# PREFACE

This Report for the year ended 31 March 2010 containing the results of the Audit of Mining Receipts of Government of Rajasthan has been prepared for submission to the Governor under Article 151 (2) of the Constitution of India.

The audit of non-tax mining receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971.

The cases mentioned in this Report are among those which came to notice in the course of test-audit of records of selected units during the year 2009-10, as well as, those noticed in earlier years but could not be included in the previous reports.

# Executive summary

Minerals are valuable natural resources being finite and non-renewable; therefore, their exploitation is guided by long term national goals and perspectives. Mineral exploration and development is closely linked with the development of economy and upliftment of inhabitants residing nearby. However, a harmony and balance is to be maintained between conservation and development as it intervenes with the environment and social structure.

Management of mineral resources is the responsibility of both the Central Government and the State Governments in terms of entry 54 of the Union list (List I) and entry 23 and entry 50 of the State list (List II) of the seventh schedule of the Constitution of India.

Receipts from mines and minerals mainly consist of royalty which is levied either on specific or *ad valorem* basis on the quantity of mineral removed or consumed from mines. Dead rent is levied on the area leased out for mining activity. Other receipts for Mining Department are excess royalty collection, application fee, licence fee, permit fee, development charges, prospecting charges, penalties and interest for delayed/belated payments of dues *etc.* Rates of royalty and dead rent in respect of ***major minerals*** are prescribed by the Central Government but these are collected and utilised by the State Government; whereas, rates of royalty and dead rent in respect of ***minor minerals*** are determined by the State Government and their collection and utilisation is done by the State Government.

Rajasthan is one of the top nine minerals producing states. It has more than 90 *per cent* of country's resources of wollastonite, lead, zinc and rock phosphate and is almost the sole producer of calcite and natural gypsum. It has about 64 different kind of major and minor minerals and contributes more than four *per cent* in national mineral production.

We conducted a Performance Audit of Mining Receipts of the period 2004-05 to 2008-09 in order to ascertain whether the provisions of various Acts and rules made thereunder were enforced effectively by the Mining Department. We also ascertained whether there existed an effective system for computation, levy and realisation of various fees, rent, royalty, penalty *etc.* in the Department; and the action taken in the cases of default or illegal excavation of minerals was effective.

We also analysed internal controls and monitoring mechanism for their effectiveness. Further, we tried to assess whether the environmental and ecological concerns had been taken care of.

We found that though illegal mining of minerals is a matter of concern in the State and in the knowledge of the Department; the Rules do not provide for recovery of damages caused to the Environment and cost of reclamation required after mining activity. This is not consistent with the National Environment Policy, 2006.

We found irregularities in management of leases, unauthorised excavation, non/short assessment and realisation of royalty, misuse of *rawannas etc.* aggregating ₹ 402.85 crore as mentioned in the succeeding chapters.

We observed that the percentage contribution of the mining sector in total revenue of the State decreased from 8 *per cent (*2006-07) to 6.8 *per cent* (2008-09). There is ample scope of improvement by revamping realisation system and plugging revenue leakages.

The arrears of revenue increased from ₹ 62.98 crore (as on 31 March 2004) to ₹ 103.16 crore (as on 31 March 2009) mainly due to non-recovery of charges levied in cases of illegal mining of minerals. The recovery of old arrears ranged between 6.6 and 15.8 *per cent* as against target of 50 *per cent*.

We observed that in absence of internal audit of almost all the mining units which had not been done since 2004-05, there was no effective system of internal check on the activities of the Department.

We found that large number of applications for mining leases/quarry licences were pending resulting in non-exploitation of minerals and development of mineral industries.

In office of the Mining Engineer, Kota excess royalty collection contract of mineral sand stone and masonry stone was given at much higher rates than actual realisation of royalty amount, which indicated illegal despatch of minerals.

Our scrutiny revealed large scale misuse of *rawannas* and despatch of minerals without *rawannas,* and cost of minerals was yet to be recovered in cases of illegal/unauthorised mining.

We also found that the cost of illegally excavated minerals by the Public Works contractors was pending for recovery.

# Summary of recommendations

**For augmentation of the mining receipts, efficient revenue collection and check against illegal excavation, we feel that following actions are required:**

❖ **Non-observance of conservation rules**

- The Government may consider stacking of non-saleable or sub-grade minerals in such a manner so that they can be retrieved easily in future and also ensuring zero waste as envisaged in the National Mineral Policy, 2008.

**(Paragraph 2.3)**

❖ **Irreparable damages to environment**

- A provision may be made for recovery of damages caused to environment and reclamation of the area due to illegal excavation of minerals.

**(Paragraph 2.4)**

❖ **Arrears of revenue**

- A strong mechanism should be developed to ensure speedy recovery of sums due to Government.
- Efforts may be made for augmenting revenue of Mining sector and for recovery of old dues.

**(Paragraphs 3.3)**

❖ **Internal audit**

- Internal audit may be conducted on regular basis for detecting malfunctioning of the system, leakage of the revenue and compliance of rules and provisions of the Act**.**

**(Paragraph 3.4)**

❖ **Grant of leases**

- The Government may create an effective co-ordination mechanism among various departments.
- The Government may specify a time frame for disposal of applications for grant of mining leases.
- Guidelines may be issued for granting fresh leases in case of surrendered and cancelled leases. A system of receiving no objection certificates from different departments of Central/State Government for timely execution of sanctioned leases may be evolved.

**(Paragraph 4.2)**

❖ **Non-adherence of Government instructions**

- The Government may consider inclusion of contract damage clause in the tender notices.

**(Paragraph 4.4)**

❖ **Non/short recovery of royalty**

- The Government may consider instituting a mechanism of surveys to ensure that royalty is charged as per rules.
- The Government may consider instituting a periodical monitoring system in the Department to watch pending royalty assessment cases and recoverable royalty amount and to verify the actual despatch of mineral as per pit measurement.

**(Paragraphs 5.4 and 5.5)**

❖ **Unexplained source of royalty payment**

- The issue of excess royalty collection contracts should be examined in depth and proper policies are framed to secure ecology and wealth of the State.

**(Paragraph 6.4)**

❖ **Lack of control on issue of *rawannas***

- The Government may evolve a procedure to eliminate misuse of *rawannas* and timely recovery of cost of minerals.
- The Government may consider doing away with the committee intervention and put in place an appropriate departmental mechanism to decide upon cases of illegal mining.

**(Paragraphs 6.5 and 6.6)**

❖ **Illegal excavation and despatch of minerals**

- The Government may evolve a concrete system to recover all pending royalty/cost of minerals used in works before final payments to contractors. For this purpose strong co-ordination is required to be developed between Works Department and Mining Department.

**(Paragraph 6.12)**

❖ **Lacunae in rules**

- The Government may clearly define the rate of royalty to be recovered in cases of despatch of minerals more than 10 *per cent* but upto 25 *per cent* over and above the quantities authorised in short term permit.

**(Paragraph 6.14)**

❖ **Delay in approval of cost of illegally excavated minerals**

- The Government may consider preparation of *panchnamas* in prescribed format and setting a time frame for approval of cost of illegal despatches of minerals.

**(Paragraph 7.3)**

❖ **Delay in disposal of appeals**

- The Government may consider setting a time frame for disposal of pending appeal cases.

**(Paragraph 7.4)**

❖ **Pending laboratory samples**

- The Government may take effective steps for equipping the laboratory adequately to expedite the analysing/testing of the samples received in laboratory or alternatively consider outsourcing this activity.

**(Paragraph 7.7)**

❖ **Non/short recovery of prospecting expenses**

- The Government may consider maintaining systematic and authentic records of expenses incurred on prospecting the areas and recovery made from lease holders.

**(Paragraph 7.9)**

# CHAPTER-I

# Introduction

**1.1** Minerals are valuable natural resources being finite and non-renewable; therefore, their exploitation is guided by long term national goals and perspectives, which in turn are influenced by global scenario. Mineral exploration and development is closely linked with development of economy and upliftment of inhabitants residing nearby but simultaneously as it intervenes with the environment and social structure, a harmony and balance is to be maintained between conservation and development. Minerals mean all minerals except natural gas and petroleum which are dealt with separately. Further, minerals have been divided in two categories, firstly, minor minerals which include building stone, gravel, ordinary clay, ordinary sand and any other mineral notified by the Central Government. Remaining all minerals are termed as major minerals which are further classified as hydrocarbons or fuel minerals (such as coal, lignite *etc.*), atomic minerals, metallic and non-metallic minerals.

## 1.2 Management of mineral resources

**1.2.1** Management of mineral resources is the responsibility of both the Central Government and the State Governments in terms of entry 54 of the Union list (List I) and entry 23 and entry 50 of the State list (List II) of the seventh schedule of the Constitution of India. According to it, so long as Parliament does not make any law in exercise of its powers in entry 54, the powers of the State legislature in entry 23 and in entry 50 would be exercisable by the State legislature. The Central Government had also enacted the Mines and Minerals (Development and Regulation) (MMDR) Act, 1957 which lays down the legal framework for regulation of mines and development of all minerals other than petroleum and natural gas. In addition, Mineral Concession (MC) Rules, 1960 for regulating grant of permits, licences and leases in respect of all minerals other than Atomic minerals and minor minerals besides the Mineral Conservation and Development (MCD) Rules, 1988 for conservation and systemic development of minerals have been framed. The Central Government has framed 'National Mineral Policy 2008' to develop a sustainable framework for optimum utilisation of mineral wealth for industrial growth simultaneously improving life of people. Prior to this 'National Mineral Policy 1993' was in vogue.

**1.2.2** The State Government had promulgated a 'Mineral Policy, 1994' for minor minerals. It has further formulated the Rajasthan Mineral Policy, 2011 subsequent to introduction of a model State Mineral Policy 2010 by the Central Government. It has also framed the Rajasthan Minor Minerals Concession (RMMC) Rules, 1986 which governs prospecting and mining of minor minerals.

**1.2.3** The Central Government, after consultation with the State Government may undertake, refuse or reserve, prospecting or mining operations in specified areas. The State Government, with the approval of the Central

Government can reserve any area for undertaking prospecting and mining operations through Government company or corporation owned by Government.

A prospecting licence holder can be given a preferential right for obtaining a mining lease in respect of that land, which was held by him under prospecting licence. The State Government has decided to grant mining lease of gypsum to the private entrepreneurs as captive mines. The Central Government has exclusively reserved mining operations of mineral lignite through Government companies or undertakings.

## 1.3 Why we chose the topic

Rajasthan is one of the top nine minerals producing states. It has more than 90 *per cent* of country's resources of wollastonite, lead, zinc and rock phosphate and is almost the sole producer of calcite and natural gypsum. It has about 64 different kind of major and minor minerals and contributes more than four *per cent* in national mineral production.

Further, the mining receipts of ₹ 1,275.59 crore realised during the year 2008-09 constituted 6.8 and 32.8 *per cent* of total revenue and non-tax revenue respectively, of the state. Thus, this sector plays a vital and important role in development of the National and State economy.

A performance review on the same topic was incorporated in the Audit Repot 2004-05, highlighting non/short recovery of dues, royalty, interest *etc.* Since then a lot of changes have been affected by introduction of the National Mineral Policy, 2008 especially focusing on environmental and ecological concerns.

The review indicated a number of system and compliance deficiencies which are discussed in subsequent paragraphs.

## 1.4 Objectives of audit

We undertook the review with the objectives to ascertain whether:

- the provisions of various Acts and rules made thereunder were enforced effectively;
- the mining leases or quarry licences were renewed timely;
- an effective system for computation, levy and realisation of various fees, rent, royalty, penalty *etc.* exists in the Department;
- action taken in the cases of default or illegal excavation of minerals was effective;
- effective internal control and monitoring mechanism was in place in the Department to prevent leakage of revenue; and
- the environmental and ecological concerns have been taken care of.

## 1.5 Scope of audit

We conducted performance audit during May 2009 to March 2010. 16 (out of 38) Mining Engineers/Assistant Mining Engineers (ME/AME) offices were selected on the basis of revenue realised of all minerals and adopting probability proportional to size with replacement random sampling method. The units were test-checked for the years 2004-05 to 2008-09. In addition,

records maintained by Deputy Secretary, Mines and Petroleum, Director, Mines and Geology (DMG), Additional Directors, Mines (ADM), Additional Directors, Geology (ADG) and Superintending Mining Engineers (SME) were also test-checked.

## 1.6 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of the Mining and Geology Department in providing necessary information and records for audit. An entry conference was held on 31 August 2009 with the Principal Secretary, Mines and Petroleum, wherein, objectives and methodology of audit were explained.

An exit conference was held on 17 August 2010 with the Principal Secretary, Mines and Petroleum in which results of audit and recommendations were discussed. The replies of the Department received during the exit conference and at other points have been appropriately included in the respective paragraphs.

# CHAPTER-II

# Environmental protection and mineral conservation

## 2.1 Mineral policy of the State

**2.1.1** The country's accelerated growth rate warranted a rapid development of the mining sector. The world mineral scenario had changed significantly, which required reorientation of mining laws and policies to attract global investments. Mineral Policy, 1993 had not been able to achieve the aim of encouraging the flow of private investment and introduction of high end technology for exploration and mining because of procedural delays.

The Central Government in consultation with the State Governments formulated (March 2008) legal measures for the regulation of mines and the development of mineral resources to ensure uniformity in mineral administration and to ensure that the development of mineral resources keeps pace and is in consonance with the national policy goals. To give a fillip to private investment in the mining sector, and to attract technology, the National Mineral Policy, 2008 was announced in March 2008.

A model State Mineral Policy was circulated (December 2009) to all the State Governments requiring them to develop suitable mineral policies within the ambit of the National Mineral Policy for their States keeping in view their local requirements.

**2.1.2** The State Government had enunciated (28 January 2011) Rajasthan Mineral Policy, 2011. The Government has considered appropriate to promote proper use of mineral resources for sustainable economic development of its people and the nation by amending its existing Mineral Policy, 1994. To achieve this, it has been decided to simplify the rules and procedures so as to ensure scientific, safe and eco-friendly mining, productivity, conservation and cost effectiveness, social commitment, zero waste mining, health and welfare of the people.

**2.1.3** The Rajasthan Mineral Policy, 2011 mainly enumerates: creation of favorable environment for value addition of minerals, enhance employment opportunities, explore mineral wealth adopting modern exploration techniques, promote mechanised and scientific mining in view of environmental measures and minerals conservation, development of human resources, de-mystify procedures and achieve transparency in decisions allocating of concessions, speedy disposal of concession applications, greater transparency in inter departmental correspondence, speedy disposal of appeals or revisions, strengthen infrastructural facilities in mineral bearing areas, promote prospective and mining of noble and base metals and fertilizer, create environment for establishment of lignite base industries as well as petroleum refineries, simplify rules and procedures to remove hurdles and bottlenecks of mineral development, implement welfare measures for mine worker, develop proper inventory of resources and reserves, enforcement and closely monitor of mining plans, mine closure plans and proper mining methods for optimum utilisation of minerals, adequate provisions for reclamation and restoration of

land to best possible potential, monitor data filing requirements, use of old disused mining sites for plantation or other useful purposes, involving State Public Sector undertakings in mining sector, regulate mining in proper way and check illegal mining through deterrent actions, optimise revenue of the State by reserving 50 *per cent* areas to different categories and allotting remaining 50 *per cent* by auction.

## 2.2 Ecological balance and conservation of minerals

Minerals are valuable natural resources being finite and non-renewable, but their exploitation is essential for development of country's economy and improving life of people living in the mining areas. Since, mining activity is closely linked with forestry and environmental issues, as most of the mines are situated either in forest or its nearby, therefore, it is a direct intervention in the environment and has potential to disturb the ecological balance. Further, minerals are non-renewable; therefore, their conservation by economic manner and efficient use is uttermost necessity which includes scientific method of mining, beneficiation and zero waste mining. National Environment Policy, 2006 and National Mineral Policy, 2008 take care of these concerns and try to create a balance between the environmental needs of the country and the mineral exploitation, by framing guiding principles.

The MMDR Act and rules made there under also redress such concerns by prohibiting the mining operations without permission and setting guidelines for environmental protection and ecological balance, *inter alia* conservation of minerals. These also provide for reclamation and rehabilitations of the area put to use in mining and allied activities. Rule 16 of the MCDR requires separate stacking of non-saleable minerals. Rule 23F of *ibid* requires depositing financial assurance money for reclamation of the area put to use in mining and allied activities.

All such provisions have been made for authorised excavation of minerals. However, illegal excavation is settled by only recovering cost of minerals along with royalty under Section 21(5) of the MMDR Act and Rule 48 of RMMC Rules. There is no provision for recovery of damages caused to environment and reclamation required after mining activity. This is not consistent with the National Environment Policy, 2006 and guiding principles 'polluter pays'.

We noticed non-observance of the above provisions in the following cases:

## 2.3 Non-observance of conservation rules

Rule 16 of the MCDR provides that overburden and waste material obtained during mining operation shall not be mixed with non-saleable or sub-grade ore/minerals and it shall be dumped and stacked separately.

We found (October-December 2009) from the records of four ME offices that in four cases, non-saleable or sub-grade minerals obtained during mining operation were not stacked separately, as such their retrieval was not possible. This resulted in

loss of mineral costing ₹ 120.74 crore as shown below:

| Sl. no. | Name of ME office | Name of mineral | Quantity of mineral (MT) | Cost rupees per MT | Total cost of mineral (₹ in crore) |
|---|---|---|---|---|---|
| 1. | Sojat city | Quartz | 40,48,708 | 202 | 81.78 |
| | | Felspar | 2,13,090 | 168 | 3.58 |
| 2. | Rajsamand II | Dolomite | 34,539 | 450 | 1.56 |
| | | Dolomite | 1,88,326 | 450 | 8.48 |
| | | Dolomite | 2,52,707 | 450 | 11.37 |
| 3. | Sirohi | Felspar | 4,33,993 | 192 | 8.33 |
| 4. | Udaipur | Dolomite | 1,25,351 | 450 | 5.64 |
| Total | | | | | 120.74 |

The cost of mineral Felspar and Quartz have been worked out on the basis of prevailing rates published by Indian Bureau of Mines (IBM). The cost of mineral Dolomite has been taken as 10 times of the prevailing rates of royalty, as the rates were not published by IBM. The rates for sub-grade/non-saleable minerals are not separately published.

In reply to our query, the ME, Udaipur replied (October 2009) that action would be taken in this regard.

The Government stated (August 2010) that policy of mineral Dolomite would be revised to dispose of it. In respect of remaining minerals, we have not received replies (October 2010).

## 2.4 Irreparable damages to environment

We also noticed 87 cases involving cost of ₹ 352.95 crore (as mentioned in this report) of illegal excavation and despatch of minerals where, no scientific mining could be adopted as the process was undertaken clandestinely with a view to evade payment of royalty and other charges. In such cases, irreparable damages were caused to environment but in absence of provisions no compensating amount could be recovered.

No provisions have been made for recovery of damages caused to environment and reclamation of the areas, due to illegal excavation of minerals.

## 2.5 Non-recovery of financial assurance

Rule 23 F of the MCDR provides that financial assurance (cost of rehabilitation of environment) is to be deposited as security at prescribed rates. If the authority competent has reason to believe that reclamation and rehabilitation measures had not been or will not be carried out by the lessee in the event of closure of mines he shall forfeit the sum assured.

We observed from the records of the Deputy Secretary (Mines) that working permissions, for area covering 3,133 hectare, were granted in favour of the Rajasthan State Mines and Minerals Ltd. and Fertilizer Corporation of India in the jurisdiction of ME/AME Barmer, Jaisalmer, Bikaner and Sriganganagar for the mineral

gypsum. However, the financial assurance of ₹ 4.70 crore was not deposited by the permission holders.

The Government stated (August 2010) that action was being taken in this regard.

***Due to non-obtaining of financial assurance from the lessee as provided in the rules, the State Government may have to reclaim/rehabilitate the spoiled mining areas at their own cost.***

## 2.6 Recommendations

- ***The Government may consider stacking of non-saleable or sub-grade minerals in such a manner so that they can be retrieved easily in future and also ensuring zero waste as envisaged in the National Mineral Policy, 2008.***
- ***A provision may be made for recovery of damages caused to environment and cost of reclamation of the area due to illegal excavation of minerals.***

# CHAPTER-III

# Financial management

## 3.1 Organisational set-up

**3.1.1** At the Government level, the Principal Secretary, Mines and Petroleum and at the department level the Director Mines Geology (DMG) are responsible for administration and implementation of the related Acts and Rules in the Mines and Geology Department. The DMG is assisted by five ADMs and three ADGs. The ADMs exercise control through seven circles headed by SME.

**3.1.2** There are 38 ME/AMEs, who are responsible for assessment and collection of revenue, besides prevention of illegal excavation and despatch of minerals from areas under their control. The Department has a separate vigilance wing controlled by two SMEs (Vigilance) at Jaipur and Udaipur. In DMG office, the Financial Advisor controls the work of maintenance of accounts and internal audit.

## 3.2 Revenue contribution of mining sector

**3.2.1** Receipts from mines and minerals mainly consist of royalty which is levied either on specific or *ad valorem* basis on the quantity of mineral removed or consumed from mines. Dead rent is levied on the area leased out for mining activity. Other receipts for mining Department are excess royalty collection fee, application fee, licence fee, permit fee, development charges, service charges, prospecting charges, penalties and interest for delayed/belated payments of dues *etc.* Rates of royalty and dead rent in respect of major minerals are prescribed by the Central Government but these are collected and utilised by the State Government. Similarly, rates of royalty and dead rent in respect of minor minerals are determined and its collection and utilisation is also affected by the State Government itself.

The mining lease is granted on fixed dead rent, against which the lessee may remove specified quantity of mineral without payment of royalty. The lessee removes or despatches or utilises the mineral from the mines and quarry on valid *rawannas*[1]. The lessee keeps correct and regular accounts of all minerals excavated and despatched and furnished monthly returns to the Mines and Geology Department. For collection of royalty over and above the specified quantity, royalty/excess royalty collection contract[2] may be granted by auction or tender in respect of such areas and such minerals as the DMG may order.

[1] *Rawanna* means delivery challan for removal or despatch of mineral from mines.

[2] 'Excess Royalty Collection Contract' means a contract for specified minerals and area given to collect royalty in excess of dead rent, on behalf of the Government from the holder of mining lease(s) under the contract. The contractor shall pay a fixed amount annually to the Government as per terms of the contract.

**3.2.2** The budget estimates, actual revenue of mining sector, total revenue raised by the State Government and percentage contribution by mining sector towards State revenue was as under:

**(₹ in crore)**

| Year | Budget estimates | Actual | Total revenue of State Government | (-)Shortfall/ (+) excess (BEs vis a vis actuals) | Percentage contribution by mining sector |
|---|---|---|---|---|---|
| 2004-05 | 625.00 | 645.35 | 10,560.97 | (+) 20.35 | 6.1 |
| 2005-06 | 750.00 | 814.08 | 12,617.90 | (+) 64.08 | 6.5 |
| 2006-07 | 850.00 | 1,196.52 | 15,038.85 | (+) 346.52 | 8.0 |
| 2007-08 | 1,280.00 | 1,226.61 | 17,328.66 | (-) 53.39 | 7.1 |
| 2008-09 | 1,400.00 | 1,275.59 | 18,832.21 | (-) 124.41 | 6.8 |

The percentage of variation between budget estimates and actual revenue realised ranged from (-) 9 to (+) 41. The abnormal increase in revenue with reference to BEs during the year 2006-07 and decrease during the year 2008-09 were due to change in London Metal Exchange price of Zinc metal.

The revenue from mining sector was adversely affected due to pendency of mining licences of applications for a long time. The pendency of applications was due to delay in segregation of applications and lack of co-ordination among Revenue, Forest and Mining Departments (details given in Chapter-IV).

**3.2.3** The revenue realised during the year 2008-09 constituted 6.8 *per cent* and 32.8 *per cent* of the total revenue and non-tax revenue respectively, of the State. Though, the contribution of the mining sector has increased to ₹ 1,275.59 crore in 2008-09 from ₹ 645.35 crore in 2004-05, but its share in total revenue of the State decreased to 6.8 *per cent* in 2008-09 from 8.0 *per cent* in 2006-07. There is ample scope for improvement which can be achieved by revamping of revenue realisation system and plugging in revenue leakage, few instances of which have been incorporated in this review.

## 3.3 Arrears of revenue

**3.3.1** The arrears of revenue increased from ₹ 62.98 crore as on 1 April 2004 to ₹ 103.16 crore at the end of year 2008-09. During the period from 2004-05 to 2008-09, recovery of old arrears was not impressive and ranged from 6.58 *per cent* (2007-08) to 15.80 *per cent* (2004-05) only, as against target of 50 *per cent*.

**3.3.2** Recoveries stayed by various courts increased from ₹ 20.49 crore beginning of 2004-05 to ₹ 60.32 crore (2008-09). Serious efforts are needed to vacate stay imposed by various courts.

We found that against the total outstanding recoveries of ₹ 60.32 crore (stayed by courts) as on 31 March 2009, ₹ 14.20 crore pertained to seven cases of illegal excavation/despatch of minerals of ME/AME offices, Jodhpur and Balesar, wherein stay orders were granted by courts more than three to six

years back. The mater was reported (July 2010) to the Department and the Government; their reply is awaited (October 2010).

**3.3.3** The year-wise position of the arrears (excluding arrears of illegal excavation/despatch of minerals) during the years 2003-04 to 2008-09 was as under:

**(₹ in crore)**

| Year | Opening balance | Addition during the year | Recovered during the year | Amount involved in court cases | Closing balance |
|---|---|---|---|---|---|
| 2003-04 | 51.71 | 436.62 | 425.35 | 20.49 | 62.98 |
| 2004-05 | 62.98 | 557.99 | 553.61 | 28.41 | 67.36 |
| 2005-06 | 67.36 | 708.97 | 694.16 | 43.50 | 82.17 |
| 2006-07 | 82.17 | 1,084.65 | 1,076.20 | 52.89 | 90.62 |
| 2007-08 | 90.62 | 1,125.38 | 1,114.58 | 62.49 | 101.42 |
| 2008-09 | 101.42 | 1,094.33 | 1,092.59 | 60.32 | 103.16 |

The above table indicates that sincere efforts were not made to recover old dues. We found from the age-wise break-up of dues that chances of recovery of dues ₹ 37.92 crore pertaining to the period up to 2003-04 are bleak.

The Government stated (September 2010) that ₹ 42.08 crore had been recovered.

## 3.4 Internal audit

Internal audit is an important mechanism to ensure that the departmental operations are carried out according to the applicable laws, regulations and approved procedures in an economical, efficient and effective manner, subordinate offices are maintaining various records, registers/account books properly and accurately, and adequate safeguards are being taken against non/short collection or evasion of revenue.

Our scrutiny (October 2009) of the records of DMG, Udaipur revealed that audit of almost all the mining units were pending since 2004-05. As on 31 March 2009, internal audit of 69 sub-ordinate offices was pending. Thus, the internal control mechanism of the Department is not strong.

When we pointed out (October 2009) this, the DMG stated (November 2009) that internal audit had been pending due to shortage of staff.

***In the absence of internal audit, the departmental authorities remained unaware of the areas of malfunctioning of the systems, evasion/leakage of revenue and did not, therefore, have any opportunity of taking remedial action.***

## 3.5 Recommendations

- ***We recommend that a strong mechanism to ensure speedy recovery of sums due to Government should be developed.***
- ***Efforts may be made for augmenting revenue of Mining sector for recovery of old dues, including getting stays vacated from the Courts.***
- ***Internal audit may be conducted on regular basis for detecting malfunctioning of the system, leakage of the revenue and compliance of rules and provisions of the Act.***

# CHAPTER-IV

## Management of leases

**4.1** The Central Government may, by Gazette notification, make rules for regulating the grant of prospecting licences and mining leases in respect of minerals and for purposes connected therewith. Similarly, the State Governments are empowered to make rules for regulation of mining activities in respect of minor minerals.

For management of mining leases, the Central Government had enacted the MMDR Act, 1957; and framed MC Rules, 1960 and MCD Rules, 1988. Whereas, Minor minerals in Rajasthan, are regulated under RMMC Rules, 1986.

### 4.2 Grant of leases and execution of agreements

In National Mineral Policy, 2008, Government of India expressed concern on procedural delays in granting lease/licence in mining sector. However, the period, within which the applications received for grant of leases should be disposed of, had not been mentioned in MCR or RMMC rules.

**4.2.1** We found that 2,24,792 applications received up to 31 March 2009 for grant of lease/licence were pending, of which 1,95,515 quarry licence applications received in AME, Balesar during 2007-08 were pending due to delay in their screening. This adversely affected the exploitation of minerals and development of mineral industries and simultaneously revenue realisation of the Government. The position was as under:

| Mineral | Number of pending applications | | | |
|---|---|---|---|---|
| | Mining lease | Prospecting licence | Quarry licence | Total |
| Major | 7,475 | 1,675 | - | 9,150 |
| Minor | 14,296 | 333 | 2,01,013 | 2,15,642 |

The Government stated (August 2010) that applications had been pending due to non-completion of formalities pertaining to revenue records, obtaining no objection certificates from Collectors and Forest Department *etc.* Government also mentioned that most of the pending applications were for quarry licence of mineral sandstone pertaining to AME, Balesar and these will be disposed of early.

No time frame has been prescribed for disposal of applications for the grant of mining leases, quarry licences *etc.* Further, we noticed that there is lack of co-ordination among Departments.

**4.2.2** We observed that in five ME/AME offices[3] 1027 major/minor leases/areas were available for re-grant due to cancellation and surrender of leases and quarry licences. Available leases/areas were not re-granted, which led to loss of dead rent ₹ 2.07 crore annually, besides blocking of mineral development.

## 4.3 Non-conversion of masonry stone leases to sand stone leases

Lease areas of masonry stone sanctioned near village Jhajawara, Chokha, Gagana and Rohila Kalan had high potential for mineral sand stone; therefore, the State Government decided (24 April 2007) to convert the existing leases from masonry stone to sand stone by charging conversion charges ₹ 25,000 per hectare. In case, the lessee did not apply for the conversion of the lease, than his lease of masonry stone was to be cancelled after issuing 15 days show cause notice to him.

We found (January 2010) from the records of ME, Jodhpur that in the above mentioned villages, out of 38 existing leases of masonry stone (each lease measuring one hectare), having potential for mineral sand stone, only 5 lease holders got converted their leases for mineral sand stone. The holders of remaining 33 leases did not apply for conversion of leases, but their leases were not cancelled by the ME. It resulted in loss of revenue of ₹ 21.29 lakh due to non-receipt of conversion charges amounting to ₹ 8.25 lakh (33x25000) and difference dead rent amount of ₹ 13.04 lakh for the year 2007-08 to 2008-09.

On pointed out (January 2010), the ME, Jodhpur stated (March 2011) that in this regard a committee has been constituted by the DMG.

## 4.4 Non-adherence to Government instructions

Rule 32 of the RMMC, Rules envisages that RCC/ERCC may be granted by tender in respect of such area and mineral as the Director may order. The State Government issued instructions in May 1962 stipulating that if any tenderer, to whom a contract was allotted, defaulted in its execution, the Mines Department could recover contract damages from him, provided that such a clause was incorporated in the "tender notice" itself. The deposit made by the defaulting tenderer could be forfeited first, thereafter, loss, if any, over and above the amount of deposits forfeited, would be recoverable from the defaulting contractor.

We noticed that the State Government instructions dated May 1962 were not incorporated by the Mines Department in tender notices published for grant of excess royalty collection contracts. In the office of the ME, Jodhpur, tenders were invited for ERCC for minerals limestone and rhoylite for the period between 10 March 2005 and 26 February 2008. The highest tenderers M/s Mahadev and Party, M/s Boranda Truck Operator Union and Sh. Mangi Lal Choudhary, who were awarded the contracts, defaulted in execution of the contracts and

[3] Ajmer, Jodhpur, Nimbahera, Rajsamand I and Sikar.

therefore, three contracts were re-tendered and ultimately granted to subsequent tenderer at lower rates. In absence of contract damages clause in the notice inviting tenders, the damages in the form of less realisation of tender, could not be recovered from the defaulters. This resulted in loss of revenue amounting to ₹ 4.13 crore (after adjusting security deposits amount ₹ 0.52 crore).

The Government stated (September 2010) that e-tendering system would be adopted and second lowest tender will be accepted if it was within ten *per cent* less of the highest tender amount. However, we have not received reasons for non-inclusion of contract damage clause in the tender notices.

## 4.5 Illegal transfer of leases

We found (January 2009) from the records of the DMG and ME, Rajsamand I that two mining leases number 224/92 and 165/93 of mineral marble were transferred in January 2003 to a person (transferee) on the basis of false date of birth certificate. The person being minor at the time of transfer of the leases, as per the Indian Contract Act, the agreements executed in January 2003 were treated (11 July 2008) as "null and void" by Mines Department. Thus, the mineral excavated/despatched 7,385 MT from both leases during the period from January 2003 to July 2008, was illegal and required recovery of cost of mineral ₹ 1.08 crore.

When we pointed this matter/case, ME Rajsamand I and ME Amet, both accepted the observations and stated that efforts were being made to recover the cost of illegal excavated/despatched mineral. However, the Government stated (August 2010) that matter would be reviewed.

## 4.6 Recommendations

- ***The Government may create an effective co-ordination mechanism among various Departments.***
- ***The Government may specify a time frame for disposal of applications for grant of mining leases. Guidelines may be issued for granting fresh leases in case of surrendered and cancelled leases. A system of receiving no objection certificates from different Departments of the Central/State Government for timely execution of sanctioned leases may be evolved.***
- ***The State Government may consider inclusion of contract damage clause in tender notices.***

# CHAPTER-V

## Royalty assessment and collection

**5.1** Section 9(2) of the MMDR Act and Rule 18(1)(b) of the RMMC Rules provide that the holder of a mining lease shall pay royalty in respect of any mineral removed and/or consumed from lease area. Therefore, as soon as mineral is removed, royalty becomes due and can be demanded on the basis of available information. In all current as well as expired leases, *ad hoc* royalty assessment must be done on the basis of statistical returns/reports of mines for or other inspecting officer, whenever, accounts/records are not produced by the party. Royalty assessment should be done year by year and no case be left pending for the next year to avoid arrears.

### 5.2 Incorrect revision of excess royalty collection contract amount

Rule 32(3) of the RMMC Rules, 1986 provides that in case of enhancement in the rate of royalty, the contractor shall be liable to pay an increased amount of contract money, security and guarantee amount in proportion to the enhancement of royalty for the remaining period of contract from the date of such enhancement. The rates of royalty on various minerals were revised with effect from 1 September 2007.

During scrutiny of the records of 15 Mining Engineer/Assistant Mining Engineer offices[4], we noticed (June 2008 to March 2009) that 17 excess royalty collection contracts were awarded for different periods ranging from April 2006 to March 2009. The State Government revised the rate of royalty from 1 September 2007. The Department proportionately revised the annual excess royalty contract values without considering and taking into account the revised dead rent. This resulted in loss of ₹ 2.75 crore.

When we pointed out (between November 2008 and March 2009) this, the Government replied (April 2010) that recovery of enhanced amount of the ERCC, as pointed out by audit, will be made only when provision in this regard is made in the rules. The Government further stated (May 2010) that amendment in the rules was under process. Thus, due to non-consideration of dead rent for revising the amount of the ERCC and delay in amending the rules resulted in loss of revenue to the Government.

[4] Alwar, Bharatpur, Bikaner, Dholpur, Gotan, Jaipur, Jaisalmer, Jalore, Jodhpur, Karauli, Kotputli, Nagaur, Rajsamand I, Sikar and Sojat city.

## 5.3 Incorrect assessment of royalty

As per Rule 18 (1)(b) of the RMMC Rules, the holder of a mining lease shall pay royalty in respect of any mineral removed by him from the leased area at the prevailing rate.

We found (December 2009) in the office of ME, Sojatcity that in 13 cases, the royalty assessments of mineral rhyolite, despatched from the leases granted for mineral rhyolite, were done treating mineral rhyolite as masonry stone. Whereas, in other cases royalty assessments were correctly done taking royalty of mineral rhyolite. This resulted in short recovery of royalty amounting to ₹ 86.49 lakh. The dead rent of the leases, however, was being recovered at the rate prescribed for the mineral rhyolite.

When we pointed (December 2009) this matter, the ME, Sojatcity stated that mineral rhyolite was used in manufacture of chips; hence, recovery of royalty at the rate applicable for masonry stone has been taken. We do not agree with the reply as the mining leases were sanctioned for mineral rhyolite and not for masonry stone and royalty amount had been recovered as "rhyolite" in other cases. The end use of mineral rhyolite was also not confirmed by the Department, therefore, in our opinion royalty of mineral rhyolite was recoverable.

## 5.4 Incorrect computation of royalty rates

Section 9 of the MMDR Act provides that holder of a mining lease shall pay royalty in respect of any mineral removed or consumed from the leased area. Further, Rule 64D of the MC Rules provides that State-wise sale price for different minerals as published by Indian Bureau of Mines shall be the benchmark for computation of the royalty. For the purpose of computation of the royalty of the mineral, the State Government shall add twenty *per cent* to this benchmark value. This value shall be reckoned to be sale price of the mineral for the purpose of computation of royalty.

**5.4.1** We found (June 2009) in the office of ME, Ajmer that from lease holder of mining lease number 12/98, royalty on mineral Wollastonite was recovered for the period 5 March 2005 to 4 March 2008 on the basis of estimated price of ₹ 40 per MT instead of adding twenty *per cent* to Indian Bureau of Mines published sale price for the State, which resulted in short recovery of royalty amounting to ₹ 8.46 lakh.

When we pointed (June 2009) this, the ME stated (April 2010) that demand has been raised.

As per schedule II of the MMDR Act, the royalty rate of mineral Limestone (LD grade) containing less than 1.5 *per cent* silica was ₹ 55 per MT with effect from 14 October 2004.

**5.4.2** We found in the office of AME, Jaisalmer that Rajasthan State Mines and Minerals Limited had aid royalty at the rate of ₹ 45 per MT instead of ₹ 55 per MT on 2,108.299 MT

Limestone (LD grade 10-30 mm grits containing silica content less than 1.5 *per cent*) despatched during the year 2008-09, which resulted in short recovery of royalty amounting to ₹ 21.08 lakh.

When we pointed out this, the Government stated (September 2010) that demand had been raised but recovery is pending (October 2010).

## 5.5 Non-assessment of royalty of cement factories

Cement factories consumed mineral limestone in preparation of clinker for production of cement. The DMG vide order 23 February 2004 issued instructions to all the AMEs/MEs to ensure, while making royalty assessments, that at least 1.52 MT limestone was taken as used in production of one ton clinker for manufacture of cement to avoid any loss of revenue to State Government.

We noticed in six AME/ME offices[5] that in seven cement industries cases, royalty assessments of limestone used during the period 2002-03 to 2008-09 in manufacture of cement were not made in accordance with the instructions of the DMG even after receiving monthly/annual returns from the concerned cement industries. Only ₹ 356.35 crore were deposited by the cement industries against recoverable royalty amount of ₹ 388.55 crore as we worked out based on the clinker lime stone ratio 1:1.52. This resulted in short realisation of royalty amounting to ₹ 32.20 crore.

When we pointed out this, the Government accepted (August 2010) that the clinker lime stone ratio 1:1.52 was not being observed by the cement factories. Government assured that pending royalty assessments of their factories would be got done early.

## 5.6 Recommendations

- ***The Government may consider instituting a mechanism of surveys to ensure that royalty is charged as per rules.***
- ***The Government may consider inclusion of dead rent while revising annual excess royalty collection contract values.***
- ***The Government may consider instituting a periodical monitoring system in the Department to watch pending royalty assessment cases and recoverable royalty amount and to verify the actual despatch of mineral as per pit measurement.***

[5] Ajmer, Chittorgarh, Nimbahera, Ramganjmandi, Sirohi and Sojat city.

# CHAPTER-VI

# Unauthorised excavation

**6.1** Section 21(5) of the MMDR Act, 1957 envisages that whenever, any person raised without any lawful authority, any mineral from any land, the State Government may recover from such person the mineral so raised, or where such mineral has already been disposed of, the price thereof along with royalty. Further, Rule 48(5) of the RMMC Rules envisages that the cost of mineral, computed as 10 times of the prevailing royalty, along with royalty shall be recovered from person who raised and despatch minor mineral illegally. Illegal/unauthorised excavation of mineral has been a serious problem in the State. The State Government has also acknowledged this fact and have issued instructions on 12 August 2009 to the Mining Officers to be vigilant about it.

In Mining Department, there are two SMEs (Vigilance) offices at Jaipur and Udaipur for prevention and monitoring of illegal excavation and despatch of minerals. The field staff posted at AME/ME offices detects the cases of illegal excavation and despatch of minerals. On detection of illegal mining/transport of minerals, *panchanamas* are to be prepared and got entered in a register to monitor the recovery of cost.

As envisaged in rules, the cases of illegal excavation and despatch of minerals are either compounded by recovering cost of mineral or lodged in the court through police. These cases are monitored through MIS sent to DMG through SMEs of the circle.

We found that *panchnamas* were not prepared correctly in prescribed *proformas* and the registers prepared for monitoring the cases were incomplete. No norms and targets for detecting illegal excavation/despatch of minerals had been fixed by the Department.

## 6.2 Excavation and despatch of minerals

Rule 18(9)(c) of the RMMC Rules provides that lessee or any other person shall not remove or despatch or utilise the mineral from the mines and quarry without a *rawanna*. In case of despatch of mineral without lawful authority, the cost of the mineral, as envisaged in Rule 48(5) of *ibid* rules, which shall be computed at 10 times of the royalty payable at the prevalent rates is to be recovered along with royalty. Similarly, as per Section 21(5) of the MMDR Act, the State Government may recover from such person the price thereof along with royalty.

### 6.2.1 Illegal excavation/despatch of minerals

**(a)** We found (between October 2009 and February 2010) that in 16 cases, the lessees illegally excavated/despatched minerals during the month of June 2004 to May 2008, but the cost of minerals along with royalty aggregating to

₹ 38.00 crore was neither worked out nor demanded by the Department as mentioned below:

| Name of ME/ AME offices | Name of the mineral | Month of *Panchnama* | Quantity of mineral illegally excavated and despatched (MT) | Royalty rate (₹ per MT) | Recoverable amount (₹ in lakh) | | |
|---|---|---|---|---|---|---|---|
| | | | | | Cost | Royalty | Total |
| Rajsa-mand II | Soap stone | 5/08 | 1,19,963.0 | 600 | 719.78 | 107.97 | 827.75 |
| | Dolomite | 5/08 | 4,60,440.0 | 450 | 2,071.98 | 207.20 | 2,279.18 |
| Ajmer | Wollastonite | 6/04 | 74,844.0 | 800 | 598.75 | 59.88 | 658.63 |
| Udaipur | Pyrophyllite | 5/08 | 7,000.0 | 246 | 17.22 | 0.34 | 17.56 |
| Barmer | Gypsum | 5/06 | 4,740.3 | 300 | 14.22 | 2.84 | 17.06 |
| **Total** | | | | | **3,421.95** | **378.23** | **3,800.18** |

In the above cases, the Department only prepared *panchnamas* and no demand was raised. The recoverable cost of ₹ 31.42 crore, in cases of ME/AME Udaipur, Rajsamand II and Barmer was not worked out by the Department. In cases of ME, Udaipur and Ajmer, the lessees has excavated and despatched minerals from outside the leased areas. Whereas, in cases of ME Rajasamand II more minerals was found illegally despatched than actually raised from leased areas. In cases of AME, Barmer mineral Gypsum was illegally excavated and despatched.

On being pointed out, the ME, Rajsamand II and AME, Barmer stated that action would be taken after verifying the facts; while the ME, Udaipur and Ajmer stated that the demand has been raised.

The Government stated (August 2010) that committee would be constituted and action would be taken accordingly.

**(b)** We found (January 2010) in office of the ME, Jodhpur that a case of illegal excavation and despatch of 1,76,326.5 MT *Khanda*[6] and 1,17,550.48 MT *patties* of sand stone was registered (13 June 1997) against the owners of the land at *khasra* number 6. The recoverable cost of illegal mining ₹ 3.64 crore has not been recovered (October 2010) due to ineffective action on the part of the Department.

### 6.2.2 Loss of revenue due to mineral despatched without *rawanna*

According to conditions of the agreement of excess royalty collection contract (ERCC) executed under rule 37 (2) of the RMMC Rules, 1986, the contractor shall collect royalty amount only from such vehicles having valid *rawannas* issued by the lessee. In cases of vehicles carrying mineral without *rawannas*, the ERC contractor shall hand over these vehicles to the AME/ME concerned, who has the right to recover the cost of mineral, 10 times of the royalty payable at the prevalent rates, treating it as unauthorised removal

[6] *Khandas* means lumps of sand stone mineral.

During audit of ME, Karauli, we noticed (November 2009) that an ERCC of mineral sand stone and its *khandas* was awarded to a contractor for the period 28 April 2007 to 31 March 2009. During the contract period, the contractor collected excess royalty amounting to ₹ 0.22 crore from the vehicles carrying mineral without *rawannas*, instead of handing over these vehicles to the department for collecting the cost of mineral. This resulted in loss of revenue to State Government amounting to ₹ 2.19 crore being cost of mineral.

When we pointed out (June 2010), the Government stated (September 2010) that royalty was recovered by ERC contractor on despatch of mineral excavated unauthorisedly by local persons. We do not agree with the reply as ERC contractor was not authorised to collect royalty from vehicle owners carrying mineral illegally without *rawannas.*

### 6.2.3 Non-recovery of cost of unauthorisedly excavated/despatched mineral

Rule 48 (1) of the RMMC Rules, 1986, provides that no person shall undertake any mining operations except in accordance with the terms and conditions of mining lease, quarry licence, short term permit or any other permission granted under these rules. Further, rule 48(5) of the Rules *ibid* provides that whenever any person, without a lawful authority, raises any mineral from any land and the mineral so raised has already been despatched or consumed, the ME concerned may recover cost of the mineral along with royalty on mineral excavated which will be computed as ten times the royalty payable at the prevalent rates.

During audit of records of the ME, Bharatpur, we noticed (November 2009) that a holder of a mining lease (ML No. 20/86) had excavated mineral masonry stone unauthorisedly from a pit measuring 8,750 cubic metre outside his sanctioned lease area. Total mineral recovery from the pit at bulk density of 1.4 MT per cubic metre worked out to 12,250 MT. No efforts were made by the Department for raising the demand and its recovery. This resulted in non-realisation of ₹ 0.18 crore being cost of mineral, along with royalty, excavated unauthorisedly.

We pointed out the matter to the Department in December 2009 and reported to the Government in April 2010.The Government stated (October 2010) that action is being taken for recovery.

## 6.3 Illegal production of mineral

As per rule 18 (10) of the RMMC Rules, 1986, the lessee shall abide by all existing Acts and rules enforced by the Government of India or the State Government and all such other Acts or rules as may be enforced from time to time in respect of working of mines.

Under Section 21(4) of the Air (Prevention and Control of Pollution) Act, 1981 and Section 25 and 26 of the Water (Prevention and Control of Pollution) Act, 1974, a lessee of a mine is required to obtain a 'consent to operate' from Rajasthan State Pollution Control Board determining quantity of minerals to be excavated during the prescribed period. Further, rule 48(5) of the RMMC Rules provides that whenever any person, without a lawful authority, raises any mineral, the ME concerned may recover cost of such mineral computed as ten times the royalty payable at the prevalent rates, along with, royalty on mineral excavated.

We found (January 2010) in ME, Nagaur that a mining lease holder was allowed by the Rajasthan State Pollution Control Board (RSPCB) to produce 1,50,000 MT quantity of mineral limestone per year. However, the lessee produced 2,46,065 MT and 3,17,068 MT quantity of mineral limestone during the years 2005-06 and 2006-07 respectively violating orders of RSPCB. The Department also issued *rawannas* for removal of lime stone without considering the production limits fixed by Pollution Control Board. The leassee was to obey limit of production fixed by the Board. Thus, the excess production 2,63,133 MT mineral over and above the allowed quantity was illegal, which attracted recovery of cost of the mineral ₹ 11.84 crore. In reply to our query (January 2010), the ME, Nagaur stated that action would be taken after verifying the facts.

The Government stated (August 2010) that it was a breach of condition of lease agreement and such type of matter was now being checked by issuing *rawannas* through computers.

## 6.4 Unexplained source of royalty payments

Rule 18 (1) (b) of the RMMC Rules envisages that holder of a mining lease shall pay royalty in respect of any mineral removed or consumed within the lease area. "Excess Royalty Collection Contract" means a contract for specified mineral(s) and area given to collect royalty in excess of annual dead rent, on behalf of the Government from the holder of mining lease(s) under the contract where under the contractor shall pay a fixed amount annually to the Government as per terms of the contract.

The State Government vide order dated 27 March 2003 started collection of royalty/excess royalty through royalty collection contractor/excess royalty collection contractor (RCC/ERCC) as mentioned in Rule 32 *ibid*.

**(i)** The contractor shall collect the royalty near mining leases/at the quarry mouth and if the royalty is not collected near mining leases/at the quarry

mouth then can be recovered at any other place near the lease/quarry but within the jurisdiction of contract area.

**(ii)** The contractor shall not recover any royalty from the vehicles having royalty paid Departmental *rawannas* issued against yearly dead rent. However, upon weighment if any quantity of mineral is found in excess of weight mentioned in such *rawanna*, contractor may recover the royalty of such difference weight.

**(iii)** The royalty shall be collected on the despatch of minor minerals from the area, specified in the contract, during the contract period and not on minor minerals brought from outside the contract area or from the major mineral leases.

We observed (February 2010) from the records of ME, Kota that an ERCC of mineral sand stone and masonry stone, to be despatched from effective leases, was awarded to a contractor from 1 April 2008 to 31 March 2010 at an annual contract amount of ₹ 117.68 lakh. The contractor paid the full contractl amount at ₹ 117.68 lakh annual for the period from 1 April 2008 to 31 March 2010, by way of instalments. We noticed that in the ERCC area, 7 leases of sand stone and 8 leases of masonry stone were effective and only 3609 MT and 31,328 MT of minerals respectively were despatched by the lease holders during the year2008-09. On the basis of minerals quantity despatched, actual amount of royalty recovered worked out to only ₹ 4.94 lakh (3,609x50 + 31,328x10). Thus, the ERC contractor had paid advance royalty to the Government of ₹ 117.68 lakh whereas, he had recovered only ₹ 4.94 lakh based on actual material excavated/despatched. This huge gap in actual royalty earned by the contractor has not been explained by the Department and hence the possibility of illegal mining in this case can not be ruled out since no prudent businessman would make a loss on the entire royalty paid by him to the Government in advance.

The Department has, however, acknowledged the fact of illegal mining, and has issued instructions in August 2009 to the mining officers to be careful in the issue of *rawannas* and for cancellation of leases wherever such cases are located.

The Government stated (August 2010) that it was a system issue. The ERC contracts were granted to increase revenue. Efforts were being made by employing border home guards *etc.* to check illegal mining. The reply of the Government acknowledges the fact of revenue collection on ERC contracts, but the gap between the royalty paid by the ERC Contractor and the royalty collection by him, remained unexplained in this case.

### *Rawannas*

**6.5** To prevent leakage/evasion of revenue, Rule 27 of the MC Rules and Rule 18(9)(c) of the RMMC Rules envisage that the lessee or any other person shall not remove or despatch or utilise the mineral from the mines and quarry without *rawannas* duly approved and issued by concerned ME/AME for particular mineral and area.

## 6.6 Lack of control on issue of *rawannas*

The Department has not evolved a system of issue and control of *rawannas* as by checking of allowable limit of production, expected production from the lease of lessees as per the prospecting/mining plan and pit measurements taken from time to time. The *rawannas* are issued by receiving payment of royalty but without linking it to any of the available records of prospecting/mining plan and pit measurements resulting in issue of *rawannas* for much higher quantity of minerals than the mineral actually excavated from the lease areas.

We found (September-November 2009) that lessees excavated and despatched minerals in excess of quantity raised from lease areas as per pit measurement/mining plan, from closed mines and where no lease was sanctioned for the mineral despatched. However, despite the fact of quantity despatched being in the knowledge of the Department, they did not take any action to link the same with the allowable limit of production, expected production from the lease of lessees as per the prospecting/mining plan and pit measurements taken from time to time. Therefore, the use of *rawannas* issued for sanctioned lease areas being misused for despatch of mineral from same/other areas can not be ruled out.

The cost of illegally despatched minerals on authorised *rawannas* during the period 2004-09* as worked out by audit was ₹ 200.19 crore as per details mentioned below:

| Sl. no. | Name of offices | Quantity dispatched (MT)/ Mineral | Quantity raised from lease area (MT) | Excess quantity of mineral despatched (MT) | Rate of mineral per MT (₹) | Recoverable cost of the mineral (₹ in lakh) |
|---|---|---|---|---|---|---|
| 1. | ME, Rajsamand I | 14,20,180 Marble | 3,50,784 (as per mining plan) | 10,69,398 | 1,750 | 18,714.47 |
| 2. | AME, Banswara | 36,710 Dolomite | 12.848 (as per mining plan) | 23,862 | 280 | 66.81 |
| | | 69,282 Marble | Nil | 69,282 | 1,250 | 866.03 |
| 3. | DMG (ME, Nagaur) | 94,097 Lime stone | Closed mines | 94,097 | 320 | 301.11 |
| 4. | ME, Sirohi | 11,901 Marble | 6480 (as per pit measurement) | 5,421 | 1,250 | 67.76 |
| 5. | ME, Udaipur | 515 Dolomite | 515 (Lease was not sanctioned for the mineral dolomite) | 515 | 450 | 2.32 |
| **Total** | | | | | | **20,018.50** |

*includes cases of previous years wherever available

On this being pointed out by us, the Government stated (August 2010) that a Committee would be set-up for finding out the facts. We do not accept the

reply as all the facts regarding the leases, *rawannas* issued, quantity mined *etc.* were in the knowledge of the Department. The Mining Officers had not been careful while issuing the *rawannas* and had not closely monitored the misuse of *rawannas*.

## 6.7 Short/non-recovery of cost of mineral

In the office of ME, Nagaur, we noticed (January 2010) that excess royalty collection contract of mineral limestone desptached from sanctioned leases for the period 19.3.2007 to 31.3.2009 was awarded (March 2007) in favour of a contractor. The contractor had used forged royalty receipts and second and/or third copies of the unpaid *rawannas* for despatch of mineral. The ME, Nagaur worked out recoverable cost and raised demand (23.09.2009) of ₹ 1.02 crore for (18,467.647 MT x ₹ 550) quantity of illegally despatched mineral limestone under the provisions of Rule 48 of the RMMC Rules, the recovery of which was pending.

We further noticed that the demand of cost of mineral was raised only for the quantity of mineral 18,467.647 MT (14,039.826 MT + 4,427.820 MT) worked out on despatch including 4,427.820 MT only through 208 forged royalty receipts. Whereas, the contractor used 21 forged receipt books containing 2,100 receipts, which were not deposited by him in mining office. Hence, the quantity of mineral illegally despatched by forge royalty receipts *etc.* worked out to 58,743.778 MT (14,039.826 MT+44,703.952 MT of 2,100 forged receipts). Therefore, the recoverable cost as per our calculation should be ₹ 3.23 crore (58,743.778 MT x ₹ 550). It resulted in short raising of demand of ₹ 2.21 crore. The recovery of ₹ 3.23 crore was pending (September 2010).

The Government stated (September 2010) that recovery was pending due to court stay (21 November 2009).

## 6.8 Non-finalisation of committee report

We found (January 2009) that a mining lease number 6/2001 for mineral limestone was effective from 12.10.2001 for 20 years in favour of a lessee under the jurisdiction of ME, Nagaur. The lease area was inspected by ME, Vigilance, Jodhpur and it was found that 17,468 MT lime stone had been excavated from the existing pits found in the lease area. While, as per production returns submitted by the lessee, 48,015 MT mineral was shown to have been despatched during the period from 12.10.2001 to 31.7.2004. It means that 30,547 MT lime stone was excavated and despatched illegally by lease holder from other areas by misusing the *rawannas* issued for sanctioned lease. A demand notice, for depositing cost of illegally despatched mineral ₹ 97.75 lakh was issued (17.10.2005) to the lease holder, but the lessee did not deposit the cost of mineral. Hence, the lease was revoked (24.7.2007). Against the revocation, lease holder filed a petition in the High court, Jodhpur. Writ petition was disposed of (27.2.2008) as the mining department agreed to take appropriate action after obtaining report of the committee constituted for establishing the facts. Report of the committee was awaited (January 2010) as such no action for recovery of ₹ 97.75 lakh could be taken. The matter has not been settled even lapse of more than two years. This shows lackadaisical action of the Department towards recovery.

## 6.9 Illegal despatch of minerals

**6.9.1** We found (June 2009-January 2010) from records of the DMG along with 10 ME/AME offices[7] that in 46 cases minerals were excavated and despatched illegally, demand of cost of mineral and royalty amounting to ₹ 85.50 crore was not/short raised and recovered.

The Government stated (August 2010) that a committee would examine the cases of illegal excavation of minerals and action would be taken accordingly.

**6.9.2** We further found (November 2009) from the records of the DMG that a firm used 19,535 MT mineral limestone without departmental *rawannas* in manufacturing and supplying hydrated limestone to a company during the year 2006-07 from the jurisdiction of ME, Sojatcity. The cost and royalty of the illegally despatched limestone worked out to ₹ 1.07 crore, which had not been recovered.

The Government stated (August 2010) that action was being taken for detecting source of mineral.

## 6.10 Illegal subletting of lease

Rule 15 (1) of the RMMC Rules, 1986 envisaged that the lessee shall not, without the previous consent in writing of the competent authority assign, sublet, mortgage or transfer the mining lease or any right, title or interest therein; to any person or body. Rule 48(5) of *ibid* Rules further provides that whenever any person, without a lawful authority, raises any mineral and where mineral so raised has already been despatched or consumed, the concerned authorities may recover cost of the mineral along with royalty which will be computed as 10 times the royalty payable at the prevalent rates.

During audit of ME, Bharatpur, we noticed (November 2009) that mining leases no. 698/03 and 695/03 of mineral masonry stone sanctioned in favour of two leassee were subletted without the previous consent of the Mines Department, during the period from 1.1.2008 to 31.12.2008 by making '*pattanama*' contract. During subletted period of lease, the transferee excavated and despatched 33,000 MT (18,000 MT from ML 698/03 and 15,000 MT from ML 695/03) mineral masonry stone which was unauthorised. The cost of unauthorisedly excavated/ despatched mineral was ₹ 0.43 crore, which was not recovered.

We pointed out the matter to the Department (December 2009) and reported to the Government (April 2010). The Government stated (September 2010) that power of attorney was given by the lessee for mining in lease area. It was not subletted. Reply is not acceptable as power of attorney was given with full rights which are tantamount to assignment of rights under the Rules. Hence,

[7] Banswara, Jodhpur, Makrana, Nagaur, Nimbahera, Rajsamand I, Rajsamand II, Sikar, Sojat city and Udaipur.

without prior consent of the Department in writing, it amounted to illegal transfer of lease and ME had illegally issued *rawannas* to sub-lettee for excavation and despatch of the mineral.

### Short term permits

**6.11** The works department contractors acquire materials for works from other lessees through *rawannas* and rest from short term permits (STP) issued to them by concerned ME/AME on payment of a fee laid down in rule 63 of the RMMC Rules. To ensure timely realisation of royalty on the quantity of minor minerals actually utilised, STPs are required to be obtained by Public Works contractors from Mining Department for the entire quantity of minerals required for completion of works. On completion of works, the contractors submit material/mineral consumption statements to assess the royalty of the minerals used in works. If a permit holder has excavated and carried minerals in excess of permitted quantity in the STP, cost of mineral is required to be recovered as per provisions laid down under the rule 63 and 48(5) of *ibid* Rules.

## 6.12 Recovery of cost of mineral

Rule 63(6) of the RMMC Rules provides that if a STP holder has excavated and carried mineral to the extent of 10 *per cent* over and above the quantity specified in the permit, single royalty will be recovered. In case, permit holder has excavated and carried a quantity more than 25 *per cent* of the quantity sanctioned in the permit, cost of such excess mineral, 10 times of the royalty at the prevalent rates as per rule 48(5) *ibid* will be recovered.

### Illegal excavation and despatch of minerals

**(a)** We found (June 2009-March 2010) from records of the DMG along with 14 ME/AME offices[8] that on the basis of mineral consumption statement of works submitted by public works contractors,180 works contractors excavated and used minerals in works either without STP or more than quantity specified in the STPs. The difference recoverable cost along with royalty as worked out by us ₹ 44.26 crore had not been recovered. The Department failed to take effective action for finalisation of the assessments and recovery of cost of minerals.

When we pointed out this, the MEs/AMEs stated that action to recover the cost of minerals shall be taken by issuing notices to the concerned contractors.

The Government accepted (August 2010) our observations.

[8] Ajmer, Balesar, Barmer, Banswara, Bundi II, Jaisalmer, Jodhpur, Makrana, Nagaur, Nimbahera, Rajsamand I, Rajsamand II, Sikar and Sirohi.

**(b)** During audit of two AME/ME offices, we noticed (October 2008 to February 2010) that five public works contractors had used minerals in works more than quantity authorised in STP. The recoverable cost amounting to ₹ 1.05 crore of unauthorisedly excavated/despatched minerals had not been recovered as detailed below:

| Sl. no. | Name of the office (No. of works) | Mineral | Quantity used (MT) permitted in STP (MT) | Quantity used in excess of STP (MT) | Rate of royalty (₹ per MT) | Amount recovered (₹ in lakh) | Net cost recover-able including royalty (₹ in lakh) |
|---|---|---|---|---|---|---|---|
| 1. | ME, Bharatpur (1) | Ordinary soil | 16,00,000<br>13,73,000 | 2,27,000* | 1.50 | - | 15.51 |
| | | Murrum/ GSB | 3,30,000<br>2,97,650 | 32,350* | 16.00 | - | 8.90 |
| | | Stone | 9,32,122<br>8,10,050 | 1,22,072* | 13.00 | - | 63.92 |
| 2. | AME, Kotputali (2 ) | Ordinary soil | 93,922.87<br>58,029.87 | 35,893 | 1.50 | 3.63 | 4.32 |
| | | Murrum | 21,230<br>21,230 | - | 8.000 | | |
| | (2) | Murrum/ GSB | 25,381<br>20,426 | 4,955 | 10.00 | 10.36 | 12.43 |
| | | GSB | 22,438.76<br>3,000 | 19,438.74 | 8.00 | | |
| **Total** | | | | | | | **105.08** |

*Upto 3.9.2008 only as work was in progress.

When we pointed out (between November 2008 and April 2010) the Government stated (September 2010) that in case of ME, Bharatpur action will be taken after receiving details of full quantity of minerals used in work. Further, in case of the AME, Kotputali assessments were made as per Government order dated 17.6.1985. The reply is not acceptable as order dated 17.6.1985 became redundant with coming in effect of the RMMC Rules 1986. Hence, the cost of minerals was recoverable as per provisions of Rule 63(6) and 48(5) of *ibid* rules.

**(c)** During audit of two AME offices, we noticed (September 2009 to March 2010) that three public works contractors had used ordinary soil unauthorisedly without obtaining STPs. The recoverable cost amounting to ₹ 72.20 lakh of unauthorisedly excavated/despatched ordinary soil had not been recovered as detailed below:

| Sl. no. | Name of office (No. of works) | Quantity of ordinary soil used without STP(in MT) | Rate of royalty (₹ per MT) | Royalty amount recovered (₹ in lakh) | Net cost recover-able including royalty (₹ in lakh) |
|---|---|---|---|---|---|
| 1. | AME, Dungarpur (3) | 1,74,741 | 1.50 | - | 28.83 |
| | | 61,513 | 1.50 | 0.92 | 9.23 |
| | | 85,195 | 1.50 | - | 14.06 |
| 2. | AME, Kotputali (1) | 1,00,423.33 | 2.00 | - | 20.08 |
| **Total** | | | | | **72.20** |

When we pointed out (April 2010), the Government stated (September 2010) that action was being taken by AME, Dungarpur for recovery. Report on recovery is awaited (October 2010).

## 6.13 Non-recovery of differential amount of royalty

We found (July-December 2009) that in seven ME/AME offices[9] in 116 cases, differential amount of royalty ₹ 61.83 lakh as per royalty assessments of mineral consumed in works was recoverable, but no records were found maintained in these offices to ensure whether differential royalty amount had been recovered.

The Government stated (September 2010) that deduction of ₹ 3.64 lakh has been verified. Action was being taken for verification/recovery of the rest amount.

## 6.14 Lacunae in rules

Proviso to rule 63(6) of the RMMC Rules provides that if a STP holder has excavated and carried mineral to the extent of 10 *per cent* over and above the quantity specified in the permit, single royalty will be recovered. In case, permit holder has excavated and carried a quantity more than 25 *per cent* of the quantity sanctioned in the permit, cost of such excess mineral will be recovered. Rule 63 of the RMMC Rules is silent about the recovery of cost of mineral excavated and removed more than 10 and up to 25 *per cent* over and above the quantity sanctioned in the STP. However, rule 48(5) of the rules *ibid* provides for recovery of royalty alongwith cost of mineral computed as ten times the royalty in all cases of unauthorised despatch of mineral.

We found (October 2009-March 2010) from records of the MEs, Udaipur and Sirohi that in two cases contractors had excavated/ despatched quantity of minerals masonry stone and earth more than 10 *per cent* but up to 25 *per cent* over and above the quantities authorised in the STPs. The assessing authority did not invoke provision of rule 48(5) of the RMMC Rules and recovered royalty of ₹ 71.94 lakh against recoverable royalty and cost of ₹ 134.23 lakh resulting in short recovery of ₹ 62.29 lakh.

When we pointed out this, the ME, Sirohi (March 2010) stated that amount will be recovered as per provision of the rules. No provision has been made for recovery of cost of mineral used in excess of 10 *per cent* but upto 25 *per cent* quantity authorised in STP.

The Government accepted (August 2010) the lacunae in the rules and agreed to amend these suitably.

[9] Balesar, Banswara, Bundi II, Jodhpur, Makrana, Sojat city and Udaipur.

## 6.15 Recommendations

- ***We recommended that the issue of ERCC should be examined in depth and proper policies are framed to secure wealth of the State.***
- ***The Government may evolve a procedure to eliminate misuse of rawannas and timely recovery of cost of minerals.***
- ***The Government may consider doing away with the committee intervention and put in place an appropriate departmental mechanism to decide upon cases of illegal mining.***
- ***The Government may evolve a system of raising demand and its recovery on completion of works.***
- ***The Government may evolve a system to recover all pending royalty/cost of minerals used in works before final payments to contractors. For this purpose co-ordination is required to develop between the Works Department and the Mining Department.***
- ***The Government may clearly define the rate of royalty to be recovered in cases of despatch of minerals more than 10 per cent but upto 25 per cent over and above the quantities authorised in short term permit.***

# CHAPTER-VII

# Implementation of the mining rules/regulations

## 7.1 Pending royalty assessments due to non fixation of time limits

Rule 38 of the RMMC Rules provides that assessment of royalty shall be made by assessing authority after filing of the return for respective year by the assesses. If the assessee fails to submit returns within prescribed period, the assessing authority may assess the royalty to the best of his judgment.

We found in the DMG office that as on 31 March 2009, assessment of 8,860 number royalty cases (major minerals: 2,859, minor minerals: 6,001) were pending. It reflects laxity of the concerned assessing officers towards royalty assessments.

The Government stated (September 2010) that it was a regular process. We do not accept the reply as a time bound programme should be prescribed for assessment of royalty to avoid increase in arrears of revenue.

## 7.2 Pending royalty assessments of short term permits

Rule 63 (6) of the RMMC Rules stipulates that STP holders shall be responsible for submission of records of the minerals actually excavated/ despatched by him within 15 days of expiry of validity of STP. The State Government vide order dated 3 October 2001, also instructed to get the royalty assessed of the minerals consumed in works, within 15 days after the date of completion of the works.

**7.2.1** We found in 14 ME/AME offices[10] that out of 9,424 STPs issued, during the years 2004-05 to 2008-09, to various public works contractors, 6,872 cases (72.92 *per cent*) were pending for royalty assessments for want of mineral consumption statements from the concerned construction agencies. There was lack of monitoring in the ME/AME offices for watching the pending royalty assessment cases and recoverable royalty/cost amount of minerals used in works. The pending cases of royalty assessments were also not taken up seriously with the concerned construction allotment departments. This resulted in non/short realisation of Government revenue.

The Government stated (September 2010) that action was being taken for assessments.

[10] Ajmer, Balesar, Banswara, Bundi II, Jaisalmer, Jodhpur, Makrana, Nagaur, Nimbahera, Rajsamand II, Sikar, Sirohi, Sojat city and Udaipur.

**7.2.2** We found that ME, Udaipur issued 471 STPs to private persons for 17,68,875 MT mineral masonry stone during the years 2004-05 to 2008-09 involving royalty amount of ₹ 1.54 crore. The STP holders were to got assessment done within 15 days of expiry of validity of STP. Royalty assessments in all these cases were pending (October 2009). In these cases, actual quantity of mineral masonry stone or the other mineral excavated/despatched against the authorised quantity and area of excavation mentioned in STP with respect to actual pit measurement from which mineral were dig out was also not verified by the ME. In absence of which, illegally excavated and despatched mineral could not be ascertained by us, and misuse of *rawannas* for despatching other minerals from other areas could not be ruled out.

The Government stated (September 2010) that assessments have been made and ₹ 1.58 lakh had been recovered and notices for recovery of rest amount has been issued.

## 7.3 Delay in approval of cost of illegally excavated minerals

As per DMG circular dated 6 December 2004, prior approval of SME for recovery of cost of mineral was required before raising demand in all cases of *'panchnamas'* of illegal excavation and despatch of minerals

**7.3.1 (a)** We found (July 2009 to March 2010) from records of the DMG and SME, Bharatpur along with four AME/ME offices[11] that in 15 cases, demand of cost of various minerals illegally excavated and despatched was either pending at AME/ME's level or pending for approval at the concerned SME level from 28 to 60 months. Delay in approval of demand of cost of illegally excavated and despatched minerals resulted in non-initiating of action for recovery of cost of mineral amounting to ₹ 9.76 crore. No time limit has been prescribed for approval of demand.

**(b)** Similarly, in ME, Jodhpur we found (January 2010) that in another case of illegal excavation and despatch of 12,000 MT *khanda* and 8,001.1 MT *patties* of sand stone from the land of *khasra* no.6 and 14 of village Badli involving mineral cost of ₹ 38.40 lakh was registered (14 May 2007) against a person. The matter was sent (14 February 2008) to SME, Jodhpur, of which approval was pending (January 2010) even after lapse of two years.

Thus, a sum of ₹ 10.14 crore in above cases as worked out by the MEs based on cost of mineral was not recovered due to lack of effective action by the Department.

[11] Balesar, Jodhpur, Makrana and Rajsamand II.

The Government stated (September 2010) that action would be taken after establishing committee at SME level. We do not accept the reply as orders of DMG already exist to obtain prior approval of SME in case of illegal mining. Hence, establishing a committee would only delay recovery and dilutes the matter.

**7.3.2** We found (January 2010) that in six cases of illegal despatch of minerals, the ME, Jodhpur has neither worked out cost of minerals nor raised demand of ₹ 27.60 lakh.

The Government stated (September 2010) that action for recovery is being taken.

**7.3.3** We found (January 2010) in office of the ME, Jodhpur that as per mineral consumption statement and royalty assessment dated 24 April 2006, a public works contractor illegally used minerals *bajri*, masonry stone *etc.* For recovery of cost of minerals, the SME, Jodhpur accorded sanction on 16 December 2008 after lapse of 31 months, and even thereafter balance amount of ₹ 14.78 lakh had not been recovered (October 2010).

**7.3.4** In office of the ME, Rajsamand-I, we found (January 2009) that ₹ 30.49 lakh involved in 173 cases of illegal excavation and despatch of minerals, detected during 2006-07, could not be recovered due to preparation of incorrect/wrong *panchnamas* as intimated by the Department. A committee was constituted for disposal of the matter but no action has been taken (June 2010).

The Government stated (September 2010) that action would be taken after verifying the *panchnamas* by the committee established for this purpose. We feel that the Government should have initiated action against defaulter officials.

## 7.4 Delay in disposal of appeals

Rule 43 of the RMMC Rules provides that any person aggrieved by an order of SME/ME/AME passed under these rules shall have right to appeal to the DMG. The powers of the DMG in this respect had been delegated to ADM. Similarly, any person aggrieved by any order passed in appeal by the ADM, shall have the right to appeal to the Government.

We found from records of three ADMs, and Dy. Secretary, Mines and Geology that 3,548 appeal cases, pertaining to grant or renewal or cancellation or termination of mining leases or quarry licence or royalty collection contracts, forfeiting security deposits, assessment of royalty and

imposition of penalty *etc.* were pending in appeal since long as detailed below:

**(In numbers)**

| Calendar year | Name of appellant authority and appeal cases pending | | | | Total |
|---|---|---|---|---|---|
| | Dy.Secy. | ADM, Jaipur | ADM, Udaipur | ADM, Jodhpur | |
| up to 2004 | 81 | 7 | 16 | 458 | 562 |
| 2005 | 14 | 24 | 17 | 400 | 455 |
| 2006 | 39 | 162 | 21 | 486 | 708 |
| 2007 | 91 | 194 | 49 | 593 | 927 |
| 2008 | 116 | 222 | 64 | 494 | 896 |
| **Total** | **341** | **609** | **167** | **2,431** | **3,548** |

No time frame has been prescribed for disposal of appeals. In the absence of finalisation of the appeals, aggrieved persons were deprived of timely decision/justice. Pendencey of appeals also effected/delayed realisation of Government revenue.

The Government stated (September 2010) that pending appeals were a regular process. We do not accept the reply as appeals are pending for more than five years, which should have been disposed off in a time-bound manner so that aggrieved persons may not wait decision for long time.

## 7.5 Insufficient action for recovery of dues

During scrutiny of the records of 10 ME/AME offices[12], we observed (June 2009-March 2010) that ₹ 2.61 crore of royalty/dead rent and interest of 113 cases was not recovered due to lack of concrete and timely action.

The Government stated (September 2010) that ₹ 1.77 lakh has been recovered and action was being taken for recovery of the balance amount.

## 7.6 Dues under the Land Revenue Act

Section 25 of the MMDR Act and Rule 62 of the RMMC Rules envisage that recovery of dues along with interest may be recovered as arrears of land revenue.

**7.6.1** We found that ₹ 28.29 crore was pending as on 31 March 2009 under revenue recovery certificates. As on 31 March 2009, 682 cases involving ₹ 9.95 crore pertaining to five AME/ME offices[13] were registered for recovery. Of these, in 445 cases no action was initiated for recovery. Recovery action was taken only in 237 cases, of which properties of 46 defaulters were attached and a sum of ₹ 28.79 lakh was recovered. In 12 cases, whereabouts of the defaulter's properties were not known. Thus, the dues to the tune of ₹ 9.66 crore could not be recovered.

The Government stated (September 2010) that action was being taken for recovery.

[12] Balesar, Barmer, Bundi II, Jaisalmer, Jodhpur, Nagaur, Rajsamand I, Rajsamand II, Sikar and Sirohi.
[13] Ajmer, Jaisalmer, Jodhpur, Makrana and Sikar.

**7.6.2** We found that in office of the ME, Makrana, recovery of ₹ 3.07 crore, being cost of unauthorised excavation/despatch of minerals in 48 cases, was pending due to ineffective action on the part of department, though the cases were got registered under the Land Revenue Act for recovery.

The Government stated (September 2010) that ₹ 0.33 lakh have been recovered and action was being taken for recovery of the balance amount.

**7.6.3** In office of the ME, Bundi II, we found that 71 cases of illegal excavation/ despatch of minerals were registered during the years 1986-87 to 2005-06 but action for recovery of cost of minerals ₹ 19.76 lakh was not taken. Even the cases were not registered under LR Act for recovery.

**7.6.4** We observed that in following two cases, there was abnormal delay in raising the demand for cost of minerals. Lacklustre approach of the Department in raising the demands and recovery thereof led to non-recovery of the cost of minerals, though the cases were lodged under the Land Revenue Act subsequently.

| Name of ME Office | Period of incidence | Year of demand raised | Amount involved (₹ in lakh) | Reasons for demand |
|---|---|---|---|---|
| Makrana | 2002-03 | 2007-08 | 33.79 | Illegal excavation and despatch of mineral marble from outside the sanctioned area of lease no. 142/5. |
| Jodhpur | 2003-04 | 2004-05 | 11.70 | Contractor supplied mineral ballast without obtaining STP. The demand was raised at our instance. |

In respect of all dues under LR Act, the Government stated (September 2010) that effective action is being taken for recovery.

## 7.7 Pending chemical and ceramic laboratory samples

A Government laboratory was established in the DMG office for chemical analysis, ceramic tests, petrography studies and other types of analysis of the minerals.

We found from the records of the DMG that the number of samples pending for chemical analysis, ceramic tests *etc.* has sharply increased to 5381 (in 2008-09) from 375 (at the end 2004-05).

When we pointed out (October 2009) this, the DMG replied that due to shortages of staff, pendency of tests has increased. Pending samples analysis will be completed early.

***Pending chemical analysis/tests has affected the finalisation/settlement of royalty assessments and causing delay in revenue realisation.***

## 7.8 Irregular waiver of cost

Rule 65 of the RMMC Rules provides that the Government may relax any provision of these rules for reasons to be recorded in writing.

We found (June 2009) from records of the ME, Sikar that 18 lease holders of mineral masonry stone were involved in illegal excavation/despatch of mineral, hence, demand of ₹ 257.38 lakh, being cost of the mineral, was raised. The matter of illegal excavation was forwarded to Government (July 2004) by the ME, Sikar for regularisation, treating the illegal excavation of mineral within the sanctioned lease areas. The Deputy Secretary, Mines waived off (16 May 2007) the recoverable cost of ₹ 257.38 lakh with the condition that the defaulters shall deposit penalty amount at the rate of ₹ 25 per square metre of illegal excavated areas. Accordingly, ₹ 17.79 lakh only were recovered against the recoverable cost of ₹ 257.38 lakh. The waiver of cost of mineral illegally excavated/despatched was against the provisions of Rule 65 of the RMMC Rules as the relaxation in rules could only be given on the basis of recorded reasons and with prior approval of the Finance Department. In these cases quantity of mineral excavated by the defaulters was also not kept in view. This resulted in a loss of ₹ 239.59 lakh to the State exchequer.

The Government stated (September 2010) that matter was regularised by charging ₹ 25 per square metre. We do not accept the reply as sanction of the Finance department was not obtained as envisaged in Rule 65 of the RMMC Rules and mineral excavated and despatched by lease holders were not kept in view while finalising the matter. In these cases, undue benefits were allowed to lease holders.

## 7.9 Non/short recovery of prospecting expenses

As per provision contained in Rule 9 (A) of the Prospecting Rules, 1969, expenditure incurred by the department for prospecting the areas was to be recovered from the concerned prospecting licencee/ mining lease holders as per rates prescribed in the rules.

In the office of DMG and ME, Nagaur, we found that as per our calculation prospecting expenses of ₹ 7.27 crore were either not recovered or recovered short from the seven prospecting licencees/ mining lease holders in nine cases. Further, systematic and authentic records for monitoring the recovery of prospecting expenses have not been maintained in the office of Additional Director Geology, Udaipur. Hence, actual prospecting expenses remained recoverable from various prospecting licencees/ lease holders could not be ascertained by us.

The Government stated (August 2010) that the dues from M/s. Wollcame have been recovered, and balance dues from other lease holders would be recovered.

## 7.10 Non-forfeiture of security deposits

Condition number 9 and 11 of the RCC/ERCC executed under Rule 37(2) of the RMMC Rules envisage that in case of default in due observance of terms and conditions of the contract, the contract may be terminated with forfeiture of security deposits. If any amount is not paid on due date, it shall be collected as an arrears of land revenue along with interest at the rate of 15 *per cent* per annum.

We found (February 2010) from records of AME, Barmer that three RCC/ERCC contractors failed to deposit ₹ 34.66 lakh dues of the contract and interest ₹ 18.23 lakh thereon. The AME did not recover the dues of ₹ 52.89 lakh and also failed to forfeit their security deposits amounting to ₹ 18.41 lakh available with him, though the contracts were terminated.

The Government stated (September 2010) that recovery was under process.

## 7.11 Non-raising demand of interest

Section 9(2) of the MMDR Act and the Government's instructions of April 2000 and March 2008 provide that lessee shall pay the excess royalty amount on the quantity of mineral despatched during the month. Further, Rule 64 A of the MC Rules provides that lessee shall be liable to pay interest at the rate of 24 *per cent* per annum on the delayed payments for the period of delay computing from 60$^{th}$ day of the due date.

**7.11.1** We found (June 2009-March 2010) that in eight ME/AME offices[14], demand of interest of ₹ 2.59 crore on delayed/ non-payments of excess royalty amount in 40 cases was not raised and recovered.

When we pointed out this, the ME, Barmer, Jaisalmer, Nagaur and Sikar agreed to recover the interest amount. In respect of three cases of AME, Dungarpur, the Government stated (September 2010) that the interest was leviable from the date of raising demand after royalty assessment. We do not agree the reply as the royalty was payable at the time of despatch of mineral from the lease areas.

As per terms and conditions of the ERCC agreement executed under Rule 37(2) of the RMMC Rules, the contractor has to pay the instalments of the contract money by 10th of the each month in advance. Interest amount is to be paid on delayed deposits at the rate of 15 *per cent* per annum for the period of delay.

**7.11.2** We found (February 2009-March 2010) that in seven ME/AME offices[15], in 19 cases demand of interest amounting to ₹ 62.06 lakh was short raised.

When we pointed out this, the ME, Nagaur and Sikar agreed

[14] Barmer, Dungarpur, Jaisalmer, Nagaur, Nimbahera, Sikar, Sirohi and Udaipur.
[15] Barmer, Banswara, Makrana, Nagaur, Rajsamand II, Sikar and Udaipur.

to recover the differential amount of interest. In remaining cases the Government stated (September 2010) that compliance would be made.

Rule 61 of the RMMC Rules provides that interest at the rate of 15 *per cent* per annum shall be charged in case the amount of dead rent, royalty *etc.* is paid after 15 days from the date it becomes due.

**7.11.3** We found (June 2009-January 2010) that in eight ME/AME offices[16], in 136 cases, the demand of interest amounting to ₹ 26.70 lakh was neither raised nor recovered on delayed payments.

When we pointed out this ME, Sikar accepted the facts. The Government stated (September 2010) that ₹ 0.48 lakh have been recovered by ME, Nimbahera.

## 7.12 Non-recovery of minimum premium charges

By issue of order dated 27 April 2005, the State Government appointed M/s Rajasthan State Mines and Mineral Limited (RSMML) and M/s Fertilizer Corporation of India (FCI) as Government agents for excavation of mineral gypsum in eleven areas of AME, Sriganganagar and six areas of ME, Bikaner. As per conditions of their appointment, the agents were to produce and despatch minimum quantity of 2,000 ton per month of gypsum from each area. If this level of production is not achieved, minimum premium charge of ₹ 40,000 per month per area was payable by the agents to concerned ME/AME as per Government order dated 27 April 2005.

In audit of records of AME, Sriganganagar and ME, Bikaner, we observed (July 2009) that RSMML and FCI agents failed to produce and despatch the required minimum quantity of 2,000 ton of gypsum per month per area during the period April 2008 to March 2009. The demand of ₹ 50 lakh, being minimum premium charges at the rate of ₹ 40,000 per month per area, became due, which was neither raised, nor recovered by the Department.

On being pointed out (April 2010) the Government stated (September 2010) that ₹ 23.20 lakh had been recovered and action is being taken to recover the balance amount.

## 7.13 Recommendations

- ***The Government may consider preparation of panchnamas in prescribed format and setting a time frame for approval of cost of illegal despatches of minerals.***
- ***The Government may consider setting a time frame for disposal of pending appeal cases.***

[16] Ajmer, Banswara, Jodhpur, Nimbahera, Rajsamand I, Sikar, Sirohi and Udaipur.

- ***The Government may consider quick and effective action for raising demand and their recovery.***
- ***The Government may take effective steps for equipping the laboratory adequately to expedite the analysing/testing of the samples received in laboratory or alternatively consider outsourcing this activity.***
- ***The Government may consider maintaining systematic and authentic records of expenses incurred on prospecting the areas and for recovery made from lease holders.***



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# Glossary of abbreviations

| | |
|---|---|
| ADM | Additional Director, Mines |
| ADG | Additional Director, Geology |
| AME | Assistant Mining Engineer |
| DMG | Director, Mines and Geology, Rajasthan, Jaipur |
| ERCC | Excess royalty collection contract |
| FCI | Fertilizer Corporation of India |
| MCDR | Mineral Conservation and Development Rules, 1988 |
| MC Rules | Mineral Concession Rules, 1960 |
| ME | Mining Engineer |
| MMDR Act | Mines and Minerals (Development and Regulation) Act, 1957 |
| MT | Metric Ton |
| RCC | Royalty collection contract |
| RMMC Rules | Rajasthan Minor Minerals Concession Rules, 1986 |
| RSMML | Rajasthan State Mines and Minerals Limited |
| RSPCB | Rajasthan State Pollution Control Board |
| SME | Superintending Mining Engineer |
| STP | Short term permit |