

CHAPTER-V: MINING RECEIPTS

5.1 Tax administration

The levy and collection of receipts from mining activities in the State is governed by the Mines and Minerals (Development and Regulation) (MMDR) Act, 1957, the Mineral Concession Rules, 1960 and the Uttar Pradesh Minor Mineral Concession (UPMMC) Rules, 1963. The Principal Secretary, Geology and Mining, Uttar Pradesh is the administrative head of the Department at the Government level. The overall control and direction of the Geology and Mining Department (Department) is vested with the Director, Geology and Mining, Uttar Pradesh, Lucknow. At Headquarters, the Director, Geology and Mining is assisted by two Joint Directors who are further assisted by Chief Mining Officer. At district level, the District Mines Officer (DMO) is responsible for determining royalty, dead rent, and permit fee, etc., due and payable. Additional District Magistrate (Finance & Revenue) is in charge of collection and accounting of mining receipts under the overall administrative control of the District Collector.

5.2 Results of audit

During 2019-20, test-check of records at the office of the Principal Secretary and Director, Geology and Mining, Uttar Pradesh, Lucknow and 31 districts¹ out of 75 districts revealed non/short realisation of royalty and other irregularities involving ₹ 298.94 crore in 8,026 cases as detailed in **Table-5.1**.

Table-5.1

Sl. No.	Categories	Number of cases	Amount (₹ in crore)
1	Royalty not realised	2,412	117.88
2	Short levy of stamp duty on lease deeds	89	4.54
3	Non-imposition of penalty	167	0.06
4	'Price of minerals' not recovered	3,871	165.22
5	Other irregularities ²	1,487	11.24
Total		8,026	298.94

Irregularities involving 4,046 cases worth ₹ 173.13 crore are illustrated in this Chapter. All these audit observations were communicated to the Department between July 2019 and June 2020, however, their replies have not been received (July 2021). Out of these, some categories of irregularity have been reported repeatedly during the last five years as detailed in **Table-5.2**.

¹ DMOs at Auraiya, Azamgarh, Barabanki, Bijnore, Basti, Ballia, Chandauli, Farrukhabad, Faizabad, Gautam Budh Nagar, Ghazipur, Gonda, Hapur, Jhansi, Jaunpur, Lalitpur, Lucknow, Mathura, Mahoba, Moradabad, Meerut, Mau, Maharajganj, Mirzapur, Prayagraj, Raebareli, Sonebhadra, Sambhal, Sant Kabir Nagar, Shahjahanpur and Sultanpur (31 in all) districts.

² Non-recovery of contribution to District Mineral Foundation Trust (DMFT) from licensees/lessees, non-charging of interest on belated payment of royalty from leases, non-charging of interest on belated payment of royalty by the brick kiln owners, etc.

Table-5.2

(₹ in crore)												
Nature of observation	2014-15		2015-16		2016-17		2017-18		2018-19		Total	
	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount
'Price of minerals' not realised	311	13.98	3,491	476.06	1,181	193.97	334	26.27	904	116.85	6,221	827.13
Excavation of minerals without Environment Clearance (EC)	-	-	04	66.90	04	33.75	-	-	04	2.99	12	103.64
Royalty and permit application fees not realised from the brick kiln owners	1,430	6.84	39	0.25	353	6.66	660	7.07	570	8.41	3,052	29.23

5.3 Gaps in Regulatory framework

Under existing regulatory framework, the leaseholder pays lower penalty for illegal extraction as against the amount payable for legal extraction, thus encouraging illegal mining.

Section 21(5) of the MMDR Act, 1957 stipulates that whenever any person raises, 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, and may also recover from such person, rent, royalty or tax, as the case may be, for the period during which the land was occupied by such person without any lawful authority.

The Government, in its order dated 15 October 2015, clarified that the 'price of minerals' is ordinarily five times of the royalty. The rates of royalty are defined in Chapter III of UPMMC Rules, 1963.

Rule 57 of the UPMMC Rules, 1963 stipulates that whoever contravenes the provision of Rule 3³ shall on conviction be punishable with imprisonment for a term which may extend up to six months or with fine which may extend to ₹ 25,000, or with both. Government vide order dated 18 May 2017 revised the penalty provisions of the said Rule to imprisonment for a term which may extend up to five years or with fine which shall not be less than of ₹ two lakh per hectare and which may extend to ₹ five lakh per hectare of the area, or with both.

Rule 23(1) of the UPMMC Rules, 1963 stipulates that the State Government may by general or special order declare the areas which may be leased out by auction. Further, Rule 23(3), stipulates that on such declaration, Chapter III⁴ of the said Rules shall not apply to the area in respect of which the declaration has been issued.

Thus, for any illegal mining the State Government can recover the mineral or its value and relevant royalty. Penalty for illegal mining was increased in

³ Mining operations shall be undertaken in accordance with the terms and conditions of a mining lease or mining permit granted under these Rules.

⁴ Provisions relating to payment of royalty and dead rent.

May 2017. For areas which are notified to be leased out by auction, the royalty rate in Chapter III are not applicable.

Audit analysed the penal provisions in respect of notified areas settled through auction under two scenarios: Illegal mining in (a) auctioned areas and (b) areas in the neighbourhood of the auctioned areas. The results of the analysis are given below.

(a) 'Price of mineral' not defined in cases of mining areas leased out through auction

Rule 23(3) of the UPMMC Rules, 1963 stipulates that for auctioned areas Chapter III shall not be applicable. Chapter III prescribes that royalty of minerals shall not be more than 20 per cent of 'Pit's mouth value of mineral'. On the basis of this, 'price of mineral' is ordinarily taken as five times of the royalty. As the Chapter III is not applicable in cases of mining areas leased out through auction, there is ambiguity as to the manner in which the 'price of minerals' in case of illegal mining shall be determined in such cases. It is left to the discretion of the district authorities to adopt either Chapter III rates or rates discovered through auction.

(b) Inadequate quantum of royalty, 'price of mineral' and penalties imposed for illegal mining in areas neighbouring the auctioned areas

Audit test-checked (between June 2019 to July 2019) the records⁵ of three DMOs⁶ and noticed that in four out of five test-checked cases where leases had been granted through auction, the investigation team from the district authorities had reported illegal excavation of 1,62,779 cu.m. of minor minerals (sand) by four lessees from areas neighbouring the sanctioned lease area. The details are given in **Table-5.3**.

Table-5.3
Details of illegal excavation

Sl. No.	Name of the lessee	Lease area	Period of lease/ Permit	Quantity to be excavated each year (in cu.m.)	Rate of royalty per cu.m. (in ₹)	Quantity of sand illegally excavated (in cu.m.) around leased area as reported	Additional demand raised for illegal mining (in ₹)
1	M/s Nandini Infrastructure	Gata No. 2769, Area-24 hectare, Vill-Durgaganj, Tehsil-Tarabganj, Gonda.	06.06.2018 to 05.06.2023	5,76,000	197	1,22,779	4.79 crore
2	Smt. Preeti Singh, W/o Devendra Pratap Singh	Gata No.912, Area-3.088 hectare, Vill-Majhakala, Tehsil-Sohawal, Faizabad.	04.01.2018 to 03.01.2023	61,760	767	35,000	1.37 crore
3	M/s Satyug Foods Pvt. Ltd.	Gata No.2/1, Area-2.47 Acre, Vill-Samauli, Tehsil-Mant, Mathura.	21.06.2017 to 20.12.2017	8,000	1,050	2,000	7.10 lakh
4	M/s Satyug Foods Pvt. Ltd.	Gata No.2/1, Area-2.47 Acre, Vill-Samauli, Tehsil-Mant, Mathura.	21.06.2017 to 20.12.2017	8,000	1,050	3,000	9.90 lakh
Total-₹ 6.33 crore							

⁵ Lease files.

⁶ DMOs – Gonda, Faizabad and Mathura.

The District authorities calculated quantum of illegal mining and issued (between August 2017 and March 2019) demand notices totalling ₹ 1.05 crore as royalty, ₹ 5.27 crore as ‘price of minerals’ and only ₹ 50,000⁷ as penalty for illegal excavation.

Audit compared the quantum actually imposed by the District Magistrate and that based on rate discovered through auction. The details are given in **Table-5.4**.

Table - 5.4
Analysis of penal amounts for illegal mining

(₹ in Lakhs except column 4 and 9)												
Case No	Name of the lessee	Quantity of illegal mining (in cu.m.)	Actually imposed by District Magistrate					Based on rate discovered through auction (calculated by Audit)				
			Rate of Royalty (per cu.m.)	Royalty	Price of mineral	Penalty	Total	Discovered rate of Royalty (per cu.m.)	Royalty	Price of mineral	Penalty	Total
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
I	M/s Nandini Infrastructure	1,22,779	65	79.81	399.03	0.00	478.84	197	241.87	1209.37	5.00	1,456.24
II	Smt. Preeti Singh, W/o Devendra Pratap Singh	35,000	65	22.75	113.75	0.00	136.50	767	268.45	1342.25	5.00	1,615.70
III	M/s Satyug Foods Pvt. Ltd.	2,000	55	1.10	5.50	0.50	7.10	1050	21.00	105.00	5.00	131.00
IV	M/s Satyug Foods Pvt. Ltd.	3,000	55	1.65	8.25	0.00	9.90	1050	31.50	157.50	5.00	194.00

An analysis of figures in above table indicated:

- (i) Penal demand for illegal mining were based on rates of royalty as given in Chapter III of UPMMC Rules, 1963 which were much less than the rates discovered through auction. Thus, while Chapter III rates of royalty ranged from ₹ 55 to ₹ 65, those discovered through auction were in the range of ₹ 197 to ₹ 1,050. Based on Chapter III rates, amounts ranging between ₹ 7.10 lakh to ₹ 4.79 crore only were demanded from these lessees. However, if auction rates were to be considered these four lessees would have to pay penal amounts ranging between ₹ 1.31 crore to ₹ 16.15 crore. Hence although illegal mining was being done by different lessees in neighboring areas, the Regulations permitted levy of royalty and ‘price of mineral’ at much reduced rates, encouraging illegal mining in neighbouring areas.
- (ii) Even though penalty was required to be imposed and was a maximum of ₹ five lakh per hectare in each case, it was observed that only in one case, the district authorities imposed penalty of ₹ 50,000 only while in three cases no penalty was imposed.

Recommendations:

1. **The Government needs to clearly define/redefine what constitutes ‘price of mineral’ and ‘royalty’ in terms of Section 21(5) of the MMDR Act in areas leased out through auction.**

⁷ Rule 59(2) of UPMMC Rules, 1963.

2. **The Government may review rates of royalty which will be applicable in cases of illegal mining in neighbourhood of areas leased through auction where price discovery of the mineral has already occurred.**

5.4 Short levy of stamp duty on mining lease deeds

Contribution payable to the DMFT was not included in the consideration of 12 mining lease deeds which resulted in short levy of stamp duty of ₹ 1.32 crore.

Stamp duty and contribution to DMFT in accordance with the rules is applicable to mining leases.

Article 35(b)(i) of Schedule I-B of the Indian Stamp Act, 1899 (IS Act) stipulates that where lease for a term not exceeding thirty years has been granted for a fine or premium, or for money advanced and where no rent is reserved, the stamp duty chargeable should be the same as a conveyance for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease. Stamp duty on such lease deeds was chargeable at the rate of two *per cent* of the consideration, vide Notification dated 10 July 2008.

In addition, Explanation (I) of Article 35 states that when a lessee undertakes to pay recurring charge, such as the Government revenue, the landlord's share of cess or the owner's share of municipal rates or taxes, which by law, is recoverable from the lessor, the amount so agreed to be paid by the lessee shall be deemed to be part of the rent.

Under Rule 10(2) of the Uttar Pradesh DMFT Rules, 2017, the lessees are also required to pay an amount equivalent to 10 *per cent* of royalty to the DMFT.

Further, Section 33(1) of the said Act stipulates that every person in charge of a public office, except an officer of police, before whom any instrument, chargeable, in his opinion, with duty, is produced or comes in the performance of his functions, shall, if it appears to him that such instrument is not duly stamped, impound the same.

Audit noticed (between June 2019 and July 2019) in 12 mining lease deeds executed between November 2014 and June 2019 for a period of five years each in three⁸ DMOs that only the amount of royalty was included in consideration for charging the stamp duty and contribution payable to the DMFT was not included. Stamp duty of ₹ 8.31 crore was charged on the consideration of ₹ 408.02 crore in these lease deeds against stamp duty of ₹ 9.63 crore chargeable on the consideration of ₹ 448.82 crore. Thus, the Government was deprived of revenue of ₹ 1.32 crore due to short levy of stamp duty as shown in **Appendix-XII**.

5.5 Royalty and contribution to DMFT not deposited

Royalty of ₹ 47.20 crore and contribution to DMFT of ₹ 8.22 crore was not deposited by 59 lease holders.

Rule 28(2)(1) and (4) of UPMMC Rules, 1963 provides that instalments of amount of tender/auction will be fixed quarterly as per the Fourth Schedule.

⁸ DMOs – Azamgarh, Sant Kabir Nagar and Prayagraj.

Rule 58(1) of UPMMC Rules, 1963 stipulates that the State Government or any officer authorised by it may determine the mining lease after serving a notice on the lessee to pay within thirty days of the receipt of the notice any amount due or dead rent under the lease including the royalty due to the State Government, if it was not paid within fifteen days after the date fixed for such payment. This right shall be in addition to that of the State Government to realise such dues from the lessee as arrears of land revenue.

Further, as per Rule 10(2) of Uttar Pradesh District Mineral Foundation Trust Rules, 2017 in case of minor mineral the holder of every mineral concession permit shall in addition to the royalty, pay to the Trust of the District in which the mining operations are carried on, an amount which is equivalent to 10 *per cent* of royalty or as may be prescribed by the State Government from time to time.

Thus, Royalty and DMFT contributions for mining leases are required to be paid to the Government on quarterly basis and if not done so, then lease may be cancelled and royalty may be collected as arrears of land revenue in accordance with rules.

Audit test-checked the records⁹ of 119 lease deeds in eight DMOs¹⁰ and noticed (January 2018 and April 2019) that 59 lease holders deposited an amount of ₹ 50.97 crore against due royalty of ₹ 98.17 crore payable between January 2018 and April 2019 as per payment schedule of lease deeds. Apart from this, ₹ 9.81 crore was required to be deposited (at the rate of 10 *per cent* of royalty of ₹ 98.17 crore) by the lease holders in the District Mineral Foundation Trust (DMFT), but they deposited only ₹ 1.59 crore. Thus, royalty of ₹ 47.20 crore and contribution to DMFT of ₹ 8.22 crore was not deposited by the lease holders. The concerned DMOs also did not initiate any action to recover these dues. This resulted in non-realisation of revenue of ₹ 55.42 crore to the Government as shown in **Appendix-XIII**.

5.6 Irregularities relating to work executing agencies

5.6.1 Royalty, 'Price of minerals' and penalty not realised from contractors for works executed without transit passes

Inadequate co-ordination between Mining Department and executing agencies of other Departments led to non-recovery of royalty amounting to ₹ 3.97 crore, 'price of minerals' amounting to ₹ 90.41 crore and due penalty amounting to ₹ 3.97 crore in 1,588 cases from the contractors undertaking civil works, for raising minerals without lawful authority.

The UPMMC Rules, 1963 and the Uttar Pradesh Minerals (Prevention of Illegal Mining Transportation and Storage) Rules, 2002 stipulate that no person shall transport any mineral without a valid transit pass (Form MM-11¹¹/Form C¹²). The MMDR Act¹³, 1957 stipulates that the 'price of

⁹ Lease files.

¹⁰ DMOs – Auraiya, Ballia, Gonda, Jhansi, Mahoba, Prayagraj, Sant Kabir Nagar and Sonebhadra.

¹¹ Transit pass (*Rawanna*) issued by the holder of the mining lease or crusher plant for transportation of minor minerals. It includes names and addresses of the lease holders, nature and quantity of minerals and vehicle registration number through which the minerals are transported.

minerals' along with the royalty may be recovered for raising minerals without lawful authority. The Government, in its order dated 15 October 2015, reiterated that apart from royalty, the 'price of minerals' (ordinarily five times of royalty) be deducted from the contractor's bill and deposited into the treasury, if the contractors do not produce the requisite royalty receipt in the form MM-11 (The rate of royalty was revised by the State Government from 19 January, 2016).

Government of Uttar Pradesh order dated March/October 2006 reiterated that the concerned departments executing public works should ensure payment to contractors only after payment of royalty which is due and in case it is not done then responsibility of the concerned officer would be fixed.

Thus, any contractor using minerals (like sand, metal, stone, etc.) are required to submit transit pass (Form MM-11/ Form-C) as proof of royalty paid for extracted mineral. In case of non-submission of the relevant form, concerned officers of executing agencies are made responsible to deduct royalty and 'price of mineral' from contractors bills and deposit the same to the Government account.

- Audit test-checked the records¹⁴ of 1,251 cases in seven DMOs¹⁵ and noticed (between June 2019 and July 2019) that in 1,048 cases the contractors did not submit the required MM-11 forms along with the bills for the minerals used in civil works. The executing agencies deducted royalty of ₹ 10.11 crore from the bills of the contractors and either deposited the same into the treasury or gave cheques to the concerned DMOs between April 2015 and June 2019. The concerned DMOs, despite having knowledge of deduction of royalty by the executing agencies, did not raise the issue with them for ensuring recovery of the 'price of minerals' from the works contractors and failed to initiate any action to recover the 'price of minerals' valued at ₹ 50.57 crore and penalty ₹ 2.62 crore in accordance with the Government order dated 15 October 2015 which provided for deduction of 'price of mineral' (five times of royalty) from the contractor's bills as shown in **Appendix-XIV**.
- Audit test-checked 1,494 cases in five DMOs¹⁶ and noticed that the executing agencies executed civil works (between April 2015 and June 2019) through contractors. In 540 cases the contractors did not submit the required MM-11 forms along with the bills for the minerals consumed in civil works. The executing agencies did not deduct royalty in 357 cases and in 183 cases deducted total royalty of ₹ 6.60 crore at old rates instead of ₹ 7.66 crore at the revised rates. Further, the executive agencies did not recover the 'price of mineral' amounting to ₹ 39.84 crore and penalty of ₹ 1.35 crore from the contractors as the transit passes were not submitted by the contractors. The concerned DMOs did not initiate any action to recover the 'price of mineral', penalty and royalty at the revised rates. This resulted in non-realisation

¹² The holder of licence for storage of minerals shall issue the transit pass in 'Form-C' for lawful transportation of minerals from the store.

¹³ Section 21(5) of the MMDR Act.

¹⁴ Treasury sheet, challan and statement of royalty provided by the executing agencies.

¹⁵ DMOs – Basti, Bijnore, Hapur, Jhansi, Lucknow, Meerut and Prayagraj.

¹⁶ DMOs – Lucknow, Mathura, Meerut, Prayagraj and Raebareli.

of revenue of ₹ 45.16 crore (royalty ₹ 3.97 crore, 'price of mineral' ₹ 39.84 crore and penalty ₹ 1.35 crore) to the Government as shown in **Appendix-XV**.

Recommendation:

The Department may strengthen co-ordination with the Government executing agencies undertaking civil works to ascertain that the contractors have sourced minerals from legitimate licensees and carry valid transit passes.

5.6.2 Non-realisation of royalty and 'price of minerals' due to submission of fake / irregular MM-11 forms before the executing agencies

The Department failed to point out the fraudulent activities involved in submission of MM-11 forms as proof of royalty paid and did not recover royalty, 'price of minerals' and penalty amounting to ₹ 4.87 crore from the contractors.

According to UPMMC Rules, 1963 MM-11 forms are required to be printed in triplicate-(i) Office copy (of the lease holder), (ii) First copy-for retention at check posts and (iii) Second copy for transporter/end-consumer. Only the consumer's copy (second copy) of MM-11 form is valid for transportation and is to be considered as proof of royalty paid. While issuing a transit pass by the lease holder it is mandatory to fill up all information in all the three copies of the transit pass. Vide their order¹⁷ Government clarified that the executive agency is responsible for realisation of royalty and 'price of mineral' if the contractor does not produce royalty receipt in the form of a valid transit pass. MM-11 forms submitted by contractors against minerals utilised may be verified from concerned DMOs. Electronic MM-11 (eMM-11) forms were introduced with effect from 1 August 2017 in place of printed MM-11 forms. eMM-11 forms have 17 digit serial number.

Rule 5(2) of UP Minerals (Prevention of Illegal Mining Transportation and Storage) Rules, 2002 stipulates that the holder of license for the storage of minerals shall issue the transit pass in Form C for lawful transportation of minerals from the store.

Further, as per Rule 77 of Financial Handbook (FHB) volume-VI the Drawing and Disbursing Officers (DDOs) are responsible for the correctness in all respects of the original records of cash and store, receipt and expenditure.

Thus, while passing bills of the contractors, the DDOs are expected to verify genuineness of submitted documents.

Audit test-checked 5,583 cases in two DMOs¹⁸ and noticed (June 2019 and July 2019) that 16 executing agencies executed civil works between April 2015 and June 2019 through contractors. In 1,402 cases, executing agencies¹⁹

¹⁷ 15 October 2015, 15 July 2019 and Rule 70(3) of UPMMC R, 1963.

¹⁸ DMOs – Lucknow and Prayagraj.

¹⁹ Jal Nigam Prayagraj, Nagar Nigam Prayagraj, Public Works Department Prayagraj, Uttar Pradesh Rajkiya Nirman Nigam Limited Prayagraj, Uttar Pradesh Awas Vikas Parishad Prayagraj, Irrigation Department Lucknow, Public Works Department Lucknow, Uttar

accepted MM-11 forms in support of supply of minerals used in execution of works whose genuineness was doubtful. These irregularities in submitted MM-11 forms are detailed below:

A. Submission of fake/duplicate/office copy/check post copy of MM-11 forms as evidence of royalty paid

Audit test-checked the records²⁰ of executing agencies/Departments and cross verified from the website of Directorate of Geology and Mining, GoUP and noticed that:

- In 12 cases, form serial numbers were shown as invalid or the forms' whose date of issue did not match with the date of issue mentioned at the website of Directorate of Geology and Mining.
- In 131 cases, it was seen that one form was used at multiple places.
- In 61 cases, either office copy or check post copy of the MM-11 form was used.

Thus, the executing agencies did not verify genuineness of submitted MM-11 forms from the concerned DMOs. As MM-11 forms were not authentic, the minerals used in the works should have been considered as obtained from illegal mining. Due to fake/duplicate/office copy/check post copy submission of MM-11 forms, royalty, 'price of mineral' and penalty was leviable on the contractors. This resulted in non-realisation of revenue of ₹ 68.49 lakh (royalty- ₹ 2.96 lakh, 'price of mineral'- ₹ 14.78 lakh and penalty- ₹ 50.75 lakh) to the Government as shown in **Appendix-XVI**.

Some illustrative cases of fake/duplicate MM-11 forms are as under:

Case I: Four MM-11 forms with the same number **31451709010100228** were submitted by a contractor to the Office of Project Manager, Rajkiya Nirman Nigam Ltd., Kaushambi Unit, Prayagraj as proof that royalty had been paid for minerals. Details of these MM-11 forms are given in **Table-5.6**.

Table-5.6

Sl. No	MM-11 form No.	Date and time of generation of MM-11 form		Registration number of vehicle which transported mineral as per MM-11 form	Details of Voucher wherein the MM-11 form was enclosed	
		Date	Time		Voucher No.	Date
1	31451709010100228	22.10.2017	07:16:12 PM	UP70DT9747	123/30	25.02.2018
2	-do-	23.10.2017	09:50:12 PM	UP70CT5001		
3	-do-	27.10.2017	09:50:12 PM	-do-		
4	-do-	28.10.2017	09:50:12 PM	-do-		

Audit cross-verified the details of the MM-11 form No. **31451709010100228** from the website of Directorate of Geology and Mining, GoUP and noticed that this form number was generated on 21.10.2017 at 09:50:12 PM and registration number of the vehicle which transported the mineral was UP70ET5253. Thus, information contained in all four forms was incorrect.

Pradesh Rajkiya Nirman Nigam Limited Lucknow, Uttar Pradesh Awas Vikas Parishad Lucknow.

²⁰ MM-11 forms, vouchers, running bills and final bills of contractor.

Case II: Duplicate copies of MM-11 forms were submitted by same/different contractors to the Office of the Executive Engineer, Construction Division-3, Public Works Department, Prayagraj as proof that royalty had been paid for minerals. Details are given in **Table-5.7**.

Table-5.7

Sl. No.	MM-11 form No.	Details of Voucher wherein the MM-11 form was enclosed		Form submitted by
		Voucher No.	Date	
1	31791704001603465	132	27.03.2018	Same contractor in different bills
2	-do-	149	-do-	
3	-do-	138	-do-	Another contractor
4	31791704006600057	132	27.03.2018	Different contractors
5	-do-	133	-do-	
6	-do-	138	-do-	
7	31791704010100329	132	27.03.2018	Same contractor in different bills
8	-do-	149	-do-	
9	-do-	138	-do-	Another contractor
10	31791704001601071	132	27.03.2018	Different contractors
11	-do-	133	-do-	
12	-do-	138	-do-	

Audit while cross verifying noticed that all details such as name of lease/permit holder, lease details, type and quantity of mineral, destination/delivery address, date and time of generation of forms, etc. mentioned in the MM-11 forms submitted by the contractors tallied with details available on website. It is clear from **Table-5.7** that same MM-11 forms were used thrice which shows that contractor(s) had submitted duplicate copies of same MM-11 form.

B. Dates of MM-11 forms were after the dates of completion of work

Audit noticed in two executing agencies that 146 MM-11 forms submitted by the contractors were issued after the dates of completion of work. Thus, these MM-11 forms were *prima facie* not genuine passes. As MM-11 forms were issued after completion of the works, royalty, 'price of mineral' and penalty was leviable on the contractors. This resulted in non-realisation of revenue of ₹ 45.86 lakh (royalty- ₹ 1.56 lakh, 'price of mineral'- ₹ 7.80 lakh and penalty- ₹ 36.50 lakh) to the Government as shown in **Appendix-XVI**.

C. MM-11 forms were meant for other destinations

Audit noticed in three executing agencies that 926 MM-11 forms submitted by the contractors were issued for other destinations. As MM-11 forms were issued for other destinations, royalty, 'price of mineral' and penalty was leviable on the contractors. This resulted in non-realisation of revenue of ₹ 3.31 crore (royalty- ₹ 16.62 lakh, 'price of mineral'- ₹ 83.09 lakh and penalty- ₹ 2.31 crore) to the Government as shown in **Appendix-XVI**.

D. More than one MM-11 form issued for one vehicle at the same time

Two or more MM-11 forms should not be issued for the same vehicle at the same time. If more than one transit pass is issued on the same date and at the same time for one vehicle it *prima facie* points to a possible fraudulent activity.

Audit noticed from 156 MM-11 forms submitted by the contractors in two executing agencies that more than one MM-11 form were issued for one vehicle at the same time. As MM-11 forms were issued at the same time for one vehicle, only one MM-11 form can be taken as authentic. Thus, out of these 156 MM-11 forms, 110 MM-11 forms were not genuine and only 46 MM-11 forms can be taken as authentic. The executing agencies failed to detect this while releasing payments to the contractors. Thus, royalty, 'price of mineral' and penalty amounting to ₹ 36.00 lakh (royalty- ₹ 1.42 lakh, 'price of mineral'- ₹ 7.08 lakh and penalty- ₹ 27.50 lakh) was leviable on the contractors. Non-realisation of revenue to the Government is detailed in **Appendix-XVI**.

An illustrative case of more than one MM-11 form issued at the same time for one vehicle is given below:

Four MM-11 forms issued at the same time for one vehicle were submitted by a contractor to the Office of Executive Engineer, Rural Engineering Department, Lucknow Division as proof that royalty had been paid for minerals. Details of these forms are given in **Table-5.8**.

Table-5.8

Sl. No.	MM-11 form No.	Date and time of issue of MM-11 form		Registration number of vehicle which transported mineral as per MM-11 form	Details of Voucher wherein the MM-11 form was enclosed	
		Date	Time		Voucher No.	Date
1	769446	01.11.2014	12:45 PM	UP32EN4242	10	08.02.2016
2	769447					
3	823336					
4	823337					

E. Submission of cancelled MM-11 forms

Agreement number/name of work is to be mentioned on the transit passes submitted by the contractors. To avoid the reuse/resubmission of these transit passes by contractors these transit passes should be cancelled after payment of bills.

Audit noticed in records of one executing agency that the contractors submitted 16 cancelled MM-11 forms as proof of royalty paid. This resulted in non-realisation of revenue of ₹ 5.49 lakh (royalty- ₹ 24,960, 'price of mineral'- ₹ 1.24 lakh and penalty- ₹ 4.00 lakh) to the Government as shown in **Appendix-XVI**.

Thus, audit examination revealed 1,402 cases of submission of irregular and /or possibly fake MM-11 forms as evidence of transport of minerals (between April 2015 and June 2019) which were not detected by the concerned Government executive agencies, indicating lack of due diligence/negligence of

duties on their part. Omission to do so resulted in non-realisation of ₹ 4.87 crore of revenue to the Government.

Recommendations:

- 1. The Department may examine these cases in detail and if a serious lapse is found may fix responsibility and take appropriate action.**
- 2. The Government may put in place an effective mechanism to ensure transportation of minerals under valid transit passes to prevent widespread misuse of MM-11 forms.**

5.7 Royalty, regulating fees, permit application fees and DMFT contribution not realised from the brick kiln owners

Royalty of ₹ 7.37 crore, regulating fees of ₹ 4.89 crore, permit application fees of ₹ 21.34 lakh and DMFT contribution of ₹ 70.73 lakh was not realised in 981 cases from the brick kiln owners, though the same was specified in the OTS scheme.

One Time Settlement Schemes (OTSS) for brick kilns, announced by the Government from time to time, provided for payment of a consolidated amount of royalty at the prescribed rates along with permit application fees. It also provided for charging of interest at the rate of 24 *per cent* on belated payment of royalty, fee or other sum due to the Government. In OTSS for the years 2015-16 to 2017-18, an additional 10 *per cent*²¹ of royalty was to be levied for *palothan*²² soil used in brick making. DMFT Rules 2017, stipulate that the holder of every mineral permit shall, in addition to royalty, pay to the Trust of the district in which mining operations are carried on, an amount equivalent to 10 *per cent* of royalty, which was leviable from 2015-16. As per the provision of UPMMCR, 1963 (as amended)²³ a regulating fee has been imposed on brick kiln in place of royalty for the brick kiln year²⁴ 2018-19.

- Audit test-checked the records²⁵ of 1,100 brick kiln owners in seven DMOs²⁶ and noticed (between June 2019 and July 2019) that 580 brick kiln owners did not pay any royalty, permit application fees and contribution to the DMFT for the brick years 2014-15 to 2017-18. The concerned DMOs neither initiated any action to stop their business nor made any efforts to realise due amount of ₹ 8.21 crore (royalty of ₹ 7.37 crore, permit application fees of ₹ 13.32 lakh and DMFT contribution of ₹ 70.73 lakh) as shown in **Appendix-XVII**. Besides, interest is also leviable for delay in payment of dues.
- Audit test-checked the records²⁷ of 628 brick kiln owners in seven DMOs²⁸ and noticed (between June 2019 and July 2019) that 401 brick kiln owners

²¹ 20 *per cent* for the year 2015-16.

²² Sandy soil.

²³ 46th amendment dated 06.03.2019.

²⁴ October to September.

²⁵ Brick Register and challan, list of brick kilns in operation.

²⁶ DMOs – Auraiya, Bijnore, Ghazipur, Gonda, Mau, Raebareli and Sultanpur.

²⁷ Brick Register and challan, list of brick kilns in operation.

²⁸ DMOs-Auraiya, Bijnore, Gonda, Mathura, Mirzapur, Moradabad and Raebareli.

did not pay any regulating fees and permit application fees for the brick year 2018-19. The concerned DMOs neither initiated any action to stop the business nor made any efforts to realise the due amount of ₹ 4.97 crore (regulating fees of ₹ 4.89 crore and permit application fees of ₹ 8.02 lakh) as shown in **Appendix-XVIII**. Besides, interest is also leviable for delay in payment of dues.

Lucknow

The 20 October 2021



(RAJ KUMAR)

Principal Accountant General
(Audit-II),
Uttar Pradesh

Countersigned



New Delhi

The 22 OCT 2021

(GIRISH CHANDRA MURMU)

Comptroller and Auditor General of India