fall under the following categories:

Table 6.1

(₹ in crore)

Sl. No.	Category	Number of cases	Amount
1.	Non/Short realisation of revenue	14	280.97
2.	Loss of revenue	03	56.77
3.	Other irregularities	06	4.40
<b>Total</b>		<b>23</b>	<b>342.14</b>

The Department accepted under-assessments and other deficiencies amounting to ₹132.87 crore in eight cases. No recovery was intimated in any of the cases during the year 2017-18.

A Performance Audit on “Working of Mining Department” having financial impact of ₹872.28 crore is discussed in paragraph 6.3.

### **6.3 Performance Audit on “Working of Mining Department in Meghalaya”**

#### **Highlights**

Coal and limestone are the primary minerals in the State. In respect of limestone mining, the function of the Mining Department includes granting the leases for mining, enforcing the provisions for scientific mining practices, collection of royalty and mineral cess. In respect of coal mining, the Mining Department had not granted any licence for mining of coal. Thus, the coal mining in the State was illegal during the audit coverage period 2013-14 to 2017-18 though the Department was collecting royalty and Meghalaya Environment Protection and Restoration Fund (MEPRF) on illegally extracted coal.

Major audit findings are highlighted below:

- Department failed to take action against the cement companies for non-payment of royalty and cess on limestone consumed. The arrears of revenue stood at ₹318.62 crore as on March 2018.

*Paragraphs 6.3.10.1, 6.3.10.2, 6.3.11.1, 6.3.11.2 and 6.3.19.4*

- Department irregularly allowed the lessees to carry out mining activities without obtaining mandatory environmental clearance, forest clearance, wildlife clearance and non-renewal of NOCs from Meghalaya Pollution Control Board.

*Paragraph 6.3.12*

- The National Green Tribunal (NGT) in its order (17 April 2014) observed the negative ramifications of unregulated coal mining and prohibited coal mining in the State of Meghalaya. The Tribunal allowed the transportation of coal extracted prior to its orders subject to assessment of the same. The quantity of coal extracted and lying on the surface as on 17 April 2014 was assessed as 94.04 lakh MT. In view of the last six years’ trend of coal production in Meghalaya (around 50-70 lakh MT per annum), the coal stock of 94.04 lakh MT at any particular date was on higher side.

*Paragraph 6.3.15.1*

- In order to penalize the miners who had made false/over declarations of coal stock, the NGT ordered that the royalty was to be realised from the miners on declared/assessed quantity, whichever was higher, but transportation was to be limited to assessed quantity. The Department failed to comply with the NGT order, and allowed transportation of coal without collecting royalty amounting to ₹313.75 crore on such over-declarations.

*Paragraph 6.3.15.2*

- The Mining Department irregularly issued MTCs and allowed transportation of 54.50 thousand MT of coal against re-assessment conducted by the District Administration, East Jaintia Hills without concurrence of NGT, thereby encouraging transportation of illegally extracted coal.

*Paragraph 6.3.15.3*

- The inventory management of coal stock and record keeping in the Department was extremely poor. A total of 11.31 lakh Mineral Transport Challans were issued during the period from November 2014 to May 2018, which authorised transportation of 103.71 lakh MT of coal against the total assessed quantity of 94.04 lakh MT.

*Paragraph 6.3.16.1*

- Systemic failure of the officials posted at the check-gates in preventing illegal transportation of coal out of State had resulted in loss of revenue amounting to at least ₹296.82 crore during the period 2013-14 to 2017-18. It allowed transportation of at least 31.42 lakh MT unaccounted coal during the period from November 2014 to May 2018 in violation of NGT order. Vigilance squad constituted to carry out enforcement at check-gates remained on paper only.

*Paragraphs 6.3.17.1 to 6.3.17.3*

- Meghalaya Mines and Mineral Policy, 2012 stated that an Environment Management Plan should adequately provide for controlling the environment damage, restoration and reclamation of mining areas. However, no such plan was prepared. Further, the State Government had not finalized a comprehensive mining plan as per NGT's direction.

*Paragraph 6.3.18*

### **6.3.1 Introduction**

Minerals are a finite and non-renewable natural resource. As such, these are required to be exploited wisely in the larger interest of the State. It is imperative to conserve the available mineral resources through scientific exploration and mining to ensure availability of minerals for industrial production *etc.*, in the long run. Meghalaya is endowed with sizeable deposits of a number of valuable minerals. Coal and limestone are the primary minerals in the State. In respect of coal mining, the role of the Mining Department was limited to collection of royalty from lessees on account of extraction of coal and monitoring of transportation of coal and to ensure that there was no environmental damage due to coal mining in the State.

In respect of limestone mining in the State, the function of the Mining Department includes granting the leases for mining, transportation of limestone, enforcing the provisions for scientific mining practices, collection of royalty and mineral cess.

The revenue receipts in the form of royalty on extraction of these minerals is one of the major source of revenue for the State.

### **6.3.2 Legal framework for administration of mining sector**

The responsibility of management of minerals is shared<sup>1</sup> between Central and State Governments. The Mines and Minerals (Development and Regulation) (MMDR) Act, 1957, Government of India (GOI) lays down the legal framework for the regulation of mines and development of the minerals<sup>2</sup>. The Mineral Concession Rules, 1960 (MCR) framed by Government of India (GOI) and the Mineral Conservation and Development Rules, 1988 (MCDR) were enacted by GOI under MMDR Act. They stipulate guidelines for ensuring mining on a scientific basis, while conserving the environment at the same time.

Minerals are classified as major minerals (coal, iron *etc.*) and minor minerals (granite, building stone *etc.*). The Central Government has delegated the power to states to frame the rules for grant and regulation in respect of minor minerals. States are also enabled to prescribe the method for grant of mineral concessions, rates of royalty, contribution to DMF *etc.* for these minerals. Accordingly, Meghalaya has notified Meghalaya Minor Mineral Concession Rules, 2016.

### **6.3.3 Organisational set-up**

The Principal Secretary (Mining and Geology Department) is the administrative head of the Department and is controlling authority for granting the mining licenses in the State and overall administration of the department. Director of Mineral Resources (DMR) is the functional head of the Department and is responsible for administration in respect of major minerals, preparation of mining plans, collection of royalty and other important activities carried out by the department.

The Department of Mining and Geology is divided into two main sections *viz.* Geology Section which pertains to investigation of mineral deposits by mapping, surveying, drilling, chemical analysis *etc.* and Mining Section which handles the administration of mines and minerals, collection of cess/royalty, issue of challans for transportation of minerals within and outside the State. At the field level, there are two Divisions in Jowai and Williamnagar each headed by a Divisional Mining Officer (DMO). In addition, two new DMR field offices at Tura and Nongstoin had also been established, which report to DMR directly. The departmental check-gates functioning at the exit routes of the State also report to the respective DMOs/DMR.

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<sup>1</sup> Although mineral wealth vests with the constituent States of the Union, yet the subject of regulation of mines and mineral development is covered by entry 54 of the Union List under seventh schedule of the Constitution of India.

<sup>2</sup> all minerals other than petroleum and natural gas.

### 6.3.4 Audit Objectives

The Performance Audit (PA) was carried out with a view to assess whether:

- Provisions for levy, assessment and collection of mineral receipts and other levies were properly enforced to safeguard revenue of the State,
- Government was able to ensure compliance of directions of various Courts about mining activities,
- Monitoring mechanism was adequate and effective in implementation of mining activities, sustainability of mining process including prevention of illegal excavation and transportation of minerals,
- State Government had taken follow up action on audit observations pointed out in previous Audit Report<sup>3</sup>.

### 6.3.5 Audit Scope and Methodology

The Audit was conducted during May 2018 to August 2018 covering the period from 2013-14 to 2017-18. The scope of audit was limited to the management of major mineral resources which are under the direct control of the Department.

To assess the performance of the Department, scrutiny of records at both the divisional offices<sup>4</sup> and both the DMR field offices<sup>5</sup> along with Secretariat and Directorate level was carried out. Further, all 13 mining check-gates were also checked.

Scrutiny of records of all the units was carried out by test check, which included interaction with the auditee personnel, issuance of audit queries and discussion of audit findings with the Management. Information from other government departments was also collected and compared with the records furnished by the Department. Besides, the audit team conducted field inspections along with the departmental officials.

An Entry Conference was held with the Secretary, Mining Department to discuss the audit objectives, criteria and scope on 29 May 2018. The draft Performance Audit Report was issued to the Government on 08 October 2018, with a request to forward their comments to the audit observations within six weeks.

The Exit Conference for discussing the draft PA Report was held with Commissioner and Secretary, Mining and Geology Department and Director of Mineral Resources on 13 December 2018, wherein the Commissioner and Secretary stated that the comments to the draft Report would be furnished to Audit by 15 January 2019. The Commissioner & Secretary, however, failed to give written replies to the PA. Moreover, he also failed to give any specific reply to audit observations even during exit conference held on 13 December 2018.

<sup>3</sup> A Performance Audit on “Controls and System for Mining in Meghalaya” which had featured in Audit Report for the year ended 31 March 2013.

<sup>4</sup> DMO, Jowai and DMO Williamnagar

<sup>5</sup> Officer-in-charge at Tura and Nongstoin

It is pertinent to mention that the Commissioner and Secretary was again reminded on 18 January 2019 to submit comments on Audit Report by 25 January 2019 failing which it would be presumed that the Government had no comments to offer. Since, the Government had not communicated any comments to the draft Audit Report (June 2019), the Audit Report was finalised after including the comments made by the representatives of Government / Department during the Exit Conference.

#### **6.3.6 Audit Criteria**

The following Acts/Rules were used as sources of Audit Criteria for carrying out the Performance Audit:

1. Mines and Minerals (Development and Regulations) (MMDR) Act, 1957 enacted by Government of India, Mineral Concession Rules, 1960, and Mineral Conservation and Development Rules (MCDR), 1988; Mines and Minerals (Contribution to District Mineral Foundation) Rules (MMCR), 2015.
2. Mines Act, 1952 and Mines Rules, 1955;
3. Coal Mines (Conservation and Development) Act, 1974 and Coal Mines Regulations, 1957;
4. Meghalaya Mineral Cess Act, 1988;
5. Assam Forest Regulation, 1891 as adopted by Meghalaya;
6. Forest Conservation Act, 1980 and Environment (Protection) Act, 1986;
7. National Mineral Policy, 1993 and 2008 and Meghalaya Mineral Policy, 2012;
8. NGT Orders and Guidelines, orders, instructions, standards issued by Government, Hon'ble Supreme Court and High Court *etc.* from time to time.

#### **6.3.7 Acknowledgement**

The Indian Audit and Accounts Department acknowledges the co-operation extended by the Mining and Geology Department during conduct of this Performance Audit (PA).

#### **Audit findings**

The Performance Audit Report has been prepared in three parts. The irregularities noticed in the functioning of the Department in respect of limestone mining in *Part -I*, coal mining in *Part – II* and internal control mechanism in *Part – III*.

### **Part I –Limestone Mining**

#### **6.3.8 Role of the Department in limestone mining**

One of the main objectives of Mining Department is to examine and accord approvals for implementation of plans / schemes / policies related to the administration of mines and minerals. This entails enforcement of mineral laws and rules, collection of royalty



and cess to generate revenue and to ensure scientific mining, safety and welfare measures for mining workers and inhabitants residing in and around mining areas.

In respect of limestone mining in the State, the role and responsibility of the Department starts with approval of mining lease. The applications for obtaining mining leases are required to be submitted to Deputy Commissioner, who after applying preliminary checks<sup>6</sup> prescribed in the Mineral Concession Rules, 1960, forwards the application to the Mining Department. The Department is required to conduct extensive assessment that the applications are complete in all respects besides ensuring that these applications were accompanied by clearances from Pollution Control Board, Forest & Environment Department and Labour Department. Further, Directorate of Mineral Resources was required to approve Mining Plans submitted by the applicants, which would include list of equipment proposed to be used, quantum of limestone to be mined, safety standards to be maintained, arrangements for storage of mined minerals, and preventive measures to be undertaken to ensure that water bodies / sources in the vicinity do not get polluted *etc.* All the documents concerned are required to be verified after which ground level inspection is to be undertaken by the departmental officials.

The limestone mining is done mainly by cement companies for using limestone in the manufacture of cement and traders for export of limestone to other states and outside India.

The cement companies operating in the State submit their monthly utilisation return of the limestone extracted from the leased areas for manufacture of cement. The Mining Department collects royalty and mineral cess due on such limestone utilized. The Department also issues the Mineral Cess Challans (MCCs) on payment of mineral cess for permitting transportation of limestone. These MCCs are checked and validated by the departmental check-gates at exit points of the State (Assam/Bangladesh).

In Meghalaya, the State Government has also empowered the Forest Department to grant and administer limestone mining leases falling in forest areas and collects royalty and cess.

Audit observations about limestone mining in the State have been discussed in the succeeding paragraphs.

#### **6.3.8.1 Revenue collection system**

Under Section 9 of the MMDR Act, 1957, the holder of a mining lease shall pay royalty in respect of any mineral removed or consumed at the rate specified in respect of that mineral. Rule 64 A of the Mineral Concession Rules (MCR), 1960 provides that if any amounts payable by the licensees are not paid within the time specified for such payment, simple interest at the rate of 24 *per cent* per annum may be charged on

<sup>6</sup> Preliminary checks inter alia includes land is free from all encumbrances, no mining operation within 50 meters of public work, not to cut or injure trees in reserved forests, *etc.*

the said amount from the sixtieth day of the date fixed for payment of such dues. Further, as per Rule 45 of the MCR, 1960, if the lessee makes any default in payment of royalty, the lessor shall give notice to the lessee requiring him to pay the royalty within sixty days from the date of the receipt of the notice and if the royalty is not paid within such period, the lessor may cancel the lease.

The rate of royalty on limestone was ₹63 per MT up to October 2014 and ₹80 per MT thereafter. In addition, mineral cess is also payable at the rate of ₹20 per MT which was revised to ₹40 per MT from 7 April 2015 and to ₹60 per MT from 21 March 2016. The Department fixed the date for payment of royalty in respect of mining lease holders as shown in the following *Table 6.2*.

**Table 6.2 Due date for payment of royalty**

<b>Extraction during half yearly ending</b>	<b>Due date for royalty payment</b>
30 June	31 July
31 December	31 January

### **6.3.9 Compliance with mining Acts and Rules**

The mining administration is governed as per the provisions of Mines and Minerals (Development and Regulation) Act, 1957 (MMDR), Mineral Concession Rules, 1960 (MCR) and the Mineral Conservation and Development Rules, 1988 (MCDR).

#### **6.3.9.1 Operation of mines without approved scheme of mining**

Before carrying out mining operations in a leased area, the lessees are required to submit a perspective plan of five years indicating the manner and methodology of extraction of the mineral to be mined. The mining plan includes measures for pollution control, waste management, afforestation plan *etc.*, in addition to the forecasts of annual extraction.

Under Rule 11 of Mineral Conservation and Development Rules (MCDR), 2017<sup>7</sup>, no mining lease holder shall carry out mining operations except in accordance with the approved mining plan. Further, the mining plan would be subject to review and updation after every five years. The lessees have to submit mining plans to the competent authority, *i.e.* Indian Bureau of Mines, for review at least six months before the expiry of five years' period. Further, Rule 62 of the MCDR stipulates that whoever contravenes these rules, shall be punishable with imprisonment for a term which may extend up to two years, or with fine extending to five lakh rupees or with both, and in the case of continuing contravention with an additional fine, which may extend up to fifty thousand rupees for every day during which such contravention continues.

<sup>7</sup> Similar provisions existed in the MCDR, 1988 also. Refer to Rule 12(2), Rule 13(1) and Rule 58.

There were 19 mining leases for limestone in Meghalaya as on 31 March 2018. During audit, it was observed that three<sup>8</sup> lessees did not have approved mining plans for the period 2013-14 to 2017-18. Further, mining plans in respect of the three lessees<sup>9</sup> were approved with delays<sup>10</sup> (one to two years).

The six lessees continued to carry out mining without approved mining plans in violation of the MCDR. These lessees extracted 17.64 lakh MT of limestone during the years 2013-14 to 2017-18 for which no mining plan was approved (**Appendix VI**). The Mining Department was aware that these lessees extracted limestone without approved mining plans since the lessees submitted monthly returns on quantity of limestone extracted to the Department. However, no action was taken by the Department to enforce the provisions as stated in MCDR.

### **6.3.10 Duality of control on collection of royalty on limestone**

Limestone is listed as a Second Schedule mineral in the MMDR Act, 1957 and the rate of royalty is fixed by the Central Government. In Meghalaya, limestone was listed as a minor forest produce and was regulated as per the Assam Forest Regulation Act, 1891 (as adopted by Government of Meghalaya). Therefore, royalty on limestone was collected by both Forest Department and Mining Department. The Forest Department collects royalty on limestone extracted from forest areas, whereas the Mining Department collects royalty on limestone from non-forest (leased) areas. Additionally, the Mining Department realised mineral concession cess on limestone under the provisions of the Meghalaya Mineral Cess Act.

After the amendment of MMDR Act (September 2015), limestone was included in the list of notified minerals. Subsequently, the Meghalaya Minor Mineral Concession Rules, 2016 (MMMCR) were framed under Section 15 of the MMDR Act. It further defined limestone as minor mineral based on its consumption in industries other than cement industry. Further, subsequent to the enactment of Meghalaya Minor Mineral Concession Rules (September 2016), the limestone extraction from non-leased areas was stopped, hence classification of leased and non-leased areas was voided. However, the power to grant lease for limestone mining with end-use of limestone in industries other than cement industry was entrusted to Forest Department and for end-use in cement industry to Mining Department. Thus, system of dual administration on collection of royalty on limestone was continuing. This peculiar situation had resulted in avenues for limestone being extracted without detection, thus causing loss of revenue to the State as explained in the succeeding paragraphs.

<sup>8</sup> (i) M/s Meghalaya Cement (ii) M/s Komorrah Limestone Mining (iii) M/s Mawmluh Cherra Cement.

<sup>9</sup> (i) M/s Hill Cement Co. Ltd, (ii) M/s Adhunik Cement Ltd, (Umsoo Mootang Limestone Mine, Thangskai, Block-I), (iii) M/s Adhunik Cement Ltd, (Umsoo Mootang Limestone Mine, Thangskai, Block-II).

<sup>10</sup> Mining plan was not approved with retrospective effect. IBM approved the mining plan for the remaining period out of the five years' plan.

**6.3.10.1 Non-collection of royalty on limestone extracted from leased areas**

During audit, DMR records showed that five out of 12 mining lease holders<sup>11</sup> extracted 24.46 lakh MT of limestone from their respective mining lease areas between April 2013 and March 2018 on which royalty of ₹18.61 crore and cess of ₹10.31 crore was payable. However, the Department failed to collect the due royalty amount. All these five lessees had cement plants in the State and they continued to carry out their operations.

The DMR stated in the exit conference (December 2018) that demand notices had been issued to the five cement companies for clearing their dues. However, status of recovery was not intimated to Audit. Despite non-payment/delay in payment of outstanding arrears, no further action was taken by the DMO/DMR to invoke the provisions of the MMDR Act and cancel the leases of the defaulting cement companies.

Thus, 24.46 lakh MT of limestone was extracted from the leased area without payment of royalty and cess. This resulted in arrears of collection of royalty and cess amounting to ₹28.92 crore. Additionally, the lessees were liable to pay interest on royalty amounting to ₹8.33 crore<sup>12</sup> (*Appendix VII*).

During the exit conference (December 2018), the Commissioner & Secretary stated that steps would be taken to realise the arrears from the cement companies. The status of recovery of arrears had not been intimated (June 2019).

**6.3.10.2 Non-collection of royalty on limestone purchased from local suppliers**

Audit scrutiny of records of Director of Mineral Resources, Shillong, revealed that four out of 12 cement companies<sup>13</sup> disclosed purchase of 15.21 lakh MT of limestone from local suppliers during the period from September 2015 to March 2018. The DMR records showed that royalty on these local purchases had been paid to the Forest Department as reported by the cement companies. However, it was noticed from the records available with the Divisional Forest Officer (DFO) (Territorial), Jowai that no such royalty had been paid by the cement companies to the Forest Department. The DFO had issued demand notices in February 2016 to four cement companies for payment of royalty on limestone purchased from local suppliers up to the month of August 2015. The DFO did not maintain any records of the quantity of limestone consumed by cement companies and also failed to realise any royalty from the cement companies. During discussion of the Performance Audit<sup>14</sup> of Forest Department, the Forest Department stated (November 2017), that after the amendment to MMDR Act (September 2015), the limestone consumed by cement companies would be

<sup>11</sup> M/s JUD Cement, M/s Hills Cement, M/s Meghalaya Minerals and Mines, M/s Komorrah Mining and M/s Mawmluh Cherra Cement

<sup>12</sup> Interest calculated upto 31.08.18.

<sup>13</sup> M/s Amrit Cement, M/s Green Valley Cement, M/s Star Cement and M/s Adhunik Cement

<sup>14</sup> CAG Audit Report for the State of Meghalaya (Revenue Sector) for the year 2016-17

considered to be a major mineral and such royalty would have to be collected by the Mining Department.

Thus, on account of overlapping administrative control of collection of royalty on limestone, the cement companies managed to evade payment of royalty amounting to ₹12.17 crore. Additionally, an interest of ₹4.92 crore was leviable due to the delay in payment (*Appendix VIII*).

### **6.3.11 Cess on limestone**

Forest and Mining Departments realise royalty from transporters and issue MTCs (as proof of payment of royalty). Besides, the Mining Department issues Mineral Cess Challans as proof of payment of cess. These challans are then verified at check-gates and penalty/additional royalty/cess is realised subject to non-production of challans or excess carriage of limestone. Both the departments were required to set up check-gates at exit points in the State in order to ensure collection of royalty and cess on mineral being exported out of the State. Forest check-gates monitor movement of limestone trucks supported by valid transit passes<sup>15</sup>, whereas the Mining check-gates check if the trucks are accompanied with Mineral Cess Challans as proof of payment of cess. Similarly, the Customs Department has Land Customs Stations (LCSs) at the international border to check the movement of goods to and from Bangladesh.

#### **6.3.11.1 Short collection of Mineral Cess on limestone**

Audit observed that the Mining Department did not have check-gates at four exit points<sup>16</sup> at India-Bangladesh border. Out of these, Bholaganj is a major transit route for limestone trade with Bangladesh. Forest Department had three<sup>17</sup> check-gates on the routes leading to LCS at Bholaganj. During the period between 2013-14 and 2017-18, these forest check-gates reported that 15.80 lakh MT limestone valued ₹94.80 crore<sup>18</sup> was exported to Bangladesh through Bholaganj LCS. Thus, due to absence of Mining check-gate at Bholaganj, collection of mineral cess of ₹7.95 crore was doubtful (*Appendix IX*).

Further, there was serious under-reporting of quantity of limestone being exported by Mining check-gates. Mining check-gate at Dawki reported export of 7.65 lakh MT limestone during 2013-14 to 2017-18. However, the Forest check-gate<sup>19</sup> on the same route reported movement of 18.51 lakh MT limestone. Similarly, Forest check-gates<sup>20</sup> leading to Borsora LCS reported export of 3.65 lakh MT of limestone. The Mining check-gate at Borsora showed no limestone export during the same period. Both the check-gates failed to record actual quantity of limestone transported from these

<sup>15</sup> Transit Passes are issued by DFO to transporters on payment of royalty.

<sup>16</sup> Bholaganj, Shella bazar, Baghmara and Mahendraganj

<sup>17</sup> Majai-Bhloaganj, Mawlong – Ichamati and Shella

<sup>18</sup> Sale value of limestone was decided \$10 per MT by Forest Department, Thus, average value ₹ 600 per MT limestone was considered for calculating value of the limestone.

<sup>19</sup> Dawki

<sup>20</sup> Cherra-Mawsynram and Bagli

check-gates. Thus, there was short collection of mineral cess amounting to ₹7.64 crore by these Mining check-gates (**Appendix IX**).

Audit further observed that Forest check-gates also under-reported the extent of exported limestone. The LCSs at Dawki, Borsora and Bholaganj reported export of 65.66 lakh MT limestone between 2013-14 and 2017-18. The corresponding six<sup>21</sup> forest check-gates, showed export of 37.96 lakh MT only during the same period. Thus 27.70 lakh MT of limestone valuing ₹166.21 crore was under-reported by the six forest check-gates. This under-reporting by Forest check-gates has revenue implication of ₹19.70 crore in form of royalty for Forest Department and ₹6.52 crore as mineral cess for Mining Department (**Appendix X**).

**Recommendation:** *The State Government should strengthen the system of recording of minerals transported through these check-gates and should fix responsibility on the erring officials for the revenue leakage. System should be in place for periodic reconciliation of figures of transport permits issued and validated at both Forest and Mining check-gates after ascertaining the reported figures of LCSs.*

#### **6.3.11.2 Non-payment of cess on limestone purchased by cement companies**

During the period from April 2013 to March 2018, four cement companies<sup>22</sup> purchased 44.84 lakh MT of limestone from local suppliers, on which mineral cess of ₹15.33 crore was payable. However, the cement companies did not pay the due cess and the Department also failed to collect the same although the monthly returns on utilisation of limestone were available with the Department (**Appendix XI**).

The Department issued demand notices (December 2014, July 2015, August 2017 and June 2018) to the cement companies for payment of cess. However, the demand notices evoked no response from the cement companies and the cess remained unrealised (June 2019).

Despite non-payment of cess and not responding to the demand notices by the cement companies no further action in accordance with MMDR Act was initiated by the Department.

**Recommendation:** *The Mining Department should take stringent action against the cement companies for non-payment of arrears in accordance with MMDR Act.*

<sup>21</sup> Majai-Bhloaganj, Mawlong – Ichamatim, Shella, Dawki, Cherra-Mawsynram and Bagli

<sup>22</sup> M/s Amrit Cement, M/s Green Valley Cement, M/s Star Cement and M/s Hill Cement



### 6.3.12 Mining activities allowed without mandatory environmental clearances

For carrying out mining operations in leased areas, the following environmental clearances are mandatory:

1. Environmental Clearance (as per the provisions of the Environment Protection Act, 1986) from the Ministry of Environment and Forests, (MoEF) Government of India (GoI).
2. Forest Clearance (as per the provisions of the Forest Conservation Act, 1980) from the MoEF, GoI.
3. Wildlife Clearance (as per the provisions of Wildlife Protection Act, 1972) from the MoEF, GoI.
4. No Objection Certificate (NOC) from the State Pollution Control Board along with Consent to Operate which has to be renewed every year from the respective Board.

Further, under section 19 of the MMDR Act, any mining lease granted, renewed or acquired in contravention of the provisions of the Act or any rules or orders made thereunder shall be void and of no effect.

If the lessee fails to get these clearances, the mining lease is required to be cancelled. Audit noticed that the mining lease holders continued to operate their mining leases without obtaining the mandatory clearances (*Appendix XII*), however the Mining Department did not take any action to either direct the lessees to obtain the clearances or cancel the leases thus allowing the lessees to carry out limestone mining which was also violation of Meghalaya High Court judgement.

DMR records in respect of all 19 limestone lessees in Meghalaya showed the following:

- 14 lessees did not obtain Environmental Clearances, reasons for which was not stated by the lessees
- 15 lessees did not obtain Forest Clearances.
- 19 lessees did not obtain Wildlife Clearances. One lessee had applied for it, but had not been granted clearance (August 2018).
- All the lessees had received NOCs from the Meghalaya Pollution Control Board. However, in respect of 15 lessees, the NOCs expired on various dates between May 2013 and August 2018 and the same had not been renewed.

Thus, the Department without verifying the mandatory environmental clearances permitted lessees to continue limestone mining in violation of the Acts.

***Recommendation: The Mining Department should direct the lessees to obtain mandatory environment clearance from the authorities concerned to continue mining operation in the State.***

**6.3.13 Reclamation Fund on limestone consumed by cement companies not collected**

The High Court of Meghalaya in its judgement dated 30 June 2015 held that mining of coal and limestone in the State had caused environmental damage and regulation of mining activities by the State was essential to safeguard the environment and ecological balance. The court prohibited all mining activities in the State without obtaining necessary clearance and instructed to create a fund for reclamation in the interest of sustainable development. In compliance, the State Government notified Meghalaya Minor Mineral Reclamation Fund (MMMRF) in December 2015. The amount to be credited in the MMMRF would be 10 *per cent* of the sale proceeds<sup>23</sup>. Collection of money for MMMRF was to be done at the time of collection of royalty by the DFO.

In Meghalaya, 12 cement companies have leases for limestone mining in place. They operate on limestone extracted from leased areas. In addition to this, they procure limestone from the local suppliers also. Three<sup>24</sup> cement companies do not have any leases for limestone mining. They are entirely dependent on local procurement for their operations. Two<sup>25</sup> such companies submitted (May 2017 and July 2017) that they had encountered limestone stocks during the site development for cement plants. The Mining Department allowed the companies (July 2017 and May 2018) to utilize this limestone (25.93 lakh MT) on payment of royalty<sup>26</sup> with a further instruction not to carry on such mining in future without obtaining concurrence. No demand for contributory amount for DMF for such consumption was found on record.

The Forest Department was not collecting royalty as per High Court order of June 2015 (and thus MMMRF also) on the local purchases of limestone by cement companies, as limestone was not a minor mineral under MMCR, 2016 based on its end consumption. The cement companies did not pay any royalty on limestone purchased from local suppliers (*Paragraph 6.3.10.2*) to Forest Department and hence had not paid contribution towards MMMRF. At the same time, the Mining Department was not collecting contributory amount for DMF, as such limestone had not been extracted from leased areas. Thus, in addition to delay in collection of royalty and DMF, the mandated contribution for reclamation activities was not being collected (Refer *Paragraph 5.7*).

Thus, in absence of a proper mechanism for periodic exchange of information between the two departments, the local suppliers/companies continued to evade royalty on limestone by disclosing different information to the departments. Lack of sharing of information between the Forest and Mining departments provided scope for the loss of revenue and demand accountability in such a scenario.

<sup>23</sup> Sale value for limestone was decided \$10 per MT by Forest Department. Thus, the contribution to MMMRF was \$1 per MT (10 *per cent* of sale value).

<sup>24</sup> M/s Amrit Cement Ltd., M/s Goldstone Cement Ltd. And M/s Green Valley Industries Ltd.

<sup>25</sup> M/s Goldstone Cement Ltd. And M/s Green Valley Industries Ltd.

<sup>26</sup> Royalty has not been paid by the cement companies (August 2018).



**Recommendation:** The Mining Department and Forest Department should put in place necessary mechanism for ensuring periodical (quarterly) exchange of information of extracted quantity of minerals from their respective area of jurisdiction to avoid any scope of leakage of revenue. There should be co-ordination between the departments to ensure the realisation of contribution to MMMRF from cement companies and local limestone dealers.

## Part II: Coal Mining

### 6.3.14 Role of the Department in coal mining

As per the MMDR Act, no person shall undertake mining operations in any area except in accordance with the terms of a mining lease. Further, the MCR, 1960 *inter alia* stipulates that no mining lease shall be granted in respect of any mineral specified in the First Schedule to the Act *ibid* without the previous approval of the Government of India. Coal is listed in the First Schedule of the MMDR Act, 1957.

The Mining Department had not granted any license for coal mining to any miner in the State. Thus, the coal mining, that was prevalent in the State, was in violation of MMDR Act. Audit had pointed out this issue in the Report of the Comptroller and Auditor General of India (Revenue Sector), for the year 2012-13, Government of Meghalaya, however, the Department did not take any action to regulate coal mining in the State. The coal miners did not submit any mining plan detailing manner, methodology and quantity of extraction, measures for pollution control, waste management, afforestation plan *etc.* to the Department. The miners did not submit any environmental clearances from other government departments (Forest, Pollution Control Board *etc.*) to the Mining Department. However, illegal coal mining in Meghalaya was going on without any regulation though the Department is fully aware as they were collecting royalty and contribution to Meghalaya Environment Protection and Restoration Fund (MEPRF) on coal from the miners/traders and issuing Mineral Transport Challans for transportation of the illegally extracted coal.



Rat hole mining site at Dkiah village in East Jaintia Hills

The Mining Department in violation of the MMDR Act, collected royalty on coal, which was collected at the time of issuance of Mineral Transport Challans to facilitate coal transportation (primarily outside the State). The Department did not even maintain the list of coal miners illegally extracting coal

without any license in the State though, Mineral Transport Challans were issued to the transporters.

In absence of any regulation and lack of enforcement by the State Government, extraction of coal in Meghalaya continues to be done by primitive mining method, commonly known as rat hole mining or box cutting. In this method, the land is first cleared by cutting and removing the ground vegetation and then pits ranging from 5 to 100 sq.m are dug vertically into the ground to reach the coal seam. Thereafter, horizontal tunnels are made into the seam for extraction of coal, which is brought into the pit by using a conical basket or a wheel barrow. The shafts are so small that miners including women and children have to squeeze in and crawl on their knees to extract coal using small implements such as pickaxes. The coal is taken out of the pit and dumped on nearby un-mined area, from where it is carried to the larger dumping places near highways for its trade and transportation. Rat hole mining is extremely dangerous practice. There have been numerous reported cases of the shafts collapse and death of miners due to flooding.

The regulatory situation changed with the National Green Tribunal (NGT) order on 17 April 2014, wherein observing the serious environmental ramifications of unscientific mining practices, NGT banned the coal mining in the State. The NGT order directed the Mining Department to assist in assessment of already extracted coal before its order, maintain detailed inventory of such stock, to ensure collection of revenue on the already extracted coal and to regulate coal transportation through Mineral Transport Challans and to set-up check-gates in order to keep a check on illegal transportation. During 2013-14 to 2017-18 NGT permitted transportation of coal on seven occasions between 12 November 2014 to 15 April 2016. After last phase of transportation allowed by NGT the coal traders approached the Supreme Court for extension of further time for transportation of remaining assessed coal which could not be transported on or before 15 April 2016. The Supreme Court allowed transportation of extracted assessed coal on two occasions (between 1 October 2016 to 31 May 2018) during the audit coverage period.

Audit observations in regard to coal mining in the State have been discussed in the succeeding paragraphs.

#### **6.3.15 Implementation of NGT orders for coal mining**

National Green Tribunal (NGT) in its order (17 April 2014) in response to a Public Interest Litigation filed by All Dimasa Students Union observed that *rampant, illegal, unscientific and life-threatening mining activity, particularly Rat hole mining was going on in the State of Meghalaya, which was mostly unregulated, uncontrolled and unchecked. It had caused serious pollution of river and water bodies besides causing environmental degradation and environmental hazards having injurious impacts upon human health.* In view of the circumstances, the NGT directed that the rat hole mining and illegal mining had to be stopped in Meghalaya and the authorities should ensure that illegal transportation of coal should not take place. Accordingly, the State

Government issued notification on 9 May 2014 directing DMR to comply with the NGT order.

### **6.3.15.1 Assessment of coal extracted prior to NGT prohibition**

The NGT constituted a committee (01 August 2014) to assess the quantity of coal extracted before its order dated 17 April 2014 and its location in order to allow its transportation. The District wise assessed quantity of coal by the NGT Committee against extracted quantity of coal declared by the miners was as per following Table 6.3.

**Table 6.3 District-wise details of assessment of coal stock**

(Quantity in lakh MT)

District	Number of persons	Declared quantity of coal	Quantity of coal assessed by the Committee	Excess quantity of coal declared	Variation <sup>27</sup>
East Garo Hills	46	0.17	0.11	0.06	53
West Garo Hills	34	0.16	0.16	-	-
South Garo Hills	539	19.22	16.99 <sup>28</sup>	2.23	13
East Khasi Hills	307	0.78	0.28	0.50	178
West Khasi Hills	2067	28.46	17.21	11.25	65
South West Khasi Hills	1043	19.53	18.77	0.76	4
East Jaintia Hills	3141	63.10	37.59	25.51	68
West Jaintia Hills	254	3.14	2.93	0.21	7
<b>Total</b>	<b>7431</b>	<b>134.56</b>	<b>94.04</b>	<b>40.52</b>	

(Source: Compiled from Departmental records)

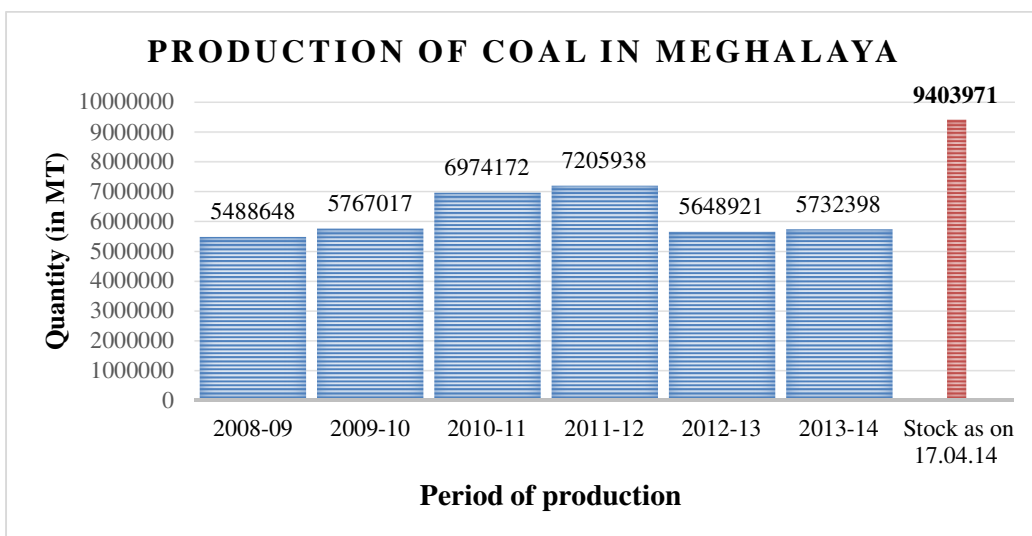
As per assessment of NGT Committee the total quantity of coal extracted and lying on the surface was 94.04 lakh MT as on 17 April 2014. In almost all the districts, there was stark difference between declared quantity by miners and assessed quantity. Total excess declaration stood at 40.52 lakh MT (declared quantity of 134.56 lakh MT minus assessed quantity of 94.04 lakh MT).

The year-wise coal production in Meghalaya and the stock available as on 17 April 2014 as assessed had been shown in Chart 6.1.

<sup>27</sup> In terms of *per cent* of assessed quantity

<sup>28</sup> NGT allowed assessment (18 January 2018) of 6.91 lakh MT coal in one case from South Garo Hills (SGH) against declared quantity of 6.44 lakh MT of coal which was extracted prior to the prohibition as assessment could not be completed due to adverse weather conditions earlier.

**Chart 6.1 Year-wise production of coal in Meghalaya**



(Source: Compilation of information furnished by the Directorate)

From the above chart it revealed that the annual coal production in Meghalaya had been around 50-70 lakh MT during the six years preceding the NGT prohibitory orders based on the Mineral Transport Challans issued by the Department. In view of the last six years' trend of coal production in Meghalaya, the coal stock of 94.04 lakh MT as on a particular date was on higher side. Thus, during the intervening period of NGT ban (April 2014) and completion of assessment of already extracted coal (January 2015) there was illegal mining of coal in the State.

The issue was discussed with the Department in the Exit meeting (December 2018). The Department had no comments to offer to the audit observation.

#### **6.3.15.2 Collection of royalty on over-declaration of coal stock**

During the assessment (September-October 2014) of available extracted coal as on date of ban on coal mining (17 April 2014) by NGT Committee against the declarations made by the miners, it was found that a large number of coal owners had made false declarations without having any commensurate coal stock. Some mine owners grossly over-declared their stock. In respect of excess declaration of the coal extracted than available, the NGT observed (September 2014) that *“these can only be attributed to malafide intent to mine coal despite the interim ban or illegal disposal of the coal after the declaration but before the assessment. These cases need to be examined and penalized.”* In order to penalize the over-declaration, the NGT ordered (7 October 2014) that royalty would be payable on the quantity assessed/ declared, whichever was higher. The transport permits against this, however, would be restricted to the assessed quantity only. The collection of royalty had to be done in district-wise manner. The Supreme Court while allowing transportation of coal between October 2016 to May 2017 directed that no fresh extraction of coal should take place in Meghalaya.

Audit analysis of the departmental records revealed that 3670 miners out of 7431 miners, have reported more stock than that was available with them. Also, no stock was found in the course of the inspection by NGT Committee (August-September 2014) in respect of 1790 miners out of 7431 miners which corresponded to total declared coal quantity of 36.10 lakh MT. The district wise break-up of over-declarations is given in *Table 6.4*.

**Table 6.4 Details of declaration of excess coal stock**

(Quantity in MT)

District	Miners who over-declared coal				Miners who declared coal but assessed 'Nil'	
	Number of Miners	Assessed Quantity	Over-declared Quantity	per cent of over-declaration	Number of miners	Quantity
East Garo Hills	31	7380	6200	84	--	--
West Garo Hills	3	7195	173	2	--	--
South Garo Hills	69	145095	294011	203	--	--
East Khasi Hills	124	15610	57083	366	4	500
West Khasi Hills	1333	1244152	1241725	100	273	786717
South West Khasi Hills	446	670937	376718	56	169	200885
East Jaintia Hills	1496	988297	2627315	266	1300	2598593
West Jaintia Hills	168	158291	44788	28	44	23054
<b>Total</b>	<b>3670</b>	<b>3236957</b>	<b>4648013</b>	<b>144</b>	<b>1790</b>	<b>3609749</b>

(Source: Compiled from Departmental records)

The Department was to allow transportation of coal stock of 94.04 lakh MT (assessed quantity) and collect royalty<sup>29</sup> on 140.52 lakh MT (assessed *plus* over-declared) of coal. The transported quantity had to be limited to the extent of royalty paid on any given date (within the limit of assessed quantity). Transportation of coal was allowed in nine phases between November 2014 and May 2018.

In this regard, Audit observed the following:

- The Department did not maintain a proper database about declared quantity, assessed quantity and royalty payable by individual miners. The Department stated that they issued Mineral Transport Challans to the miners and collected royalty against the challans, which were recorded in the miners' records as kept by DMR. No calculation about leftover stock was done.
- In respect of those miners who had declared excess quantity, the Department did not ensure that royalty had been collected on over-declared quantity before the MTCs were issued to them limited to the quantity assessed. No separate data in this regard was produced to Audit. The miners were allowed to transport the assessed quantity without collecting royalty due on excess

<sup>29</sup> Royalty is leviable at the rate of ₹675 per MT.



declaration. In East Garo Hills district only, the Department collected royalty on 1805 MT over-declared coal. Royalty amounting to ₹313.75 crore and Meghalaya Environment Protection and Restoration Fund (MEPRF) of ₹225.43 crore on 46.48 lakh<sup>30</sup> MT of such excess declaration of coal stock was realizable.

- In cases, where ‘Nil’ stock was assessed, no transportation was to be permitted, however, the royalty on declaration was to be realized from the miners. 1790 miners made false declaration of coal stock totaling 36.10 lakh MT. The royalty of ₹243.67 crore and MEPRF of ₹175.09 crore was to be collected on 36.10 lakh MT<sup>31</sup> of coal. This information was available with the Department since 12 January 2015. The status of royalty collection on *nil* assessed stock or the departmental efforts in this regard were not found on record.

The Department could not produce to Audit the quantity of already assessed coal left in the State after the latest window of transportation allowed by the Supreme Court (till May 2018). As per the affidavit filed on behalf of State of Meghalaya in Supreme Court (21 March 2018), the Government reported that approximately 4.87 lakh MT assessed coal was lying in Meghalaya as on 6 March 2018, out of which 4.67 lakh MT<sup>32</sup> corresponded to South Garo Hills district. It appears that all except one<sup>33</sup> district had almost exhausted their stock (May 2018). Since majority of miners had already transported the permitted assessed quantity of coal, the likelihood of collecting the remaining royalty of ₹313.75 crore on over-declared quantity of coal was quite doubtful. Thus, the Government failed to establish a robust mechanism to collect royalty on over declared quantity of coal in compliance of NGT order and this resulted in revenue loss of ₹313.75 crore.

#### 6.3.15.3 *Unauthorised re-assessment of coal stock*

Assessment of coal extracted prior to the NGT orders (17 April 2014) was completed by 12 January 2015. The NGT later allowed (18 January 2018) for re-assessment of coal stock of South Garo Hills. Accordingly, 6.91 lakh MT of coal stock was assessed by the NGT Committee in the district report of South Garo Hills.

Audit observed that the Additional DC, East Jaintia Hills district carried out re-assessment in respect of two persons<sup>34</sup> from East Jaintia Hills (19 January 2018) and certified that 54.50 thousand MT coal was available against their originally assessed nil stock. The reason stated in the certificate in both the cases was “*during assessment the said depot was not located as it was situated a little further away from the main road, bad weather conditions and no signal received by the GPS.*”

<sup>30</sup> Royalty ₹675x46.48 lakh MT=₹ 313.75 crore, MEPRF=₹485x 46.48 lakh MT=₹225.43 crore.

<sup>31</sup> Royalty ₹675x36.10 lakh MT=₹ 243.67 crore, MEPRF=₹485x 36.10 lakh MT=₹175.09 crore

<sup>32</sup> This 4.67 lakh MT coal was left out of freshly assessed quantity of 6.91 lakh MT (against declaration of 6.44 lakh MT) as per NGT order (18 January 2018). Refer *Paragraph 6.3.18*

<sup>33</sup> South Garo Hills

<sup>34</sup> Shri Tuifill Shadap (30300 MT) and Shri Bison Shylla (24200 MT)

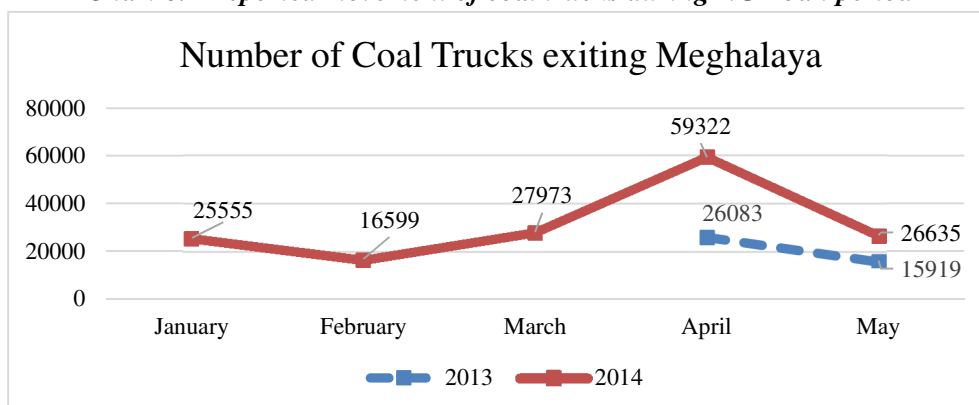
Based on the re-assessment, Under Secretary, Mining Department asked DMR (16 May 2018) to issue Mineral Transport Challans to the persons to enable them to transport 54.50 thousand MT on realization of royalty of ₹3.68 crore and MEPRF of ₹2.64 crore<sup>35</sup>. Accordingly, the unauthorized re-assessed coal was allowed to be transported by the Department.

Thus, the process of re-assessment and the Department's instructions thereof, without explicit permission from the NGT were irregular. Further, the fact that the said stock could not be assessed during the original assessment did not find mention in the records available with the DMR, produced to Audit. Supreme Court and NGT both in their various orders had categorically stated that the transportation of the assessed coal stock had to be allowed in strict compliance with the stated guidelines and no fresh mining had to be allowed in any case. Department's sanction for re-assessment, after more than four years of ban on coal mining, at a time when almost entire assessed coal stock as per department's own submission had been allowed to be transported, would grant opportunity to legitimize transportation of illegally extracted coal.

#### **6.3.15.4      *Unauthorised transportation of coal stock due to delay in notifying NGT Order***

The NGT in its order dated 17 April 2014 declared rat hole mining as an illegal activity in the State and directed the State Government to ensure that such mining was stopped with immediate effect and no transport of coal should be allowed. The State Government issued the notification directing the DMR officials to comply with the NGT order on 9 May 2014. Subsequently, the DMR issued a public notice on 13 May 2014 asking the miners to surrender the MTCs. However, Audit noticed that transportation of illegally extracted coal was going on even after issue of the Government notification. The comparative chart of the movement of coal trucks during the April–May 2014 and April–May 2013 is shown in the chart below:

**Chart 6.2 Reported movement of coal trucks during NGT ban period**



Audit observed that all the six<sup>36</sup> DMR check-gates situated at exit points of the State reported movement of 26,635 coal trucks exiting the State during the month of

<sup>35</sup> Royalty at the rate of ₹675/MT and MEPRF at ₹485/MT.

<sup>36</sup> Ratacherra, Dawki, Garampani, Umling, Athiabari and Dainadubi.

May 2014<sup>37</sup> as against the movement of 15919 coal trucks during the same month of the previous year when there was no ban on transportation of coal. Thus, due to delay in issuing of notification and its timely communication to the field offices illegal transportation of coal increased by 67 per cent in May 2014 only as compared to the same month of the previous year. Thus, at least 2.4 lakh MT coal<sup>38</sup> valued ₹ 116.26 crore was transported out of Meghalaya in violation of NGT orders.

The officer-in-charge of the mining check-gate at Dainadubi in Garo Hills stated (September 2016) that the check-gate had received communication in this regard from the Government on 17 May 2014. The remaining five check-gates did not give any reasons for allowing transportation of coal during the ban period.

Thus, due to delay in issue of order and non-receipt of order in time by the mining check-gates at least 2.4 lakh MT of coal valued ₹116.26 crore<sup>39</sup> was unauthorisedly transported out of the State after NGT ban.

#### **6.3.16 Transportation of Coal**

The Mining Department issues Mineral Transport Challans to facilitate coal transportation. Coal miners approach DMR/DMO for transporting of coal against their available stock. DMR/DMO issues MTCs in triplicate copies after collecting royalty and Meghalaya Environment Protection and Restoration Fund (MEPRF). Destination and the exit point of the State have to be mentioned in the MTC. One copy of the Mineral Transport Challan is retained with DMR/DMO.

The irregularities noticed by Audit are discussed in the succeeding paragraphs.

##### **6.3.16.1 Mineral Transport Challans issued in excess of assessed coal stock**

Transportation of assessed coal was allowed in nine phases between November 2014 and May 2018. Removal of assessed coal from the place of assessment was permitted only on the strength of Mineral Transport Challans issued by the Department, which was valid up to sixty days from the date of its issue. MTCs were issued on payment of royalty against their assessed coal stock. The coal trucks were issued MTCs for carrying 9 MT load only. The NGT, however later, allowed the Department to issue MTCs for 19 MT and 7 MT load capacity trucks also.

Audit noticed from the records<sup>40</sup> of the Department that a total of 11.31 lakh MTCs were issued by the Department during the period from November 2014 to May 2018 as per the details given in *Table 6.5*.

<sup>37</sup> Checkgate figures are available in month-wise manner. Figure for number of trucks passed during 17 April 2014 to 30 April 2014 was not available.

<sup>38</sup> Calculated at 9 MT load per truck as allowed 9MT x 26635 trucks = 239715 MT.

<sup>39</sup> Invoice price of coal was taken at ₹4850 per MT based on the royalty fixed by the Department w.e.f. 22 June 2012

<sup>40</sup> Based on the MTCs printed by the DMR and closing stock as on 31 May 2018.



**Table 6.5 Details of MTCs issued**

Trucks capacity	MTCs issued	Quantity of coal for which MTCs issued (in lakh MT)
<b>19 MT</b>	19886	3.78
<b>9 MT</b>	1107521	99.68
<b>7 MT</b>	3500	0.25
<b>Total</b>	<b>1130907</b>	<b>103.71</b>

These MTCs in turn, authorized transportation of 103.71 lakh MT of coal against the total assessed quantity of 94.04 lakh MT. Thus at least 9.67 lakh MT<sup>41</sup> of illegally extracted coal valued ₹469.00 crore was allowed to be transported by the Mining Department in violation of NGT ban.

Audit further noticed that royalty collection and issuance of MTCs were not done *district-wise*. The DMR in Shillong issued MTCs for South Garo Hills also. Similarly, both Tura and Williamnagar offices issued MTCs for South Garo Hills district.

During audit, it was observed that the Mining Department did not maintain a database of leftover stock of coal after the expiry of each transportation period<sup>42</sup>. No registers detailing the collection of royalty and the quantity allowed to be transported through MTCs could be shown to Audit. Further, the total royalty collected till 31 May 2018 was ₹681 crore, which corresponds to royalty on 100.89 lakh MT of coal. Thus, there was a discrepancy of royalty collection of at least ₹19.04 crore on 2.82 lakh MT of coal transported. The discrepancy between the figures for royalty collection and MTCs could not be explained to Audit. In view of non-availability of figures, Audit was not in a position to verify the actual quantity of coal stock, which had not yet been allowed to be transported as on 31 May 2018. Moreover, the Mining Department allowed unauthorised transportation of 9.67 lakh MT of illegally extracted unassessed coal valued ₹469.00 crore in violation of NGT orders. This indicated that there was lack of monitoring and control mechanism at the highest level of the Government. Also there was no control mechanism at the State and district level.

#### **6.3.16.2 Unauthorised issuance of transport challans**

As per the NGT orders, the MTCs for transportation of assessed coal stock had to be restricted to the assessed quantity only. The miners were also allowed to sell their assessed stock to others for transportation through filing an affidavit.

Sale/purchase of the existing stock of coal should be through affidavit presented to the Department. The Department should verify whether the supplier parties had the required stock in their possession to effect such transaction. After the transaction, necessary adjustments in the buyer's and seller's stock were needed to be carried out, against which MTCs would be issued.

<sup>41</sup> The left-over stock as submitted by the Department had not been taken into account.

<sup>42</sup> Transportation of coal was allowed in nine phases between November 2014 to May 2018

Audit observed that the record keeping in the Mining Department was poor. The Department did not maintain records miner-wise detailing the declared and assessed coal stock, royalty payable and paid, and the MTCs issued and the leftover stock position in real time.

Records available at DMR, Branch Office Tura revealed that four coal miners had declared the total coal stock of 1.73 lakh MT, however coal measuring 7628 MT only was found during inspection<sup>43</sup>. The same was recorded in the miners' records also. These miners transported a total of 6007 MT coal after paying due royalty. Thus, they had remaining coal stock of 1621 MT which could have been allowed to be transported. However, these four miners sold a total of 1.67 lakh MT coal stock to another miner through affidavit between October 2016 and March 2017. This was accepted by the Officer-in-charge, DMR Tura Branch and the buyer was issued 11935 MTCs against this purchased stock (May 2018), enabling him to transport 1.07 lakh MT<sup>44</sup> of coal. Details of the transactions are given in *Table 6.6*.

**Table 6.6 Details of transaction of sale in excess of available coal stock**

(Quantity in MT)

Name of miner	Declared Quantity	Assessed Quantity	Quantity Transported by self	Quantity Transferred to Jia M Sangma by affidavit	Number of MTCs issued to Jia M Sangma against the purchased stock
Brijington M. Sangma	78358	1913	1913	76445	4530
Westonsing Sangma	40000	4094	4094	35906	3323
Rajen Sangma	30000	960	--	30000	2304
Sunil R. Marak	25000	661	--	25000	1778
<b>Total</b>	<b>173358</b>	<b>7628</b>	<b>6007</b>	<b>167351</b>	<b>11935</b>

(Source: Compiled from Departmental records)

The Officer-in-charge did not follow due diligence in checking the coal stock position of the selling parties at the time of the transaction. Thus, due to failure of the Officer-in-charge four miners fraudulently sold 1.67 lakh MT of coal valued ₹81 crore which was not actually available with them as per the assessment made by the NGT Committee. The buyer also succeeded to transport 1.07 lakh MT of coal out of 1.67 lakh MT of coal purchased which was not actually existing at the times of assessment. Thus, lack of effectiveness of the official in charge of Tura DMR office legitimized the illegal transportation of 1.07 lakh MT of coal valued ₹51.90 crore (May 2018).

**Recommendation:** *The Mining Department should investigate the source of coal transported and initiate action against the persons concerned for submitting*

<sup>43</sup> Coal was declared by the four miners after NGT ban during August 2014. Inspection was carried out by the NGT Committee in September-October 2014.

<sup>44</sup> 11935 MTCs x 9 MT allowed per MTC= 107415 MT

*fraudulent affidavit. The Department should also fix responsibility on the officials responsible for such lapse.*

#### **6.3.16.3      *Illegal mining and transportation of coal during NGT ban period***

During audit, it was observed that the district administration had noticed three cases of illegal mining and 847 cases of transportation of illegal extracted coal involving 24750 MT of coal after NGT prohibition (**Appendix XIII**). Out of 847 cases 716 cases belong to East Jaintia Hills and Ri-bhoi districts. In addition to these, police administration also reported<sup>45</sup> two cases of illegal coal mining in Laskein (September 2017) and Khloo Kynring (April 2018) in West Jaintia Hills. Audit noticed cases of illegal coal mining in the reserve forest areas in Garo Hills as reported by the Assistant Mines Royalty Inspector, Williamnagar, to the District Administration and Forest Department (June 2016). The Mining Department and District Administration officials<sup>46</sup>, during an inspection in Dipogre and Damal Asim area in West Garo Hills (April 2018) also reported on illegal mining operations at these two locations. There were several media reports detailing that illegal mining was continuing in the State.

Audit team during the field audit in East Jaintia Hills (July 2018) noticed huge coal stocks lying on the road side. After the latest transportation phase allowed by the Supreme Court which ended on 31 May 2018, there was only 20 thousand MT of coal stock left in the State<sup>47</sup>. At the request of Audit, officers from District Administration, Police and Mining Department<sup>48</sup> along with Audit jointly conducted joint physical inspection of three sites namely Rymbai road/village, Lad Sutnga area and Dkhieh village in East Jaintia Hills District (28 August 2018).

During the inspection, 12 mining sites were seen in Dkiah village, where coal mining appeared to be carried out. In each of these sites, extracted coal measuring between 10-20 thousand MT was lying dumped outside the coal mining pits. Labour camps, cranes, generators and diesel along with dumpers were also seen at these sites. In Rymbai road area, there were 20 coal depots with coal measuring approximately 1.50 lakh MT. These coal dumps were located in the vicinity of the main road. Heaps of coal, weighing around five lakh MT were lying dumped on both sides of the main road over a stretch of seven kms in Lad Sutnga area. Coal measuring approximately 5000 MT was found dumped in at least 12 locations in areas<sup>49</sup> adjacent to the National Highway from Jowai to Khliehriat. Photographs taken during the joint physical inspection are as follows:

<sup>45</sup> As reported by Police to the district administration.

<sup>46</sup> Geologist from Mining Department, West Garo Hills, Tura and Additional District Magistrate, Tura.

<sup>47</sup> State submitted in the Supreme Court (21 March 2018) that around 20000 MT coal is left to be transported in the State apart from South Garo Hills.

<sup>48</sup> Audit team was accompanied by District Mining Officer, Jowai, Deputy Superintendent of Police, Khliehriat and Extra Assistant Commissioner.

<sup>49</sup> Tuber Sohshrieh, 8<sup>th</sup> Mile, Iangkli and Bo Wokhu etc.



*A mining site at Dkiah, Khliehriat. Powered crane can be seen indicating that fresh coal mining is taking place*



*Coal heaps at Tuber, East Jaintia Hills*



*Labourers unloading coal at dumping site for transportation in Rymbai*

All line departments like Police, Forest, Transport, Mining and Taxation including District Administration, have intersecting and collective responsibility to enforce the ban on illegal mining. However, the Mining Department remains the main stakeholder of mining activities in the State. The fact that these huge coal dumps are located near the highways with the intention to be transported, only highlighted the ineffectiveness of the check-gates.

### **6.3.17      *Functioning of check-gates***

As per procedure, coal miners approach DMR/DMO for transporting coal against their available stock. DMR/DMO issues MTCs in triplicate copies after collecting royalty and Meghalaya Environment Protection and Restoration Fund (MEPRF). Destination and the exit point of the State have to be mentioned in the MTC. One copy of the MTC is retained with DMR/DMO.

Trucks carrying coal are required to produce the Mineral Transport Challans at the DMR check-gate, which after validation, retains one copy of the MTC. Transporters' copy of the Mineral Transport Challans is handed over back to the transporter after stamping it with vehicle details, its weight *etc.* as proof of passing through the check-gate.



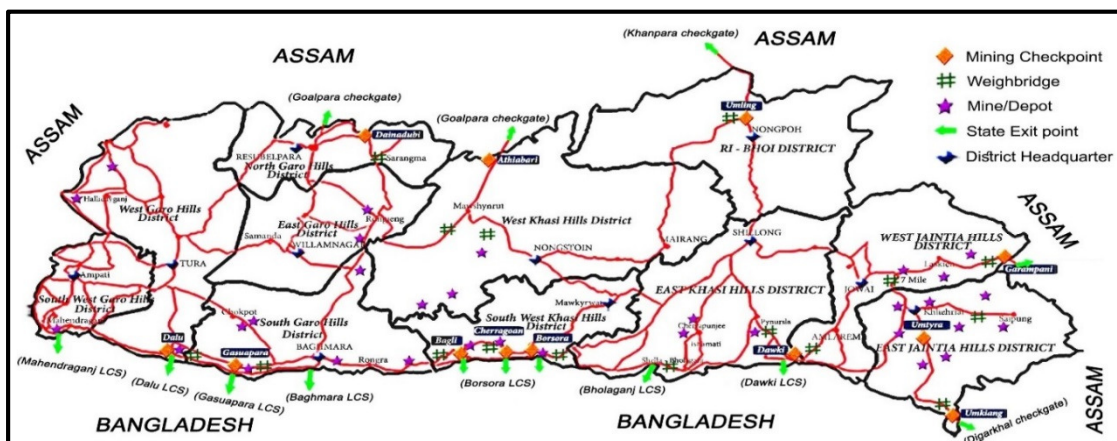
The State of Meghalaya is landlocked. Trucks carrying coal from Meghalaya are either intended for export to Bangladesh or have to pass through Assam. Mining Department has check-gates at exit points of the State to ensure that coal trucks are accompanied by proper documents validating payment of due royalty. Pursuant to the NGT order (07 October 2014), 13 integrated check-gates with personnel from Mining, Transport, Taxation, Police departments and District Administration were set-up. Also, the Transport Department notified 13 weighbridges on various dates between November 2014 and October 2015. Brief description of the duties of each line department has been stated in Table 6.7.

**Table 6.7 Functional roles of line departments at integrated check-gates**

Line Department	Function
Mining Department	<ul style="list-style-type: none"> <li>○ Check that each coal truck is accompanied by Mineral Transport Challans and MEPRF challans.</li> <li>○ Check the weighment slips issued by the weighbridge.</li> </ul>
Transport Department	<ul style="list-style-type: none"> <li>○ Set-up the weighbridges, issuance of weighment slips to detect overloaded goods laden vehicles.</li> <li>○ Realisation of appropriate penalty on overloading.</li> </ul>
Taxation Department	<ul style="list-style-type: none"> <li>○ Check that each coal truck is accompanied with proper documents for VAT/GST payment (not required in case of export).</li> </ul>
District Administration	<ul style="list-style-type: none"> <li>○ Off-loading of excess coal detected after realisation of appropriate penalty.</li> </ul>
Home (Police) Department	<ul style="list-style-type: none"> <li>○ Provide security to the line departments in effective discharge of duty.</li> </ul>

After exercising due checks that the trucks were accompanied with proper documents and ensuring that they are not carrying coal beyond permissible limit, the integrated check-gates were authorised to allow the trucks to exit the State.

**Fig 6.1 Location of Mining check-gates and Transport weighbridges in Meghalaya**



To examine compliance of the NGT order, Audit approached the Commissioner of Taxes, Assam, Commissioner of Transport, Assam and Deputy Commissioner, Shillong Customs Division, Government of India to ascertain the number of trucks

carrying coal from Meghalaya passing through Assam or to Bangladesh. The audit observations are discussed in Paragraphs 6.3.17.1 to 6.3.17.4.

#### **6.3.17.1 Transportation of excess quantity of coal not detected**

Prior to NGT's prohibitory orders (17 April 2014), if the trucks were caught carrying load in excess of the permissible limit<sup>50</sup>, the officials posted at the mining check-gates were required to collect penalty in addition to the royalty due on the excess load. After NGT orders, the check-gates were directed that in case any truck carrying excess coal beyond the permissible load was detected, penal action (penalty for overloading under Section 194 of the Motor Vehicle Act was a minimum fine of ₹2000 and additional fine of ₹1000 per MT for excess load) had to be initiated against the defaulters and the excess quantity off-loaded so that no overloaded truck could pass through the check-gate.

Scrutiny of records of Transport Department, Assam for the year 2017-18 disclosed that the officials of two<sup>51</sup> Assam Transport check-gates detected 3913 overloaded coal trucks exiting from Meghalaya with a total excess load of 25.37 thousand MT (averaged about 6.50 MT overload per truck). The Transport Department, Assam collected fine from overloaded coal trucks amounting to ₹3.31 crore.

Further, after receiving complaints from the residents and media reports about overloaded coal trucks coming from Meghalaya, the Deputy Commissioner, Cachar District<sup>52</sup>, Assam constituted an inspection team (18 January 2018). During the period from 22 January 2018 to 21 March 2018 (59 days), the inspection team detected 1373 overloaded coal trucks exiting from Meghalaya with total load of 35.60 thousand MT, with average excess load of 17 MT per truck (total excess load – 23.25 thousand MT). The team collected penalty of ₹3.83 crore for overloading.

The Commissioner of Transport of Assam on three separate occasions (13, 14 and 15 March 2018) requested the DMR, Meghalaya to convene a joint meeting for checking overloaded trucks originating from Meghalaya. However, no action was taken by the DMR against the request of the Commissioner of Transport, Assam.

Thus, at least 48.62 thousand MT excess coal was transported from Meghalaya to Assam during the year 2017-18. Since this excess load was not detected and reported at Meghalaya check-gates, it could not be accounted against the inventory of the coal owners as per NGT order. As a result, it led to revenue loss of at least ₹5.64 crore<sup>53</sup> in the form of royalty and Meghalaya Environment Protection and Restoration Fund (MEPRF). Also, the inadequate functioning of check-gates allowed illegal extraction/transportation of at least 48.62 thousand MT of coal valued at ₹23.58 crore in one year.

<sup>50</sup> 9 MT per truck as per notification of the Transport Department

<sup>51</sup> Khanpara, and Goalpara

<sup>52</sup> Cachar District in Assam borders Meghalaya. Coal trucks from Jaintia Hills District, Meghalaya exit to Assam through Cachar District.

<sup>53</sup> Royalty of ₹3.28 crore and MEPRF of ₹2.36 crore.

**Recommendation:** The Government should take strict action against check-gates' officials responsible for under-reporting of quantity of coal transported. Government should also take action against the DMR, Meghalaya, who failed to take action on the tips given by the Commissioner of Transport, Assam, about overloading of trucks.

### 6.3.17.2 Under-reporting of movement of coal trucks

Cross-verification of the records of Mining check-gates in Meghalaya with that of the Land Customs Stations<sup>54</sup> situated at Meghalaya–Bangladesh border revealed that there was an alarming trend of under-reporting of the number of trucks by the DMR check-gates. The check-gate-wise reported number of coal trucks is given in Table 6.8.

**Table 6.8 Reported movement of coal trucks post NGT orders (November 2014-May 2018)**

Land Custom Station	Reported number of trucks by LCS	Corresponding DMR check-gates in Meghalaya	Reported number of trucks by DMR	Under-reporting of trucks at DMR check-gates	Under-reporting of coal in MT at DMR check-gates	Extent of under-reporting by DMR check-gates	Revenue loss <sup>55</sup> (₹ in crore)
<b>Borsora</b>	197806	<b>Borsora, Cherragaon, Bagli</b>	193246	4560	<b>41040</b>	<b>2.31%</b>	4.76
<b>Dawki</b>	47248	<b>Dawki</b>	16379	30869	<b>277821</b>	<b>65.33%</b>	32.23
<b>Dalu</b>	2391	<b>Dalu</b>	1419	972	<b>8748</b>	<b>40.65%</b>	1.01
<b>Gasuapara</b>	87989	<b>Gasuapara</b>	21653	66336	<b>597024</b>	<b>75.39%</b>	69.25
<b>Total</b>	<b>335434</b>		<b>232697</b>	<b>102737</b>	<b>924633</b>	<b>30.63%</b>	<b>107.25</b>

(Source: Compiled from information given by Mining and Customs Department)

It is evident from the above Table 6.8 that due to failure of the Department over the control of the functioning of the Mining check-gates resulted in under-reporting the movement of coal trucks. Subsequent to NGT orders (12 November 2014) allowing transportation of coal, at least 102737 coal trucks passed through the Mining check-gates up to May 2018, which were not accounted for. In respect of Dawki and Gasuapara DMR check-gates, the extent of under-reporting was 65 per cent and 75 per cent respectively. This level of under reporting cannot happen without connivance of check-gate officials. Without provisioning for any overloading, inefficiency of Mining check-gates in enforcing the NGT orders allowed transportation of at least 9.25 lakh MT coal<sup>56</sup>, valuing ₹448.63 crore, source of which could not be ascertained. Due to the failure of the Department to check transportation

<sup>54</sup> Land Custom Stations are international check-gates manned by officials from Customs Department, Government of India.

<sup>55</sup> Calculated at the rate 1160 per MT (royalty – 675 per MT and MEPRF 485 per MT)

<sup>56</sup> 102737 trucks x 9 MT per truck = 924633 MT

of un-accounted coal through check-gates, the State Government suffered revenue loss of ₹107.25 crore (royalty - ₹62.41 crore and MEPRF - ₹44.84 crore).

As discussed in the *Paragraph 6.3.17.1* due to strict enforcement by District Administration in Cachar District, Assam (22 January 2018 – 21 March 2018), 1373 overloaded coal trucks exiting from Meghalaya were fined. Audit observed that during the same period (59 days), the corresponding Mining checkgate at the exit point of Meghalaya (Umkiang/ Rattacherra) registered movement of total 17 coal trucks and no cases of overloading was reported by the checkgate. Thus, under-reporting of at least 12.20 thousand MT coal<sup>57</sup> valued ₹5.92 crore by the Mining check-gates resulted in loss of royalty ₹82.38 lakh and MEPRF of ₹59.19 lakh.

The extent of under-reporting by Mining check-gates was more serious before NGT orders. During the period from April 2013 to November 2014, the four LCSs reported that a total of 2.60 lakh number of coal trucks, against which the corresponding six Mining check-gates reported 26.06 thousand coal trucks (10 *per cent*) *i.e.*, a huge 90 *per cent* under reporting. This adds to the under-reporting of 2.34 lakh number of coal trucks transporting 21.08 lakh MT coal valued at ₹1022.38 crore having a royalty implication amounting to ₹177.88 crore<sup>58</sup>.

During exit conference (December 2018), the Commissioner & Secretary, Mining Department avoided comments on under-reporting by the check-gates and merely stated that the matter would be looked into.

***Recommendation: The Mining Department should obtain periodical information from Land Customs stations to minimize the instances of under-reporting by the check-gates. The Government should take strict action against check-gates' officials responsible for under-reporting of quantity of coal transported. There should be quarterly meeting of the officials of Custom Department to discuss these issues, supported with requisite data of both sides. Reporting mechanism should also be introduced and details shared to guard against under-reporting.***

### 6.3.17.3

### ***Absence of DMR check-gates at the Indo-Bangla border***

As per the guidelines issued by NGT (September 2014), all coal laden trucks have to pass through the designated exit point manned by DMR staff to ensure that there is no unauthorised transportation of coal from the State. Audit observed that the Mining Department did not have check-gates at four exit points<sup>59</sup> at India-Bangladesh border. The records of LCS at these locations showed that 7465 coal trucks carrying 47.73 thousand<sup>60</sup> MT coal valued ₹23.15 crore passed through these LCSs during the

<sup>57</sup> 1356 trucks x 9 MT per truck = 12204 MT.

<sup>58</sup> Under-reporting of number of trucks = 260309 (LCS) – 26062 (DMR) = 234247; Unreported quantity of coal = 234247 nos. x 9 MT/ truck = 2108223 MT;  
Royalty due = 2108223 MT x ₹675/MT = 1423050525; penalty = ₹355762631 (25 *per cent* of royalty); Total short-collection of royalty = ₹1778813156

<sup>59</sup> Bholaganj, Shella bazar, Baghmara and Mahendraganj

<sup>60</sup> 19357 MT (post-NGT) *plus* 28372 MT (pre-NGT)



years 2013-14 to 2017-18. This had the revenue implication of ₹4.64 crore<sup>61</sup>. These exit locations are in the major transport route for limestone export.

Thus, to summarize the above points (*paragraphs 6.3.17.1 to 6.3.17.3*), systemic incompetence of these check-gates in preventing illegal transportation of coal out of State of Meghalaya had resulted in loss of revenue amounting to at least ₹296.82 crore during the period 2013-14 to 2017-18. Moreover, it allowed transportation of at least 31.42 lakh MT unaccounted coal during the period from November 2014 to May 2018 in violation of NGT order, which was around 10 *per cent* of total assessed quantity for the State.

During exit conference (December 2018), the Commissioner & Secretary, Mining Department did not cite any reasons for non-setting up of the Mining exit check-gates at the aforesaid exit points but stated that the Department would look into the matter.

#### **6.3.17.4 Jaintia Hills coal exiting from North Garo Hills to Assam**

The DMR in a letter to the DCs (May 2018) mentioned that transportation of coal is going on in haphazard manner wherein coal laden vehicles with South Garo Hills district transport challans were proceeding towards Guwahati from Jaintia Hills district which indicated that the coal was from Jaintia Hills which was irregular in nature as the challans were issued for particular stocks in the districts and loading has to be done from that stock only. Further, DMR requested DCs and wrote “*while monitoring, logical exercise might be done so that these cases do not occur which would imbalance the coal stock as well as indirectly encourage illegal extraction.*”

Audit scrutiny of records of Dainadubi check-gate<sup>62</sup> in North Garo Hills District revealed that 38211 coal trucks passed through the check-gate during the period January 2018 to May 2018. Out of these, 9716 trucks carrying 87444 MT of coal with MTCs which were issued from Jaintia Hills. This was very unusual, since it was not a practical route<sup>63</sup> for a vehicle from Jaintia Hills to exit to Assam through North Garo Hills (Refer *figure 6.1*).

Thus, Audit is of the view that there was a high probability that these trucks were carrying coal from Garo Hills. This not only affected the coal stocks of districts concerned affecting the share of royalty of the District Councils, but there was every possibility of transportation of illegal extraction of coal through misuse of transport challans of other districts.

The NGT in its order (9 June 2014) instructed to fix two check-points *enroute* transportation of the extracted coal from the point of loading to the point of destination, but these check-points were not set up as per the direction. Since the

<sup>61</sup> Pre-NGT: Royalty = 28372 MT x ₹675 per MT = ₹19151100; penalty = 25 *per cent* of royalty = ₹47.88 lakh  
Post-NGT: Royalty = 19357 MT x ₹675 per MT = ₹13065975; MEPRF = 19357 MT x ₹485 per MT = ₹9388145

<sup>62</sup> Dainadubi check-gate (Meghalaya) is situated at Meghalaya-Assam border.

<sup>63</sup> Coal trucks from Jaintia Hills exit to Assam through Umkiang/Rattacherra, Garampani check-gates.

Department did not set up the check-gates on the point of origin, the source of these coal trucks could not be ascertained.

**Recommendation:** *The Department should put in place the mechanism to ascertain point of origin to prevent misuse of transportation challans.*

### **6.3.18 Ill-Effects of unscientific mining practices**

About 77 per cent of Meghalaya is having forest. Most of the mineral resources are found in areas which are under the forest cover, hence mining in the State has severe environmental implications. For years, the indiscriminate and unscientific exploitation of the minerals has resulted in widespread air and water pollution. Noticing the trend of unsustainability of these mining practices, courts had to intervene in the matter. The High Court of Meghalaya while prohibiting mining in Meghalaya (30 June 2015) observed “*The mining of coal and limestone in the State of Meghalaya had caused environmental damage and regulation of mining activities by the State was essential to safeguard the environment and ecological balance.*”

#### **Cases of ill-effect of un-scientific mining**

(i) The committee constituted by NGT submitted (June 2014) that it had collected water samples from active coal mines in Garo, West Khasi and East Jaintia Hills and on analysis, it found that the pH<sup>64</sup> of mine water effluent/acid mine drainage<sup>65</sup> (AMD) remained very low in all the cases. These AMDs were pumped out from the mines and discharged into nearby streams or river. The AMD generated from the coal dumping yards were highly acidic and they also contributed equally to the surface water pollution in the mining areas. The discharge of AMD from the coal mines (active and abandoned) and the surface runoff from the coal dumping yards were the root cause of the water pollution in the area. This had polluted most of the rivers and streams in the mining areas by turning the water highly acidic.

(ii) Meghalaya State Pollution Control Board (MSPCB) in respect of water pollution in Khasi Hills region (June 2014) reported that there was also serious upstream pollution in that area. The MSPCB carried out tests for examining quality of water in Lukha, Lunar and Umso rivers in Jaintia Hills (November 2015). The inspection revealed that AMD originating from the nearby coal mines was adversely contaminating the rivers. The MSPCB also carried out an inspection of Kynshi, Wahblei and Rilang rivers in January and April 2018, which revealed that the acid effluent from the coal mines located in these areas were affecting the water quality of

<sup>64</sup> pH is a scale of acidity from 0 to 14. It tells how acidic or alkaline a substance is. More acidic solutions have lower pH. More alkaline solutions have higher pH. Substances that aren't acidic or alkaline (*i.e.* neutral solutions like water) usually have a pH of 7. If the pH of water is too high or too low, the aquatic organisms living within it will die.

<sup>65</sup> AMD is the outflow of acidic water from coal mines, coal stocks and coal handling facilities. It is caused by the oxidation of pyrite and sulphur in the presence of water leading to the formation of Sulphuric acid. This water is highly acidic and unfit for drinking and toxic for aquatic life.

these rivers thereby posing threat to the aquatic life and the water was unfit for drinking.

(iii) The DMR also conducted (June 2016) a geo-environmental investigation on the impact of coal mining and coal mine shafts around Khliehriat and Sutnga areas in East Jaintia Hills district. The investigation revealed that in the areas where coal mining was concentrated, most drainages were dry and devoid of life forms. The investigation also pointed out that coal stored in the coal depots caused AMD during rainy season and air pollution during dry season. Thus, the water bodies in these areas were unfit for drinking and pose serious threats to human life as well as for posing serious threat to flora and fauna of the area.



*Heaps of coal dumped near water stream in East Jaintia Hills*

Meghalaya Mines and Mineral Policy, 2012 aimed at maintaining a fine balance between economic development and ecological aspects. It stated that an Environment Management Plan should adequately provide for controlling the environmental damage, restoration and reclamation of mined areas. Mitigation measures should invariably incorporate prevention and control of water pollution, gaseous pollutants, soil erosion and stabilization of waste dumping sites including repairing and revegetation of the affected forest area. The Chief Secretary directed the Mining Department (January 2016) to undertake preliminary works and prepare action plan in co-ordination with Forest Department and MSPCB for restoration of the environment including restoration of rivers in the State reeling from the adverse effects of AMD from coal mines. However, such environmental management plan was not prepared. The Policy largely remained a paper exercise only. The NGT had directed (June 2014) the State Government to prepare a comprehensive mining plan for the State in coordination with Ministry of Environment and Forest, GoI and Ministry of Coal, GoI, in order to allow coal mining in the State. The Mining Plan has not yet been finalized (July 2018). In absence of a comprehensive plan, funds for various environmental reclamation activities *e.g.* Meghalaya Minor Mineral Reclamation Fund, Meghalaya Environment Protection and Restoration Fund, could not be utilised.

### Part III: Internal Controls

#### 6.3.19 Internal control mechanism

Internal controls are safeguards that are put in place by the management to obtain assurance that its operations are carried out as per the laid down action plan. Mining Department is entrusted with twin responsibilities of maximizing State revenue and enforcing environmentally sustainable practices. In the light of the National Green Tribunal's recent interventions in the State, the latter function had assumed equal significance.

Audit carried out an assessment of the internal controls of the Mining Department during the course of Performance Audit. The audit findings have been reported in the succeeding paragraphs.

##### 6.3.19.1 Ineffective enforcement wing

Audit had been mentioning cases of under-reporting of minerals being transported by the check-gates. During the previous four years, audit paragraphs with revenue implication of ₹49.79 crore in relation to such under-reporting had featured<sup>66</sup> in Audit Reports of the Comptroller and Auditor General of India. Further, the Transport Department, Assam had also communicated to the DMR, Meghalaya on several occasions regarding overloaded coal trucks entering Assam from Meghalaya without proper documentation.

Despite the Department of Mining being well aware of improprieties taking place in almost all the check-gates resulting in huge revenue loss to the State exchequer, no action was taken to monitor the activities of the check-gates to guard against under-reporting. No action was taken in any of the reported cases against the officials concerned for the lapses. The Mining Department constituted a Vigilance Squad<sup>67</sup> in October 2002 to keep a check on the functioning of DMR check-gates through surprise inspection. However, there was no record of any inspection conducted by the Vigilance Squad till date (August 2018). The Vigilance Squad remained only on paper and failed to serve its purpose of checking the activities in check-gates. Moreover, there was no record available with the department which was indicative of implementation of the enforcement measures.

***Recommendation: The Government should ensure deployment of adequate number of personnel for Vigilance Squad to prevent illegal transportation of minerals. The activities of the Vigilance Squad should be properly documented.***

<sup>66</sup> CAG Audit Report for the State of Meghalaya (Revenue Sector) for the years 2013-14, 2014-15, 2015-16 and 2016-17.

<sup>67</sup> Comprising of the DMR, the Joint Director and the Financial Adviser, Mining Department.

### 6.3.19.2 Coal being transported on the strength of fake Mineral Transport Challans and MEPRF challans

Subsequent to NGT orders (17 April 2014), the Mining Department recalled the Mineral Transport Challans issued prior to 17 April 2014. The transportation of coal was allowed (November 2014 onwards) on the basis on new Mineral Transport Challans and Meghalaya Environment Protection and Restoration Fund (MEPRF) challans against the already assessed coal stock. The value of one Mineral Transport *Challan* and MEPRF *challan* was ₹6075 and ₹4365 respectively<sup>68</sup> as one Mineral Transport *Challan*/MEPRF *challan* allows for transportation of nine MT of coal. The Mineral Transport Challans and MEPRF challans were valuable instruments and served not only to collect revenue for the State Government, but also acted as control mechanism by means of which the Government could monitor the movement of coal in the State.

DMR records showed that the Officer-in-charge of Umling mining check-gate detected three fake challans in January 2015. Later, in April 2018 and May 2018, based on complaints filed by a coal dealer<sup>69</sup> about misuse of transport challans in his name, the officials manning Dainadubi and Borsora check-gate also detected 32 fake challans.

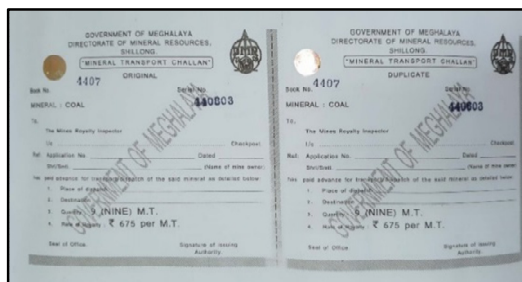
The inspection of the challans issued by the Department revealed that challans had a hologram as the only security feature for cross verification or authenticity. There was no computerized system of Mineral Transport Challans validation and the specimen signatures of Mineral Transport Challans issuing officials were also not available in the check-gates. In such a scenario, the check-gates had no mechanism to verify the authenticity of these MTCs. Thus, in the above two cases coal valued ₹15.28 lakh was illegally transported out of the State on which royalty and MEPRF of ₹3.65 lakh could not be realised.

<sup>68</sup> The transporter is allowed to carry nine MT of coal after payment of royalty at the rate of ₹675/MT and MEPRF at ₹485/MT. Thus, the value of one Mineral Transport Challans challan is ₹6075 and MEPRF challan is ₹4365.

<sup>69</sup> M/s Cheran Coal Agency.



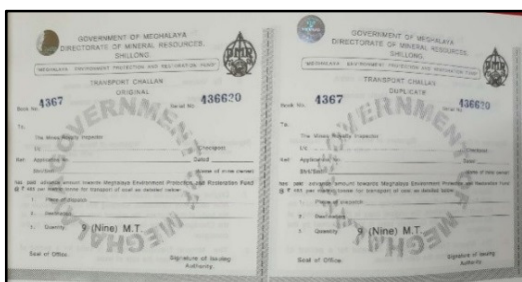
*Specimen of genuine and fake transport challans*



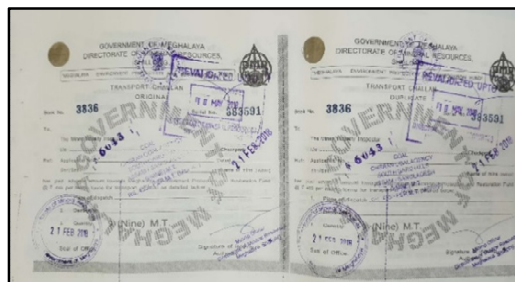
[A] Genuine MTC



[B] Fake MTC



[C] Genuine MEPRF challan



[D] Fake MEPRF challan

*Specimen of genuine and fake transport challans*

The Commissioner of Transport, Assam had taken up the matter in writing with the DMR, Meghalaya (17 May 2018) that during the enforcement drive in Cachar District, Assam (January to May 2018), it was found that the coal trucks did not have “proper” challans issued by the Meghalaya Mining Department. Further, it was difficult to ascertain the genuineness of challans issued by the Meghalaya Mining Department to the coal transporters passing through Assam. Action taken by DMR in this regard was not found on record which indicated lack of seriousness on the part of DMR to check illegal/unauthorised activities taking place. The DMR had (August 2018) initiated the process to implement a computerized Coal Transport Challan Verification System through inviting Expression of Interest in this regard.

During exit conference (December 2018), the Commissioner & Secretary, Mining Department stated that the Department is planning to introduce Quick Response (QR) Code in the Mineral Transport Challans to detect and stop such revenue leakage. The status of introduction of QR code in Mineral Transport Challans was awaited (June 2019).

**6.3.19.3**

***Lack of inspection of mining operations***

Under Section 24 of the MMDR Act, 1957, the officials of the Mining Department are authorised to carry out inspection of the mining leased area. Audit observed that the Mining Department did not have a mechanism to verify the quantity of minerals extracted by the lessees before dispatch to the cement plants/storage areas. The quantity of limestone extracted as reported in the monthly returns by the lessees were generally accepted by the Department. Audit had pointed out the instances of

misreporting of quantity of limestone utilized by cement companies in the Report of the Comptroller and Auditor General of India (Revenue Sector) for the year 2016-17, Government of Meghalaya also, but no mechanism to control the instances of misreporting has been developed by the Department till date (June 2019).

DMR records revealed that eight lessees reported extraction of 64.86 lakh MT of limestone against their planned production of extraction of 100.28 lakh MT as per their approved mining plan between 2013-14 and 2017-18 (**Appendix XIV**). Further the Meghalaya High Court prohibited (June 2015) extraction of limestone from non-leased areas. The source of limestone for the cement companies was limited to the production from their leased areas. Audit observed that the Mining Department did not inspect any leased areas of mining operation during the period of audit (2013-18). Thus, in the absence of any monitoring mechanism, the Department had no mechanism to verify the correctness of the monthly returns submitted by the lessees.

During the Exit Conference (December 2018), the Commissioner & Secretary stated that inspections could not be carried out due to shortage of manpower. The reply was not tenable as it was the duty of Government to perform the mandated jobs.

***Recommendation: The Department needs to put in place an alternative system to verify the reports submitted by the lessees. The Departmental officials should carry out regular inspection of leased mining areas to ascertain whether limestone reported as extracted from leased areas by the lessees was correct.***

#### **6.3.19.4 Non-realisation of arrears of revenue from cement companies**

Under Section 9 of the MMDR Act, 1957, the holder of a mining lease shall pay royalty in respect of any mineral removed or consumed at the rate specified in respect of that mineral. Further, as per Rule 45 of the Mineral Concession Rules 1960, if the lessee makes any default in payment of royalty, the lessor shall give notice to the lessee requiring him to pay the royalty within sixty days from the date of the receipt of the notice and if the royalty is not paid within such period, the lessor may cancel the lease.

Audit observed that the cement companies did not pay the royalty due with the Mining Department. The DMOs failed to collect outstanding dues from the cement companies. The arrears of payment stood at ₹207.15 crore as on December 2017 from 12 cement companies (**Appendix XV**). The arrears accrued primarily on account of non-payment of royalty on limestone extracted by the lessees from their leased areas. In respect of the seven lessees<sup>70</sup> which found mention in the previous Audit Report<sup>71</sup>, the arrear revenue increased<sup>72</sup> from ₹32.50 crore (July 2013) to ₹125.29 crore (December 2017). The Department did not take action against the cement companies other than issuing the demand notices.

<sup>70</sup> (i) Adhunik Cements (ii) Meghalaya Cements (iii) JUD Cements (iv) Hills Cements (v) Meghalaya Minerals and Mines Ltd. (vi) Komorrah Mining (vii) Mawmluh Cherra Cements

<sup>71</sup> CAG Audit Report for the State of Meghalaya (Revenue Sector) for the year 2012-13

<sup>72</sup> Arrear revenue increased in respect of all the seven lessees.

***Recommendation: The Mining Department should put in place necessary mechanism to collect revenue and to take stringent action against the cement companies for non-payment of arrears in accordance with MMDR Act.***

#### **6.3.19.5 Non-maintenance of important records**

During audit, it was observed that the Department did not maintain the various reports which were vital to exercise control on the transportation of coal and ensure collection of due revenue from limestone lessee. There was absence of these key reports and lack of sharing of information from/with other government departments which have been highlighted in various audit observations in this report.

Some of these key reports which were essential to maintain control over functioning of the Department for enforcement of NGT orders, and could not be furnished to Audit are as under:

- Phase-wise quantity of coal transported/consumed in the State and the leftover stock position.
- Consolidated list of coal miner-wise stock position, royalty collection and MTCs issued.
- Status of validated MTCs at Mining check-gates.
- Status of royalty collection on local limestone purchases by cement plants.
- Information about coal and limestone exported to Bangladesh as maintained by Land Customs Stations.

Thus, due to the absence of the above mentioned key reports a number of irregularities were noticed by audit impacting the revenue of the State Government.

***Recommendation: The Mining Department should improve its system of inventory management of minerals and maintain miner-wise stock inventory as per NGT guidelines. There should be proper accounting of transport permits - issued and validated, royalty collected, quantity allowed to be transported and figures of quantity transported reported by the check-gates.***

#### **6.3.19.6 Internal audit**

The Mining Department has no separate Internal Audit Wing (IAW). This was pointed out earlier by audit but no action has been taken by the Department to create an IAW.

***Recommendation: The Government may consider to put in place a system of Internal Audit to ensure compliance with Acts/Rules/Regulations.***

#### **6.3.20 Follow-up Audit**

A Performance Audit on “Controls and System for Mining in Meghalaya” was carried out in 2013 covering the period from 2008-09 to 2012-13 and featured in the Audit Report for the year ended 31 March 2013. It highlighted several issues including



non-compliance with the acts and rules resulting in loss of revenue to the State exchequer. During the current audit, a follow-up on the action taken by the Department on the audit observations made in the previous report was done. Some of the major audit observations featured in the Report and status of the action taken by Department are given in the following table:

**Table 6.9- Status of the action taken by Department on audit observations**

Summary of Audit observation	Action taken by the Department
As of July 2013, the Department had an arrear revenue amounting to ₹25.50 crore from seven limestone lessees.	The Department did not realise the arrear revenue from the seven lessees. The arrear revenue increased to ₹125.29 in 2017-18. Demand notices were issued by the DMR against the defaulting companies (June 2018) for payment of the outstanding dues up to December 2017. The status of recovery was awaited (June 2019).
In Meghalaya, 15 out of 16 limestone mining leases granted were operating without obtaining forest clearance from MoEF, GoI.	All the 15 lessees had still not obtained Forest clearances but continued extraction of limestone. No action was taken against the lease holders by the Department (June 2019).
The Mining Department did not share information with Forest Department with respect of limestone extracted from non-leased areas, resulting in non- collection of royalty of ₹3.23 crore.	Duality of control for royalty collection on limestone still continues which resulted in loss of revenue amounting to ₹41.08 crore (Refer Paragraph 6.3.10.1 and 6.3.10.2 of this Report)
The DMR has not prescribed any periodic reports and returns for submission by the field offices and the check-gates. Additionally, due to non-establishment of check-gates at Shella Bazar and Bholaganj, the Department did not realize cess amounting to ₹17.29 lakh.	The DMR has not prescribed any MIS reports to be furnished by the check gates and there was no periodic reconciliation with the Land Custom Stations (LCSs) resulting in the mining check-gates' continued under-reporting of minerals being transported. The Department has also not established mining check gates at Shella Bazar and Bholaganj.
Vigilance Squad was constituted in August 2002 to conduct surprise inspection of check gates, but the Vigilance Squad did not conduct inspection of any of the check-gates	There were no records available in the DMR regarding the role and functioning of the vigilance squad. No surprise inspections were carried out by the vigilance squad or the DMR in any of the check-gates during the period 2013-18.
There was under reporting of excess load of coal by four DMR check-gates (Dainadubi, Dawki, Gasuapara and Dalu) leading to loss of revenue of ₹55.06 crore.	No action has been taken on this issue. The DMR has not been able to recover the royalty realisable from under-reported movement of coal at the DMR check-gates. Additionally, no action has been taken against the officials concerned.
There was short payment of Financial Assurance amounting to ₹16.77 lakh by M/s Lafarge Umiam Pvt. Ltd.	No action was taken by the Department to realise the Financial Assurance from the lessee.

MTCs obtained at the previous rate of ₹290 were produced by 1516 coal trucks (between 23 June 2012 and 27 June 2012) carrying 13223 MT of coal at Mookyndur, Umling and Borsora check-gates, after the rate had been revised to ₹675 per MT and the check-gate officials allowed the same to pass, leading to loss of revenue of ₹64.11 lakh.	No action has been taken by the DMR to realise the short-realised royalty.
Five lease holders having eight mining leases have produced 27.57 lakh MT of limestone between May 2011 and December 2012 against which they have deposited royalty of only ₹0.40 crore for 0.79 lakh MT leaving a balance of ₹16.45 crore royalty outstanding for 26.78 lakh MT of limestone. In addition, cess amounting to ₹5.35 crore was not paid for the entire quantity produced.	Audit observed that the five lessees continued to have outstanding arrears even during the period of the present audit period (2013-14 to 2017-18). Though DMR had issued demand notices, outstanding dues were yet to be realised.

The details have been given in *Appendix XVI*.

#### 6.3.21 Conclusion

Audit observed a number of systemic deficiencies in the way the Department had been functioning. There was hardly any monitoring of the limestone leased mining areas by the Department. The High Court of Meghalaya prohibited (June 2015) mining activities in the State without necessary clearance. The limestone mining continued to be carried out in the leased areas without necessary clearances. The lessees continued to carry out limestone mining without any approved mining plan. The arrears of revenue collection from cement companies ballooned to more than ₹120 crore. The demand notices issued to the cement companies received dismal response. The Department had shown helplessness in recovery of arrears.

After the National Green Tribunal's (NGT) prohibition on coal mining in the State, the Department had not been able to enforce the NGT's directions. The process of documentation in the Department was extremely poor. The Department allowed reassessment of coal stock against the NGT's direction. The Department had not been diligent in issuing the Transport Permits to the coal dealers. Audit noticed illegal mining and transportation of coal and irregular issuance of transport challans by the Department.

There was little monitoring over the activities of the field offices and no coordination with the other departments for sharing the information, which contributed to revenue loss to the State. The check-gates continued to be ineffective in keeping a check on illegal transportation, resulting in massive under-reporting of overloading and illegal transportation.

There was serious air, water and environmental pollution caused by the illegal, unregulated and indiscriminate mining being carried on in various parts of the State of Meghalaya.

### 6.3.22 *Recommendations*

- *The Department should put in sincere efforts to realize the arrears from cement companies. In case of non-responsiveness to the demand notices, the Department should take further action in accordance with Mines and Minerals (Development and Regulation) Act.*
- *The Government should take action against the officials responsible for re-assessment of coal stock in violation of National Green Tribunal order and issuance of Transport Challans authorizing transportation of illegally extracted coal.*
- *Mining Department should actively interact with Forest, Customs departments and their counterparts in Assam to obtain periodical information so that it may act as an effective control to minimize the instances of under-reporting by the check-gates.*
- *The Department needs to improve its monitoring mechanism, especially in respect of leased mining areas, where the Department has sole administrative control. The Department needs to put in place an alternative system to verify the reports submitted by the lessees. Site inspections should be carried out to oversee the pollution control measures deployed and the afforestation being carried out. The Department needs to put in place an alternative system to verify the reports submitted by the lessees.*
- *The performance of the check-gates needs massive improvement. The computerization work for verifying MTCs should be sped up. Vigilance squad has to be more active. The Department should fix responsibility on the officials responsible for not acting to detect/report instances of overloading. As far as possible, regular staff should be posted at check-gates to control leakage of revenue and to fix the responsibility in case of lapses.*

