



MANUAL ON AUDIT

OF

MINES AND GEOLOGY

DEPARTMENT

PREFACE

This Manual has been prepared in accordance with the directions contained in Para 54 of the Comptroller and Auditor General's M.S.O. (Administrative), Volume-I and INTOSAI/ ASOSAI pattern for the guidance of those entrusted with the audit of mineral concession fees and royalties and return there from.

The instructions in this Manual are supplementary to the general rules and orders contained in the manuals / circulars issued by the Comptroller and Auditor General and they do not override the provisions of the latter. This Manual should be treated only as a guide and the audit checks mentioned therein should not be taken as exhaustive. In the course of audit, where references have to be made to the provisions of law governing mineral concessions, such references should be made only to the relevant provisions of the Mines and Minerals Development and Regulations Act, 1957. Bihar Minor Mineral Concession Rules, 1972 or any decision of the Courts and not to the paragraphs in these Manuals. This should also not be quoted as authority in any correspondence outside this office.

The Audit Officer in- charge of Revenue Sector at Headquarters will be responsible for keeping this Manual up-to-date, by issue of correction slips at regular intervals.

Suggestions for improvement of this Manual are invited. Any error or omissions may also be brought to the notice of the Senior Deputy Accountant General/ Deputy Accountant General(Revenue Sector).

The Accountant General (Audit)

Bihar, Patna

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CHAPTER I

INTRODUCTORY

1 Under the provisions of the Constitution of India, Mineral Concession, Fees and Royalties are levied, collected and appropriated by the State Government subject to the extent and limitations imposed by parliament by law. Accordingly, Mining legislation were framed by parliament Mines & Minerals (Development and Regulation) Act, 1957 as amended and the Mineral Concession Rules, 1960 made there under govern the prospecting and extraction of minerals in the country.

1.1 Minerals are of two types- Major minerals and Minor minerals. Minor minerals, as defined in the Act, mean Building Stones, Gravel, Ordinary Clay, Brick Earth, Ordinary Sand other than sand used for prescribed purposes and any other mineral which the Central Government may by notification in the Official Gazette declare to be a minor mineral. The rest of the minerals are major minerals.

1.2 The Mineral Concession Rules, 1960 made by the Central Government to govern the prospecting and mining of major minerals whereas the Bihar Minor Mineral Concession Rules, 1972 and Bihar Minerals (Prevention of illegal Mining, Transportation and Storage) Rules, 2003 were framed by the State Government under the authority vested in it by virtue of Section 15 and 23C of the Central Act of 1957 *ibid* regulate the mining operations in respect of minor minerals as well as preventing illegal mining, transportation and storage of minerals respectively. All mining receipts both for major and minor minerals are credited to the Consolidated Fund of the State.

1.3 The minor minerals available in State of Bihar are only brick earth, stones, sand, Mica, murrum, earth, Silica, Quartz and Quartzite.

1.4 Mining operations for major minerals are undertaken through a mining lease granted by the State Government except in case of minerals specified in the first schedule to the M & M (DR) Act, 1957 for which prior approval of the Central Government is necessary. The period of such mining leases should not exceed 30 years. A mining lease is also subject to renewal but the period of renewal should not exceed 20 years. A lessee of major minerals is required to pay royalty at the prescribed rate or dead rent whichever is higher. In addition, he is also required to pay surface rent for the surface area used by him for the purpose of mining operation at such rate not exceeding the Land Revenue and Cesses assessable on the land as may be specified by the State Government in the lease.

1.5 In case of Major Minerals Rule 64A of the Mineral Concession Rules, 1960 authorises the State Government to charge simple interest at the rate of 24 *per cent* per annum on any rent, royalty or fee or other sum due to Government, from the sixteenth days of the expiry of the date fixed for payment thereof. So far as minor minerals are concerned, Rule 43A of the Bihar Minor Mineral Concession Rules, 1972 provides for levy of interest at the rate of 24 *per cent* per annum on any rent, royalty or fee (other than the fee payable under Rule 47 or other sum due of the Government).

1.6 Mining Operations for minor minerals are undertaken generally through a mining lease of a quarrying permit. The Settlement of sand ghats as Minor Mineral shall be made through Public auction cum-tender basis in favour of the highest bidder by the collector as per new sand policy 2013 vide notification no. S.S.-2/M.M. (B.) 06/14-2887/M., Patna dated 22.07.2014 by framing the sand ghats/rivers in one stretch in each district as a single

unit. The Period of Settlement shall not be less than Five years. Provided that in the interest of state revenue and mineral development, the State Government shall be liberty to either extend or reduce the settlement period whenever required for reason to be recorded in writing.

The quarrying permits are granted by the Assistant Director of Mines/Mineral Development Officer for specified quantity (not exceeding three thousand cubic metres) on pre-payment of royalty. Royalty at prescribed rates or dead rent whichever is higher is payable by the lease holder. In addition, he is also required to pay surface rent for the area occupied or used by him in mining operations. A quarrying permit holder is, however, required to pay royalty at prescribed rates in advance on the quantity of minerals specified in the permit.

1.7 In the subsequent chapters, procedures for granting mining leases, prospecting licences, quarrying permits, assessment of royalty/dead rent and other mining dues and their collection and audit thereof have been discussed in detail.

CHAPTER II

(Definitions, basic principles of Audit)

2. Definitions

- (i) 'Minerals' means all minerals except mineral oils (mineral oil includes Natural gas and Petroleum).
- (ii) 'Mining lease' means a lease granted for the purpose of undertaking mining operations and includes a sub-lease for such purpose.
- (iii) 'Mining operations' means any operations undertaken for the purpose of mining or winning any mineral.
- (iv) 'Prospecting licence' means a licence granted for the purpose of undertaking prospecting operations.
- (v) 'Prospecting operation' means any operations undertaken for the purpose of exploring, locating or proving mineral deposits.
- (vi) 'Act' means the Mines and Mineral (Development and Regulation) Act, 1957.
- (vii) 'Rules' means the Mineral Concession Rules, 1960 & Bihar Mineral Concession Rules 1972.
- (viii) 'Quarrying permits' means permits granted under the Bihar Minor Mineral Concession Rules, 1972 for raising and removing of minor minerals.
- (ix) 'Competent Officer' means (a) in the case of grant of quarrying permits in land notified as reserved and protected forests under the Indian Forest Act, 1927, where the actual Mining operation involved in merely removal from the surface from a depth not exceeding five feet and to a limit of 10,000 cubic feet only, The Divisional Forest Officer of the reserved and protected areas concerned and (b) in all other cases in respect of all lands, and sub-soil including any right in mines and minerals whether discovered and whether being worked or not the Assistant Director of Mines or

Mineral development Officer of the District or Circle or such other officer as may be authorised in this behalf by the State Government to perform the duties of the Competent Officer.

2.1 Basic Principles of Audit – The audit of revenue which is an important branch of audit of receipts is inherent in the powers vested in the Comptroller and Auditor General of India by Article 151. The reports of the Comptroller and Auditor General of India relating to the accounts of the Union and the States shall be submitted to the President or the Government of a State as the case may be and laid before each House of Parliament or Legislature. Article 151 of the Constitution, thus, lays on the Comptroller and Auditor General the duty for auditing the accounts not only **expenditure** but also receipts of the Union and the States.

2.2 Section 16 of the Comptroller and Auditor General's (Duties, powers and Conditions of Service) Act, 1971, specifically enjoins upon the Comptroller and Auditor General of India to audit all receipts of the Union and the State and to satisfy himself that the rules and procedures in that behalf are designed to secure an effective check on the assessment, collection and proper allocation of revenue and are being duly observed. For that purpose, the Comptroller and Auditor General of India is authorised to undertake such examination of the accounts as he thinks fit and to report thereon. The audit of receipts of the Union and the States is, thus, a statutory responsibility of the Comptroller and Auditor General of India.

2.3 The main principles in conducting Revenue Audit with reference to the provisions of Section 16 of the Act *ibid* are:

- (i) The Comptroller and Auditor General shall audit all receipts that are payable into the Consolidated Fund of India and each State and of each Union Territory.

- (ii) He should satisfy himself that the rules and provisions in that behalf are designed to secure an effective check on the assessment, collection and proper allocation of revenue.
- (iii) He should be satisfied that these procedure and checks are properly applied and
- (iv) For the purpose of ascertaining that they are being duly observed, he should make such examination of accounts as he thinks fit and report thereon.

It will be seen from the above that the primary task of auditing is unqualified and is left to the discretion of the Comptroller and Auditor General of India.

2.4 Consequent upon devolving this constitutional responsibility on the Comptroller and Auditor General of India, the audit of all receipts of Government of Bihar, has been taken up by this office from the year 1972-73. The audit of Mineral Concession Fees and Royalties in Bihar was, however, done even earlier than 1972-73.

2.5 The audit of receipt is governed by the general principles enunciated in chapter 4 of section II of the Manual of Standing Orders (Technical) Vol-I of the Comptroller and Auditor General of India. This Manual (Manual on Mining Receipts) describes in detail the procedure to be followed in the audit receipts relating to Mineral Concession Fees and Royalties levied and collected in the State of Bihar together with relevant provisions of the Act and Rules governing assessment and collection of such receipts.

2.6 It is the primary responsibility of the departmental authorities to see that all revenues or other debts due to the Government which have to be brought to account are correctly and properly assessed, realised and credited to Government account. The most important function of audit is to

see (1) that adequate regulations and procedure have been framed by the Revenue Department to secure an effective check on assessment, collection and proper allocation of taxes, and (2) to satisfy itself by adequate test check that such regulations and procedure are actually being carried out. Audit should also make such examination as it thinks fit with respect to the correctness of the sums brought to account. It should not only to be borne in mind that all demands raised are promptly collected and credited to Government but also to be ensured that these demands are correctly raised and they satisfy the requirements of the law and that the executive does not grant unjustified or unauthorised remissions, concessions and allowances to tax payers or other persons.

2.7 In the audit of receipts ordinarily the general is more important than the particular. Audit of revenue differs from audit of expenditure in that:-

- (1) Attention must be given not only to examine the records of amounts actually received but also to ascertain that adequate precautions are taken to ensure that all amounts received or due to be received in the period of the accounts are properly and promptly brought to account and
- (2) Since the laws under which the revenue is collected provide for judicial remedy or judicial interpretation the activity of audit should be limited to those matters which are not subjected to judicial processes.

2.8 The audit department does not normally, question the decision of a High Court, which is binding on the officers functioning within the jurisdiction of that High Court till it is in any way modified or over ruled by the Supreme Court. It is only in those cases where no authoritative interpretation of a provision of law by a High Court or the Supreme Court is available that the Comptroller and Auditor General of India states what in

his judgement is the correct requirement of the law on the basis of the plain meaning of statute, and puts forward that view to the Revenue Department for its examination and acceptance.

2.9 The audit department should not, in any way, substitute itself for the revenue authorities in the performance of their statutory duties, but audit should satisfy itself in general that the departmental machinery is sufficiently safeguarded against error and fraud and that so far as can be judged, the procedure is calculated to give effect to the requirements of law.

2.10 Audit does not consider in the main part of its duties to review the judgement exercised or the decision taken in individual cases by officers entrusted with those duties, but it must be recognised that an examination of such cases may be an important factor in judging the effectiveness of assessment procedure. Where, for example, the information received in any individual case is insufficient to enable audit to see how the requirement of law has been complied with, Audit may consider its duty to ask for further information to enable it to form the judgement required of it as to the effectiveness of the system. It is, however, towards forming a general judgement rather than detection of individual errors that the audit enquiries should be directed. The detection of individual errors is an incident rather than an object of audit. Members of the Audit Department will have access to the relevant records and papers of the Mining Department, but they should observe secrecy in the same way as the officials of the Mining Department.

2.11 In relation to assessment and refunds of mining revenues, audit has to satisfy by such test checks as it may consider necessary that the internal procedure adequately provides for and secures:

- (i) The collection and utilisation of data necessary for the computation of the demands of refunds under the law;

- (ii) The prompt raising of demands on licensees/lessees in the manner required by law or agreements;
- (iii) Regular accounting of demands, collections and refunds;
- (iv) The correct accounting and allocation of collections and their credit to the Consolidated Fund;
- (v) That proper safeguards exist to ensure that there is no wilful omission to levy or collect dues or to issue refund;
- (vi) That claims on licensees/lessees are pursued with due diligence and are not abandoned or reduced except with adequate justification and proper authority;
- (vii) that double refunds, fraudulent or forged refund orders or other losses of revenue through fraud, default or mistake are promptly brought to light and investigated and
- (viii) that interest payable by assess or recoverable from them is properly calculated in accordance with law and that no interest is paid on account of delayed refunds without adequate justification.

To discharge these functions effectively, the audit must be thoroughly conversant with the processes and procedures relating to the levy and collection of mining revenues and the laws and rules governing such processes and procedures.

CHAPTER III

ORGANISATIONAL SET UP

3.1 The Mines and Minerals (Development and Regulation) Act, 1957 and the Mineral Concession Rules, 1960 specifically enjoin upon the Central Government the administration of revenue receipts from the mineral concession fees and royalties, and enable the Government of India, in the Mines Department, to control the conservation and development of the mineral resources in the country in various ways. Under the Act and the Rules, it performs the following regulatory powers and functions over all mineral concessions:

- (a) Application for reconnaissance permit:-An application for reconnaissance permit shall be made to the State Government in Form A (04 of M. C. Rules);
- (b) To approve the grant and renewal of licences or leases in respect of all minerals listed in the First Schedule to the Act (24 A of M. C. Rules);
- (c) To approve all cases of leases over non-contiguous areas
- (d) To approve all second and subsequent renewals of mining leases
- (e) To amend the dead rent schedule (Third schedule to the Act)
- (f) To modify the rates of royalty from time to time;
- (g) To notify the areas for direct mining- operations by the Central Government;
- (h) To amend the Mineral Concession Rules, 1960;
- (i) To revise any order of the State Government either *suo motto* or an application by the aggrieved party;

- (j) To relax the operation of any rule in the Mineral Concession Rules, 1960
- (k) To permit imposition of further conditions in a lease/licence.
- (l) Application for grant of mining lease (Rule 22 of MC Rule)
- (m) Mining operation to be in accordance with Mining plans (Rule 22A of MC Rule)

3.2 **Audit Scrutiny** – The powers exercise by the Central Government may be generally examined to see whether they are in consonance with the provisions of the Act and Rules. A notification prematurely issued amending the dead rent or royalty schedule would be void and does not take effect even after the expiry of the period of four years the earlier change. The audit points to be seen in this connection have been detailed in Chapter V.

3.3 **The State Government** – (A) Government of Bihar vide their Mines & Geology department resolution no. 3175 dated 28.12.2006 has restructured the organizational set up for the regulation and development of Mines & Minerals, grant mineral connection, levy & collection of Mining dues and other function. These administered by the Mines & Geology Department with Commissioner-cum-Secretary as its head at the Government level. The structure of this department is as under:-

(B) The powers vested in and functions entrusted to the State Government under the Act and Rules are exercised and performed by the Mines and Geology Department of the Government of Bihar. Their powers and functions are as under:-

- (i) Control and direction of the department.
- (ii) To make rules in respect of minor minerals and determination of rates of royalty and dead rent thereof.
- (iii) Policy matters relating to exploration and exploitation of

mineral resources of the State.

- (iv) Grant or renewal of certificate of approval, prospecting licences and mining leases.
- (v) Renovation, determination, acceptance of surrender (full/part) of licences/leases.
- (vi) Issue of Gazette notification throwing open of surrendered areas for re-grant
- (vii) Approval of all transfers of licences and leases.

A system of internal audit organisation for audit of mineral concession fees and royalties has not been evolved in the Mines and Geology Department in the State of Bihar.

Organisation set up of Mines & Geology Department



Note:-

- (a) The word “District Mining Officer or the Assistant Mining Officer of the District or Circle have been replaced by the word “Assistant Director or Mineral Development Officer or District or Circle, or Mines Inspector where Assistant Director or Mineral Development Officer are not posted vide Mines & Geology Department (Amendment Rules 2008) notification no. 641 dated 27.03.2008 by amendment under rule 2 (iii) (b) of BMMC Rules, 1972.
- (b) The separate Director of Mines and Geology have since been merged and now it is known as Directorate, Mines & Geology (Para 24 of the resolution dated 28.12.2008)

(c) Circle	Districts
Patna	Patna, Nalanda, Rohtas, Bhabhua, Bhojpur, Buxar
Gaya	Gaya, Jehanabad, Nawada, Arwal, Aurangabad
Saran	Saran, Siwan, Gopalganj
Tirhut	Muzaffarpur, Sitamarhi, Sheohar, W Champaran (Bettiah), E. Champaran (Motihari), Vaishali
Darbhanga	Darbhanga, Madhubani, Samastipur
Koshi	Saharsa, Supaul, Madhepura
Purnea	Purnea, Araria, Kishanganj, Katihar

3.6 **Audit scrutiny** – Audit in the office of the Director of mines consists in examination of files relating to the various recommendations made by the Director to the Government on issues relating to grant, renewal, determination, surrender, departmental operation, recovery of cost of ores waivers, writ off proposals of revenue demands, revision of assessments or other financial decisions of the Assistant Director, Mineral Development Officer and general directions issues affecting revenue.

3.7 **Deputy Director of Mines** – For proper control and management of the departmental work, the State is divided into nine circles based generally on civil divisions, each under the charge of a Deputy Director/Assistant Director of Mines who exercise control and supervision over the working of the mining offices. At present (i) five Deputy Directors of Mines with headquarters at Patna, Magadh (Gaya), Tirhut (Muzaffarpur), Darbhanga and Munger and (ii) four Assistant Director with headquarter at Saran, Koshi (Saharsa), Purnea and Bhagalpur are sanctioned circles the Deputy Director/Assistant Director of Mines are assist by a Mineral Development Officer in each circles. In additions, Deputy Director of Mines is appellate authority in respect of assessment proceedings finalised by the District/ Assistant Mining Officers. He has also been appointed as Certificate Officer in terms of section 3 (3) of the Public Demand Recover Act, 1914 in respect of realisation of the arrears of the mining dues.

3.8 **Audit scrutiny** –In audit of the offices of the Deputy Director/Assistant Director of Mines it should be seen that the quantum of check, Inspection of mining offices prescribed for the Deputy Director/Assistant Director of Mines by the Government has been generally fulfilled; in the matter of appeal, prescribed requirement of Act and Rules have been fulfilled; and in the matter of certificate cases amounts realised in course of certificate proceeding have been properly accounted for.

3.9 Assistant Director of Mines/Mineral Development Officer/Mines Inspector at District level - The Mining officer/Asstt. Mining officer is the main functionary of the Department responsible for assessment, levy and collection of mining dues and is in-charge of administration of the department at the district level .His functions are:-

- (i) To receive, register and process all applications for mineral concession through the collector of the District;
- (ii) To survey and report on the technical feasibility of the grant of mineral concession;
- (iii) to receive and process all grant orders and watch the execution of all licences/lease deeds, and register and record them;
- (iv) To receive all fees, compensations, securities in relation to such execution of deeds;
- (v) To survey and demarcate and ensure the proper maintenance of boundary pillars;
- (vi) To assess, demand, collect and account for all rents, royalties and other dues on all licences and leases and to initiate certificate action in respect of arrear of revenue;
- (vii) To ensure the observance of all the conditions of the licence/ lease deed and to initiate penal action for breach;
- (viii) to arrange for proper measurement and grading of ores removed, check of weighing scales, fixation of conversion ratio, cross check of removals, issue of ore removal permits;
- (ix) to conduct periodical verification of lessees records;
- (x) To detect, arrange for the seizure, confiscation and disposal of all unauthorised removal of ores;

- (xi) To take stock and dispose of all property and ores left over on expiry of determination of a licence, lease, which has become the property of Government; and,
- (xii) To maintain all the prescribed register and submit the prescribed returns and reports to the Director of Mines.

The various points as regards Mining revenues and account records to be seen in the audit of the Mining officer are to be found in Chapter V and Annexure-III. With checklist in Annexure- IV.

3.10 **Inspector of Mines-** Besides independent Mines Inspector in 24 (Twenty Four) district (as details above) other 14 (fourteen) District Mining office is also placed with one or more Inspectors of Mines. His basic duties are

- (I) to verify and survey the area to be notified for lease;
- (ii) To verify and survey the area applied for lease;
- (iii) To survey and demarcate the area under lease;
- (iv) To conduct inspection of mines bearing area in order to ensure that there is no illegal mining;
- (v) To conduct the inspection of lease hold areas including the areas where mining operation is being conducted on quarrying permits; and
- (vi) To verify the stock of minerals at the site with reference to registers/records, returns of the lessee, etc.

CHAPTER IV

MINING LAWS

4.1 With the evolution of federal character of the administration of India, taxes in mineral rights came under the state subject vide Entry 44 of List II to Seventh Schedule of Government of India Act, 1935 read with Entry 50 of List II of Seventh Schedule of the Constitution of India.

However, with a view to utilising and developing the mineral resources in the country, powers were vested in the Central Government vide Entry 36 of List I to Seventh Schedule of Government of India Act, 1935 read with Entry 54 of List I of the Seventh Schedule of the Constitution of India. Accordingly, the grant of rights over the land for exploring the exploiting mineral resources in a State were earlier governed by the Mines and Minerals (Development and Regulation) Act, 1948 and the Mineral Concession Rules, 1949 which were later replaced by the Mines and Minerals (Development and Regulation) Act, 1957 and Mineral Concession Rules, 1960 respectively.

4.2 **Existing Leases** – Prior to independence and the commencement of the Constitution of India, mineral rights in Bihar vested mostly in Zamindars under the system of permanent settlement. This position however changed consequent upon the enactment of the Bihar Land Reforms Act, 1950. Accordingly all rights, and titles or tenure in Estate including the mineral rights of intermediaries (Zamindars) vested in the State of Bihar. Under the Land Reforms Act, 1950 the subsisting leases with effect from the date of vesting were deemed to have been leased by the State Government to the holder of the said subsisting leases for the remainder of term of the various leases.

4.3 In the areas directly managed by the provincial Government, the mineral concession wherever granted were first governed by the Mines and Minerals (Development & Regulation) Act, 1948 and the Mineral Concession Rules, 1949 and later by the Act of 1957 and the Rules of 1960.

4.4 Change in Law- As indicated above, the Act of 1948 and the Rules of 1949, were replaced by those of 1957 and 1960, respectively. Under the earlier Act of 1948, the Government of India also made the Mining Leases (Modification of Terms) Rules, 1956, which empowered the Controller of Mining Leases of India, after following the prescribed procedure, to modify any existing mining lease i.e., those in force prior to the coming into force of the old Act, effective from 25 October 1949 to bring it in conformity with that Act and the Mining Rules of 1949. With the coming into force of the Mines and Minerals Development and Regulation Act, 1957, from 1st June 1958, all mining leases granted before the 25th day of October 1949 were to be brought into conformity with the provisions of the new Act, and the Mining Leases Modification of terms Rules, 1956 continued to have force under the new Act (vide Section 16 and 29). However, no provision existed in the new Act to bring leases entered into after dated the 25 October 1949 in conformity with the new Act. With the amendment of the 1957 Act by the comprehensive amendment from date the 12 September 1972, all leases granted prior to the 12 September 1972, were required to be modified to bring them in conformity with the new Act as so amended, within six months for such extended period as approved by the Central Government. In other words, all leases existing on 12 September 1972 were to have been brought in conformity with the provisions of the amended Act as it stood after the 12 September 1972.

4.5 Exceptions – While the land granted for mineral extraction is generally governed by the procedure laid down in the Act and the Rules referred to in Para 4.4 above, there are certain important exceptions as indicated below:-

- (a) The Act and Rules do not apply to Minor Minerals.
- (b) As the Act and Rules merely regulate the grant of leases and licences by the State Government and empowered that Government to refuse to make any such grant where, is intended to undertake departmental operations, the latter do not fall under the procedure prescribed under the Act,
- (c) Under Section 17 of the Act, the Central Government after consultation with the State Government may reserve specified areas not already held under a prospecting licence or mining lease, for its own exploitation. Such areas cannot be rented away under the other provisions of the act to private parties or even reserved for exploitation by the State Government itself. While other restrictions as to the maximum area or period or other procedure aspects do not apply to such an operation, and these were to be determined by an agreement between the two Governments, the Central Government is bound to pay the State Government all fees, prospecting rents, royalties which would have been paid by a private leases.
- (d) Coal Mining- Exploitation of coal by private parties in the coal fields in the State was governed by the Mines and Minerals (Development and Regulation) Act, 1957 and Mineral Concession Rules, 1960 as applicable to other minerals. When the National Coal Development Corporation was, however, set up in 1951, some of the coal mines formerly operated by private lessees, were

taken over by the National Coal Development Corporation which paid royalty and other dues, as would be payable by the former lessee under the Act.

In 1957, the Central Government enacted Coal Bearing Areas Act, 1957, by virtue of which the Central Government could take over any areas, likely to bear coal after giving notice. Accordingly, in addition to management and control of some of the existing coal mines, some virgin areas were also taken over by the National Coal Development Corporation, under this Act. In the coal Bearing Areas Act, 1957 there is no provision for payment of royalty or for execution of a lease deed in respect of the area acquired. In respect of all such area, however, compensation equal to royalty and no other dues like surface rent, etc. are payable.

With a view to ensuring rational exploitation and promoting optimum utilisation of coal resources, consist with the growing demand on the economy, all the existing coal mines were taken over by the Central Government an ordinance issued on dated the 31st January 1973, followed up by Coal Mines (Takeover of Management) Act, 1973. Thereafter, by virtue of Coal Mines Nationalisation Act, 1973, which came into force from dated the 1st May 1973, no virgin coal bearing area is given to any private party for exploitation and a new organisation called the Coal India Ltd. has been set up.

Note: - No Coal Mines is in existence in Bihar after the division of the State into Bihar & Jharkhand. However three coal blocks have been allotted to Bihar state Mineral development corporation such as Saraiya Tarcoal block, Urma pahari Tota and Gova coal block but these blocks have not yet been developed.

4.6 Exploration and Exploitation – Ordinarily the Government agencies such as the Geological Survey of India and the State Directorate of

Geology undertake exploratory survey of mineral bearing areas to assess the existence and likely extent of mineral resources. Some of these operations result in the extractions of specific minerals in varying quantities and the disposal thereof would, sometimes be a source of receipt of Government. This is followed usually by individual applications for the grant of prospecting licences in specific areas for exploring locating or proving mineral deposits. Mining leases are granted, as a last stage, to individual applicants for commercial exploitation of the mines, i.e. winning and carrying away the minerals raised, on payment of Government dues.

4.7 Restriction on Unauthorised working of Mines – Under Section 4 of Mines Minerals (Development and Regulation) Act, 1957 no person can undertake any prospecting or mining operation in any area except under and in accordance with the terms and conditions of a prospecting licence or mining lease granted under the Act and the Rules made there under and Section 19, removes and of no effect the grant, renewal or acquisition of such a licence or lease not in accordance with the action any Rules or order made there under. Thus, such operations cannot be undertaken prior to the execution of a deed of licence/lease. In every case, where or has been extracted in contravention of those provisions, Government is entitled to recover the cost thereof, apart from the liability to penalty under Section 21 of the Act. While these principles were evident otherwise, the amended provision of section 21 has made the position abundantly clear. Thus, Government can initiate action for penalty and recovery of the cost of Mineral in the following cases of unauthorised working of mines:-

- (a) When a party clandestinely removes ore from a virgin area or from an area granted to some other persons;
- (b) When a party to whom a licence/lease is being considered or granted or a grant revoked, but where no licence lease deed has

been formally executed, till the date of such execution whether with or without any written or oral working permits given by an departmental officer or even Government;

- (c) When a subsisting licence/lease has been validly terminated by Government under the term of the licence/lease deed or any law in-force (e.g. Estates Abolition Act);
- (d) After the notice of determination of the lease issued by the party under the terms of licence/lease deed becomes operative;
- (e) Where Government has communicated their refusal to renew licence/lease for the whole or any part of the area of existing licence/lease;
- (f) In cases where renewals have not been made by Govt. even after the period of deemed extension of the licence lease;
- (g) Mining operation conducted under a licence/lease granted by the State Government outside the strict scope of the Act and the Rules, unless specifically relaxed by the Central Government under Section 31 of the Act.

4.8 Certificates of Approval - One of the main conditions precedent to the grant of a prospecting licence of a mining lease is that the party should possess a certificate of approval issued by the State Government in form on the basis of an application in Form A-1, accompanied by a fee of Rs.500 for a certificate for one year of Rs.1500 for a certificate valid for 3 years. This can be renewed for one year or three years on payment of Rs.250 or Rs.750 as the case may be. The following rules apply to certificates of approval:-

- (a) A prospecting licence or mining lease granted without a valid certificate of approval is void;
- (b) Thus a certificate of approval should be operative both when a prospecting licence/mining lease is applied for and when it is granted. But a pending renewal application would be sufficient.

- (c) Holding of a certificate is not obligatory after the grant or renewal of the licence/lease;
- (d) A certificate of approval issued by another State Government is not valid for applying for or grant of lease in Bihar;
- (e) A certificate, is valid upto 31st December of the year in which it is granted, provided that a certificate granted in the last quarter of a year shall be valid upto 31st December of the year next following;
- (f) Renewal of certificate of approval has to be applied for in Form A-2 together with renewal fee prior to the date of expiry of the existing certificate or else it would be treated as a fresh grant subject to full fee.
- (g) The State Government is bound to grant or renew a certificate on payment issued, if the particulars regarding the change of his name, nationality etc., are not furnished to the State Government within 60 days of such change (Rule 62).

* Provisions in regard to grant and renewal of the certificate of approval in the M. C. Rules, 1960 omitted with effect from 10.2.1987 vide GSR 86(E) dated 10.2.1987.

4.9 Prospecting Licence: The following principles apply to the grant and operation of prospecting licences:-

- (a) An application for grant or renewal should be in Form B/ Form E and should be accompanied by –
 - (i) A prescribed fee calculated at the rate of Rs.250 for the first Sq. km. or Rs.50 for every additional sq. km. or part thereof applied for;
 - (ii) A valid clearance certificate in support of payment of mining dues;
 - (iii) an affidavit stating that the applicant has filed upto date income tax returns, paid in income tax assessed on him and paid the income tax on the basis of self assessment as provided in the Income Tax Act, 1961;

- (iv) An affidavit showing particulars of areas mineral wise in each State; and
- (v) A statement in writing that the applicant has, where the land is not owned by his, obtained surface rights over the area or has obtained the consent of the owner for starting prospecting operations. No such statement is necessary if the land is owned by Government.
- (b) The grant in respect of specified minerals (First Schedule to the Act) requires prior approval of the Central Government.
- (c) Maximum area that can be granted in a State is 25 Sq. km. (prior to 12.9.1972, it was 50 sq. miles) unless a larger area is permitted by the Central Government. From 12.9.72. The area is to be compact and continuous and not in scattered blocks unless specifically permitted by the Central Government.
- (d) State Government can grant or refuse licence within two years of the receipt of the application. Thereafter, it is deemed to have been refused.
- (f) An application for renewal is to be made at least 90 days prior to the expiry of the existing licence and can be accepted for reduced area. If the application is not disposed of before such expiry, the licence is deemed to have been extended for a period equal to one half that of the existing licence. For such deemed renewal, no application fee can be realised;
- (g) On such refusal (or deemed refusal) to grant or renew the licence, the fee paid is to be refunded;
- (h) The licence can be cancelled for breach of any condition of the licence.

4.10 Operation of Licences – In the operation of the licences, licences is liable to the following conditions:-

- (i) To pay such prospecting fee as may be fixed by the State Government, being not less than rupee one and not more than ten

rupees per hectare of land covered by the licence for each year or part of a year.

- (ii) To pay before executing the licence deed Rs.2500 per sq. km. or part thereof, to see for the area under the licence as security deposit and replenish it whenever the amount is forfeited or applied valid by the claims of Government for compensation under the licence deed;
- (iii) To provide for proper weighing of minerals won on the land under licence:
- (iv) To remove all buildings, machinery or minerals lying on the land on the date of expiry of the licence, immediately thereafter. If these are not so removed within one month of issue of a notice in that behalf, they would become the property of Government (unless, or course, the licence is given a mining lease in continuation).

4.11 Extraction of Minerals during the period of prospecting Licence-

As the prospecting licence is essentially intended to enable the party to ascertain the quantity and quality of Mineral available in the area for eventual mining, the licensee is not the area for remove any ore so raised. Minerals Concession Rules, 1960 permits the removal of ore raised during the period of a prospecting licence to the extent indicated below:-

- (a) Gold, silver and precious stones can be removed upto any extent, on payment of royalty at rates specified in the Second Schedule to the Act in respect of such minerals;
- (b) Mica can be removed upto ten tonnes during the course of prospecting operations on payment of royalty;
- (c) No other mineral can be removed at all for commercial purposes;
- (d) For non-commercial purposes, however, the licensee can remove ores:

- (i) Upto the quantities specified against each mineral in Schedule III to the Rules, free of cost;
 - (ii) Further quantities to the same extent mentioned in above on payment of normal royalty;
 - (iv) Lime stones upto 500 tonnes (against 5 tonnes in schedule III) for testing its use in any industry specified by the Central Government in this behalf on payment of royalty;
 - (v) Any additional quantities, with the written approval of the State Government on payment of normal royalty, for chemical, metallurgical ore-dressing and other test purposes.
- (e) Removal of ore beyond the limits mentioned in (b) to (d) above is unauthorised and Government is entitled to recover the cost of the ores so removed. It is to be noted that the maximum mentioned above is to be applied for the entire period of the licence including all renewals.

4.12 Transfer of Licence – The transfer of a licence to another person can be made only with the approved of the State Government (Central Government in the case of specified mineral) and to a person to whom such a licence could have been granted and on payment of a fee of Rs.100. No prospecting licence shall be transferred to any person not holding certificate of approval and an income tax clearance certificate.

4.13.1 Mining Leases – A mining leases is a lease for undertaking operation for mining any mineral. Thus, it covers extraction of minerals for commercial purposes, whether actually removed or not, from the leased area. But it does not include removal of ore from mine dumps not held under lease which being the property of Government can be disposed of by them by auction or in any other way.

4.13.2 Grant or Renewal – The grant or renewal of a mining lease is strictly subject to the Act and the rules and violation thereof renders the grant void. Thus, any operation under a lease granted in violation thereof is unauthorised. The grant or renewal of a mining lease is subject to the following principles:-

- (i) An application should be made to the State Government in Form J accompanied by :
 - (a) A fee of Rs. 5000 and a deposit of Rs. 1000 for making preliminary expenses in connection with the grant of the mining base;
 - (b) A valid clearance certificate in support of payment of mining dues payable under the Act or the rules made there under;
 - (c) A mining plan duly approved by the Central Government;
 - (d) An affidavit stating that the applicant has filed upto date income tax returns, paid the income tax assessed on him and paid the income tax on the basis of self assessment as provided in the Income Tax Act, 1961;
 - (e) An affidavit showing particulars of areas mineral wise in each State; and
 - (f) A statement in writing that the applicant has, where the land is not owned by him, obtained surface rights on the area or has obtained the consent of the owner for starting mining operations. No such statement is necessary if the land is owned by Government.
- (ii) Approval of Central Government is required for grant or renewal of a lease for scheduled minerals;
- (iii) The maximum ore for which a lease in respect of any mineral or prescribed group of associated minerals (listed in rule 69 of M. C. Rules, 1960) can be granted or renewed is 10 sq. km. in any one State. The area granted is also to be compact or contiguous. Section 9 of the Amending Act, 1972, amending Section 16 of the

main act, envisages revision of existing leases to be brought into conformity with the amended provision within six months. Thus all earlier leases have to be modified to reduce the area to 10 sq. km for which the lessees could be paid compensation under rules made by the Central Government under Section 16 (2). Such compensation is to be determined under Rules 9 and 10 of the Mining Leases (modification of terms) Rules, 1956 and paid together with interest at 2.5 per cent under Rule 11 *ibid*, Central Government has power to relax these provisions.

- (iv) The period for which a mining lease may be granted shall not exceed thirty years. A mining lease may be renewed for two periods each not exceeding twenty years. The grant or renewal of a mining lease in respect of a mineral specified in the 1st Schedule, however, requires previous approval of the Central Government.
- (v) Under Section 11 of the Act, a holder of a prospecting licence has a preferential right to obtain a mining lease over the licence area or any part of it as he may select. Otherwise, the leases have to be granted in the order of receipt of application received on the same day State Government can grant to any one of them after considering the matters mentioned in Section 11 (3).
- (vi) On an application for grant/renewal, the State Government can communicate (i) the grant/renewal or (ii) refusal of grant or renewal or (iii) grant/renewal over part of the area applied for. But in the case of grant, such communication should be made within the two years of that date of receipt of the application, failing which it is deemed to have been refused. In this case of renewal, the application should be made at least twelve months before the date of expiry of the existing term of lease, and should be disposed

of within six months of its receipt. If it is not disposed of even before the date of expiry of the term of the existing lease, the lease is automatically extended for a period of six months thereon, whichever is earlier.

(vii) After the grant of the mining lease, the party should, after depositing a security deposit of Rs. 2000, execute a lease deed (in Form K) within six months of the orders unless extended by the State Government can revoke the order and forfeit the application fee. The lease takes effect only from the date of execution of the lease deed and continuous till expiry or sooner determination by Government or the part Government can determine the lease and forfeit the security deposit, if the lessee does not allow entry or inspection after giving show cause notice or if the lessee defaults in payment of royalty or does not observe other conditions of lease deed, after giving a notice of 60 days. The party can also determine the lease, after giving a written notice of not less than 12 calendar months. The lease gets terminated on passing of order by Government, or, as the case may be, after the expiry of the said 12 calendar months.

(viii) Approval of State Government is required for transfer of a lease by way of assignment, sub-lease or mortgage, etc. and such transfer is also subject to various conditions enumerated in Rule 37 and no transfer fee is chargeable. In respect of any mineral specified in the First Schedule to the Act, the previous approval of the Central Government is required. All such sub-leases etc. only transfer rights available in the main lease itself. As the lease itself is for mining or carrying away particular mineral(s), the sub-lease cannot authorise the removal of any other mineral including a

minor mineral available in the lease area or allow any other benefit.

As a lease includes a sub-lease under Section 3(C), all conditions/restrictions in the Act and the Rules, applicable to the main lease would also apply to a sub-lease. Thus, the rents, rates and royalties payable by the lessee to Government and by the sub-lessee to the lessee cannot be different.

4.13.3 Assessment of stamp duty on Mining Leases –

For execution of a mining lease, Stamp Duty is leviable under the Indian Stamp Act, 1899. The following items are taken into account for valuation of Stamp Duty assessable.

- (a) Preliminary expenses
- (b) Security deposits
- (c) Surface rent (for the entire area under lease)
- (d) Dead rent or anticipatory royalty whichever is higher.

There is no difficulty for assessing stamp duty in respect of items (a) to (c) above as the rates are fixed, but difficulty may arise in respect of item (d) in so far as it relates to anticipatory royalty, specially in case of original lease where quantity of minerals to be removed is yet to be known. In such case the Mining Officer concerned while conducting technical enquiry in respect of the area should make a realistic assessment of the potentiality of the area applied for grant of a mining lease and check the quantity of expected annual production mentioned by the applicant in the application for the mining lease. This technical report should form the basis of calculation of anticipated royalty for the purpose of calculation of Stamp Duty.

Cases of non-levy/short levy of stamp duty on lease deeds and renewal deeds should be seen by audit parties and should be suitably commented upon in the D.I.R.

4.13.4 Royalty – Holder of a mining lease granted before, on or after the commencement of this Act is liable for payment of royalty in respect of any mineral removed or consumed by him, or by his agent, manager, employee, contractor or sub-lessee from the leased area, at the rate for the time being specified in the Second Schedule to the Act in respect of that mineral. The holder of mining lease shall not, however be liable to pay any royalty in respect of any coal consumed by a workman engaged in a colliery to the extent of $1/3^{\text{rd}}$ of a tonne per month per workman.

Royalty is though payable by a lessee in respect of any mineral when it is removed from the leased area, yet liability of payment accrues the moment mineral is won/raised from the mines (vide National Coal Development Corporation Ltd. Vrs. State of Orissa and Others AIR 1976 Orissa-159). Thus Central Coalfield Ltd. Vrs. State of Bihar and other CWJC 2477 of 1996 (B0 of Ranchi High Court Ranchi Bench decisions of Court are very important from payment of royalty in view of the case decisions cited above. The rate of royalty for each mineral as specified in the Second Schedule is subject to revision by the Central Government by notification in the Official gazette. But such revision on the higher side within three years is prohibited under the law. The current rates of royalty on major minerals are detailed in *Annexure-I*.

4.13.5 Dead Rent – The holder of the mining lease whether granted before or after commencement of Mines and Minerals (Regulation and Development) Amendment Act, 1957 shall pay to the State Government every year dead rent in respect of entire area under lease at such rates as may be specified for the time being in the third schedule to the Act.

Provided that where the holder or such mining lease becomes liable to pay royalty for any mineral removed or consumed, he shall be liable to pay either such royalty or dead rent in respect of that area, whichever is greater.

The Central Government may by notification in official gazette revise the rates of dead rent as laid down in schedule III, but such revision towards higher side can not be made within the period of three years. The current rates of dead rent applicable from 5th May 1987 are detailed in ***Annexure-IA***.

Period of Mining lease for the purpose of application of particular rate of dead rent will be reckoned from the date of commencement/execution of the original lease.

If the lease permits the working of more than one mineral in the leased area, the State Government shall not charge separate dead rent in respect of each mineral provided that the lessee shall be liable to pay the dead rent or royalty in respect of all the minerals taken together whichever be higher in amount but not the both. This is elucidated by way of an example as under:-

A mining lease hold area comprises two minerals *viz.*, Coal and Fireclay and the dead rent chargeable is Rs. 3750/-. If the royalty on coal works out of Rs. 25,000.00 and on fireclay Rs. 3,700.00 than only royalty of Rs. 28,700.00 (Rs. 25,000 + Rs. 3,700) would be chargeable as it is higher than the dead rent. It is never the spirit of Act or Rules to charge royalty and dead rent both in respect of same lease for the same period.

4.13.6 Surface rent – Surface rent at rates not exceeding land revenue and cesses assessable on the land as may be specified in clause 4 of Part V of the lease deed is payable by the lessee for the surface area used by him in mining operations.

The Government of Bihar, Department of Mines and Geology, however, advised the Divisional Commissioners in September 1965 to fix commercial land rent in respect of lands on which mining operations were carried out. This would result in raising the surface rent of the area so used. No districts have fixed the commercial land rent as yet.

4.13.7 Other Rights and Liabilities of Mining Lessee – Apart from the liability to pay rents and royalties, the rights and liabilities of mining lease having financial significance are as under :-

- (a) The lease allows him to work, win and carry away only the minerals covered by the lease (clause I of Part II of lease deed). This does not allow him or a sub-lease to remove any other minerals not so specified or any minor minerals. Any such action by him or provisions of clause in the sub-lease to that effect will not be in accordance with law.
- (b) Clause 9 of Part II of the lease deed permits the lessee to fell and utilise any trees or timber standing or found on leased lands for or in connection with any of the purposes mentioned in part II of the lease deed and on payment of compensation at rates specified by the Collector. The use of timber by the lease for other purposes is prohibited. The compensation is fixed by the Collector on the advice of the Divisional Forest Officer.
- (c) Clause 2 of Part VII of the lease deed requires the lessee to erect and maintain boundary pillars for proper identification of the leased areas as otherwise scope remains for the lessee to operate in adjoining areas beyond the periphery of the leased areas.

- (d) Clause 10 of Part VII of the lease deed required the lessee to keep proper accounts of minerals raised, removed, sold or otherwise disposed of and the price thereof and the person employed and other prescribed particulars. These are important for determining the royalties and rents and the coal allowance to workmen.
- (e) Clause 13 or 14 *ibid* requires him to keep and maintain proper weighing machines and allow them to be periodically inspected by the department.
- (f) Clause 5 and 6 of the Part IX of the lease deed require the lessee to remove within six calendar months after the expiry or termination of the lease, all or any engines, machinery, plant, buildings, structures, tramways, railways and other work erections and conveniences. If these or any other property on the demised land not needed by the lessee in other leased areas are not so removed within one calendar month of a notice issued by Government after the said six calendar months, such property would be deemed to become the property of the Government and can be disposed of by them without payment of any compensation to the lessee. It is important to note here that terms “other property” referred to above would include all ore raised but not removed within the prescribed period of six months.
- (g) Penalty for breach of conditions of the leases deed is forfeiture of security deposit and termination of the lease after 60 days notice but for persistent breaches penalty equal to twice the dead rent can be levied without any further notice and without terminating the lease, as provided in Para 3 of the Part IX of the model lease deed.

4.14 Place of payment – Rule 64 of the Mineral Concession Rules, 1960 provides that any amount payable under the act or the Rule shall be paid in such manner as the State Government may specify in this behalf. According to the existing orders the dues are generally payable at the treasury of the district in which the claim arises.

4.15.1 When mining dues become payable – The application fees are payable along with the application for certificate of approval or for grant of prospecting licence, mining lease or renewal thereof.

4.15.2 Royalties – Royalty on the minerals removed or dispatched from the leased area during the previous calendar months is payable by the lessee at the rates prescribed under the Mines and Minerals (Development and Regulation) Act, 1957 (vide Annexure-I) on or before the 15th day of each month.

4.16 Interest – Simple interest at 24 *per cent* per annum on all mining dues under mining laws become leviable with effect from 22nd July 1976 and for the purpose Rule 64 A was inserted in the Mineral Concession Rules, 1960. The Government of India raised the rate of interest to 15 *per cent* with effect from 02.10.1982 and to 24 *percent* with effect from 01.04.1991. This interest is chargeable from the sixtieth day of the expiry of the due date of payment of such dues.

4.17 Recovery of arrears of Mining Revenue – Section 25 of the Mines and Minerals (Development and Regulation) Act, 1957 provides for the recovery of any arrears of rent, royalty, fee interest or other such dues to Government under the Act or the Mineral Concession Rules, 1960 in the same manner as it were an arrears of land revenue i.e. through certificate proceedings under the Bihar Public Demand Recovery Act.

4.18 Grant or Re-grant of Areas – Mineral concession can be granted only in respect of land not already under lease/licence. While virgin areas can be applied for as such, the other areas need proper publication to give all prospective applicants equal opportunity. Thus, areas mentioned below will be available for grant/re-grant only after entry thereof is made in the prescribed registers and the date from which such areas would be available for grant is notified in the Gazette at least 30 days in advance :-

- (a) Any area previously held under a prospecting licence/mining lease;
- (b) Any area currently being so held;
- (c) Any area in respect of which a grant of licence/lease has been revoked under rule 15(i) or rule (i);
- (d) Any area previously reserved for State exploitation and subsequently reserved available for grant. Any application made in respect of any such area where such notification has not been issued or the time prescribed in such notification is not over, will be premature and cannot be entertained by the State Government. Any grant made thereon will also void under Section 19 of the Act.

CHAPTER V

PROCEDURE OF GRANT AND ASSESSMENT

5.1.1 Grant of Certificate of Approval – Certificate of approval are granted by the Mines and Geology Department of State Government direct on receipt of application in duplicate in Form A-1 for grant and Form A-2 for renewal together with the copy of the challan in support of payment of the prescribed fee. The certificate is granted by the State Government in Form-A after verification of payment of the fee, and after obtaining approval of the Central Government in the case of a person who is not an Indian National.

5.1.2 Audit checks – While scrutinising the applications for grant/renewal of the certificate of approval in the Mines and Geology Department it should be seen in audit :-

- (a) Whether the application is supported by a required amount of challan towards fee for grant and renewal of lease?
- (b) Whether the period of actual grant/renewal does not exceed the period for which the fee paid corresponds?
- (c) In the case of renewal, whether the application was made and the requisite renewal fee has been paid prior to the date of expiry of the current certificate otherwise it can not be treated as a renewal and an application for a new certificate of approval with full fee is to be made.
- (d) Whether there is a continuous record of the certificate issued and these are linked with the fee realised?

* Provision in regard to grant and renewal of the certificate of approval in the Mineral Concession Rules, 1960 omitted vide G.S.R. 86 (E) dated 10.02.1987.

5.1.3 Procedure for grant of Prospecting Licence and Mining Leases –

Applications in triplicate for the grant or renewal of prospecting licences or mining leases are made to the Collector of the district in which the area applied for is situated, in the prescribed form (Form I or J as the case may be, accompanied by the prescribed fee, an affidavit showing filing of upto date Income tax returns, payment of the Income tax assessed on him and payment of the Income tax on the basis of self assessment as provided in the Income Tax Act, 1961, a mining plan duly approved by the Central Government, royalty clearance certificate, etc. These applications are acknowledged in Form D and entered in the register prescribed in Form-G or Form-L as the case may be receipt of these applications from lower formation after being scrutinised, in case Government decide to grant or renewal an application for a licence or lease, in the case of minerals not included in the First Schedule to the Act, they satisfy themselves that the grant or renewal would be within the limitations prescribed under the Act or the Rules and issue an order for grant or renewal of the whole or part of the area applied for. In the case of minerals included in the said First Schedule, the case is referred to the Government of India for approval, before issue of such an order for grant or renewal. In every case where the grant or renewal is delayed beyond the prescribed period and results in a deemed refusal or when the area is in excess of the limits in the Act, or is not contiguous or the case is one of second or subsequent renewal of a lease, the case may also be referred to the Central Government for *suo motto* action under Section 30 or approval under Section 6 or B;

After the grant or renewal order is issued, the licensee/lessee is required to execute the deed within the period of 3 months/6 months unless extended by Government or else the grant/renewal is to be revoked. Prior to the execution of the deed, the licensee/lessee has to deposit the prescribed security deposit of the due observance of the terms and conditions of the licence/lease. The licence/lease deed, is executed by the party and the Collector and filed with the Mining Officer and copies sent to the Government.

5.1.4 Audit of grant or renewal of Prospecting Licence/Mining lease-

The audit is to be conducted annually in the Mines and Geology Department Government of Bihar, Patna. This should cover the examination of all applications received and all grants and renewals made during the financial year proceeding the year of audit.

In auditing these grants/renewals of licences/leases, the following points should be seen:-

- (i) Was the application for grant or renewal made in the prescribed form containing all relevant information specifying the area applied for?
- (ii) Was it made by an Indian National or else was it referred to the Government of India?
- (iii) Was it accompanying a valid certificate of approval (valid both at the time of application and at the time of grant or renewal) issued by the Government of Bihar applicable in respect of license/leases granted/renewal prior to 10.02.1987?
- (iv) Was it accompanied by an income tax Officer, valid both at the time of grant or renewal or renewal of the grant or renewal

related prior to 10.02.1987? In case of grant or renewal of or after 10.02.1987, was it accompanied by an affidavit stating that the applicant has filed (i) up-to-date income tax returns, (ii) paid the income tax assessed on him and (iii) paid the income tax on the basis of self assessment as provided in the Income Tax Act, 1961?

- (v) Was the grant or renewal of mining lease accompanied by a detailed mining plan duly approved by the Central Government and a statement in writing that the applicant has, where the lease is not owned by him obtained surface right over the area or has obtained the consent of the owner for starting mining operation?
- (vi) Was the application accompanied by a proof of payment of the prescribed application fee calculated properly and in the case of a mining lease, Rs. 1,000.00 towards preliminary expenses?
- (vii) Was the grant or renewal made strictly in accordance with the principles, conditions and limitations of Act or the Rules and the prior approval of the Central Government obtained where required under the Act or the Rules?
- (viii) Was the renewal of a prospective license justified in the circumstances (as Government would have received more revenue if it was granted as mining lease instead)?
- (ix) Where the area granted was not a virgin area, was the procedure prescribed in Rule 58 or 59 of the Mineral Concession Rules, 1960 followed prior to the receipt of application and the period prescribed in Rule 58 elapsed?
- (x) Was there considerable delay in finalizing the grant or renewals? If so, were the reasons justified or what was the resultant loss?
- (xi) All such grant or renewals contravening the provisions of the Act or Rules are void and any prospecting or mining operation conducted there under is unauthorized. A special note thereof

should be submitted to Sr. Deputy Accountant General/Deputy Accountant General (Revenue Audit) for further examination.

5.1.5 Audit of Licenses/Lease Deeds – The scrutiny of license/lease deeds should cover the following points:-

- (i) Whether the deed was preceded by a sanction order of Government, not revoked by the Government in the meantime?
- (ii) Whether the deed was executed within the prescribed period (3 months/ 6 months) of the date of communication of the order of grant or renewal otherwise was it preceded by an order of the Government exceeding the time limit?
- (iii) Whether the delay in execution of the deed was due to any default of the party and whether extension was recommended and granted despite this fact?
- (iv) Whether the deed is in the prescribed Form F or K as the case may be and every deviation there from was justified and approved by the Government?
- (v) Whether the deed is accompanied by a detailed map of the area with accurate boundaries described in sufficient detail together with schedule of land?
- (vi) Whether the prescribed amount of security deposit (Rs. 500 per sq.km. or part thereof Rs. 2,000.00) was paid into the Treasury prior to such execution?
- (vii) Whether in the case of mining lease, the compensation for loss of forest area at Rs. 250.00 per acre has been deposited by the party?
- (viii) In the case of sub-leases, whether such sub-leases are also specifically approved by the State Government and do not contain any provisions conferring rights on the sub-leases in addition to those in the main lease?

5.1.6 Assessment Procedure- Assessment of Mining dues are made by the Mineral Development Officer/Assistant Director of Mines concerned, at prescribed intervals as laid down in lease deeds in respect of royalty, deed rent, surface rent, and other dues. All such dues are payable by the lessee without any deduction.

Note:- The Mineral Transit Pass Regulation, 1976 declared ultra vires by the High Court Bihar, Ranchi Bench.

5.1.7 Royalty- For the purpose of assessment of royalty on mineral removed or consumed, the quantity, grade and rate of royalty then current are to be determined. The quantity of mineral raised and removed or consumed in initially recorded by the lessee in the accounts kept by him at the mine site. The minerals raised in dressed and arranged in convenient stocks by the lessee as may be directed by the Mining Officer.

On the basis of the approximate quantity in the stocks and grading and analysis the lessee applied to the Mining Officer in Form A of the Mineral Transit Pass Regulations, 1976 to permit removal or the Mineral so stocked. The Mines Inspector conducts spot verification of stock with reference to analysis, grade etc. and forwards the application to the Mining Officer with his verification report within seven days of receipt of application. In the case of marginal grades or those where visual examination suggests a different grade than appearing in the application. The Mines Inspector and the lessee shall take joint samples for analysis in the State Geological Laboratory, the results of which would be binding on all. No analysis for all grades or where the lessee declared the mineral to be of the highest grade.

Note: - The Mineral Transit Pass Regulations, 1976 declared ultra vires by the High Court Bihar, Ranchi Bench.

5.1.8 Procedure for permits – On the basis of the verification report of the Inspector of Mines, the Mining Officer gives a permit in Form-C for removal of the Mineral. The clearances of minerals in Lorries, etc. are supported by issue of transit passes in duplicate to the carrier. The transit pass books of 50 leaves each are obtained from the Mining Officer to the extent of 3 months requirements on payment of cost. The weight of mineral in each vehicle is ascertained as per weighment of conversion ratio accepted by Mining Officer and recorded in the transit passes together with the grade.

5.1.9 Monthly Returns sent by the lessee - The lessee is required to submit a monthly return of mineral raised and removed (or consumed) by the 15th day of the month to which it relates to the Mining Officer, which is posted in the register of raising and dispatch. These figures are verified periodically with the original records kept by the lessee and the counter foils of the transit passes with him.

5.2.1 Liability of payment – By a notification of June 1975, the Government of Bihar, Mines and Geology Department, have fixed the liability of every lessee to pay royalty on all minerals removed from the leased area along with the monthly returns of such removal by the 15th day of the month to which it relates.

5.2.2 How assessment is done –The assessment of royalty is made by the Assistant Director of Mines/Mineral Development Officer at the intervals prescribed in the lease deed. On the basis of quantities reported

in the monthly returns of the lessee check of initial accounts of the lessee and any other cross-check exercised by the Mining Officer, and the grade of mineral reported by the lessee or the departmental laboratory, the royalty payable is assessed. On receipt of analysis report subsequent to assessment, the differential royalty, if any, on that basis is recalculated. In case the lessee declares the mineral is inferior grade, he is required to produce a test certificate to the effect from the State Geological Laboratory within 60 days of dispatches of minerals, failing which it would be presumed that the dispatches were of the highest grade and royalty payable accordingly.

5.2.3 Demand Notice –After the assessment order is passed by the Mineral Development Officer/Assistant Director of Mines a demand notice is sent to the lessee demanding payment of royalty dues, if any, within the period as stipulated in the said notice. The amount of demand includes interest leviable on the due up-to the date of issuance of demand notice. The demand is noted in the appropriate columns of Demand Collection and Balance Register (in Form 26 Mines).

Amounts already paid are deducted at the time of assessment and a demand notice for the net amount payable is issued. In this demand notice, other dues, like differential royalty, surface rent etc. is also included.

5.2.4 Expert Assessment –When the lessee does not submit the monthly returns within the prescribed time, the Mining Officer issues a demand notice on the basis of the information available in his office.

5.2.5 Check of Calculation of Royalty and other Demand –The Calculations required for preparation of the assessment order and for preparation of the demand notice are initially made by the clerk in-

charge of the assessment. These calculations are checked by the Head Clerk before the orders of the Mining Officer/Assistant Mining Officer are obtained, and before issue of the Demand Notice.

5.2.6 Dead Rent –Under the provisions of the law, the holder of a mining lease becomes liable to pay royalty for any mineral concession and removed by him from the leased area. He shall be liable to pay either such royalty or the dead rent in respect of their area whichever is higher. Accordingly he has to pay every month either dead rent or royalty, as the case may be, on the basis of monthly returns submitted by him.

In case of non-working lease hold areas on completion of one year from the execution of lease deed, demand for dead rent is to be computed every half year i.e. for the period from January to June payable on or before the 15 January and for the period from July to December payable on or before the 15th July each year.

5.2.7 Surface Rent -The lessee is required to commence mining operations within one year from the date of execution of the lease deed and for this purpose a portion of the area leased out has necessarily to be used. Before using any land for surface operations, the lessee is required to obtain permission of the Collector of the district for the extent of the land proposed to be used. Such permission to the lessee is required to be issued by the collector within two months from the date of application. Surface rent is leviable for the actual area permitted by the collector from the date rent is leviable for the actual area permitted by the collector from the date of such permission is given, at rate prescribed in the lease deed.

5.2.8 Audit of Prospecting Licence-Following points should be seen in the matter of operation of prospecting licenses :-

- (a) Whether the required prospecting fee has been recovered for each year or part of a year in advance and for that purpose all licenses are noted in the prescribed register that purpose all licenses are noted in the prescribed register and demand notices issued in time, from the date of execution of the deed?
- (b) Whether in respect of timber cut in the forest area felling charges as may be fixed by the Divisional Forest Officer and in such case where timber is used by the licensee, the cost thereof at rates not less than four times the royalty is recovered from the licenses from times the royalty is recovered from the licenses from time to time and credited to the Forest Department, on the basis of reports from the Divisional Forest Officer?
- (c) Whether the licensee furnishes monthly returns of various minerals raised and these are subjected to periodic verification by the department with the original records kept by them?
- (d) Whether there is a proper system of weighment of the minerals so raised and the licensee had been giving the required prior notice thereof to the Mining Officer and all clearances are permitted duly and verified properly by the Departmental Officers?
- (e) Whether the licensee had been permitted to remove (irregularly) any mineral other than those which the prospecting licence is valid?
- (f) Whether the licensee (irregularly) any mineral raised during the prospecting period?

- (g) Whether the fee allowance of removal of mineral for the entire period of the license (including all renewals) is within the limits prescribed under rule 14 and is exclusively for experimental purposes (except gold, silver and mica)?
- (h) Whether the additional clearance of such mineral (other than gold, silver and mica) on payment of royalty allowed for the entire period of the license (including all removals) does not exceed the quantities equal to those permissible as free allowance and such removals are not used for any commercial purposes?
- (i) In the case of limestone whether the quantity cleared in excess of the above limits up-to 500 tons during the said period is for testing its use for industry?
- (j) Whether in the case of mica, clearance on payment of royalty does not exceed ten tones during the said period of the licenses 9 (including all removals)?
- (k) In the case of gold or silver all clearance are allowed after payment of full royalty properly determined?
- (l) In all the cases of free clearances on payment of royalty (except gold, silver and mica) there is a clear system of verification of the purposes for which they are used actually by the licensee after removal and satisfy the requirements of law (free clearance for experiments and other for non-commercial use)?
- (m) Whether any clearance is allowed during the period on mining lease following a license of any mineral rose during the prospecting period as part of removal during the lease period on payment of royalty or fee?

- (n) All clearance of mineral other than those mentioned above, are allowed only on payment of full cost of mineral based on market prices (i.e. in the following cases):-
- (i) Removal of any mineral not included in the licence.
 - (ii) Removal of any mineral after the expiry or determination of the licence (including renewals).
 - (iii) Any clearances of mineral (other than gold, silver and mica) for commercial purposes.
 - (iv) Any clearance of mineral (other than gold, silver and mica) in excess of the limits prescribed for removal on payment of royalty, if they are removed for non-commercial purposes.
 - (v) Any clearances of mica in excess of 10 tonnes.
- (o) Whether, in the cases where royalty is recoverable the determination of quantities, grade, and application of rates is properly made?
- (p) Whether action has been taken to issue promptly the notice of one month on expiry or determination of the licence or abandonment of the operation to remove all properly on the linked area and on failure to comply proper action taken for disposal of the left over properties?
- (q) In the case of any proposal of transfer of the licensee whether such transfer was approved by Government (Central Government where necessary) on payment of prescribe fee.
- (r) Where the transfer has been allowed (wrongly) any right in respect of the licence so transferred in excess of the transferor i.e. the period the licence/renewal is the balance period only of the original licensee and the mineral removal free or on payment together do not exceed the prescribed limits?

- (s) Except where a lease has been granted to the licensee, whether the licensee has restored the surface area, after expiry or determination of the license, failing which suitable compensation has been assessed and recovered.

5.3 Audit of Mining Lease- The receipts arising out the operation of mining leases are security deposit, surface deposit, surface rent, dead rent and royalty. The audit of these receipts will be conducted on the lines indicated in the following paragraphs:-

5.3.1 Security deposit- It would be seen in audit-

- (a) Whether the amount of security deposit has been paid by the party prior⁴ to the execution of the lease deed?
- (b) Whether all orders imposing penalty have been acted upon by debiting the deposits?
- (c) Whether the refund of deposit is made only after effecting recovery of all Government dues under the lease and not later than 12 months of the expiry of determination of the lease?

5.3.2 Surface rent - Following points should be seen in audit:

- (a) Whether the correct rate of surface rent has been applied as per lease deed and applied to the area of surface operation?
- (b) Whether the rate applied was on the area actually permitted by the Collector from the date of such permission?
- (c) Whether any area excluded on the ground of public ways?

5.3.3 Water, Surface Soil etc. - It should be seen whether:-

- (a) Water arising out of mining operations, or drain from a natural course by pumping or bonding etc., is used solely and exclusively for mining operations and not for supply to others on cost, or to its employees in a colony at a profit or used in any operation not directly connected with such mining operations.
- (b) Whether surface soil or other minerals are removed for sale or used in any industry or otherwise than in any operation directly connected with such mining operations.
- (c) In the case or such other use, whether the cost thereof is properly determined and recovered from the lessee/sub-lessee.
- (d) The land, building or other structures are used for any purpose not directly connected with such mining operation, in which cases suitable action is taken to penalize the party.

5.3.4 Dead Rent-Following points should be seen regarding dead rent:-

- (a) Whether demands are promptly and correctly raised against all lessee for payment of dead rent?
- (b) Whether the amount of interest, if any, is included in demand?
- (c) Whether the area for which demand was raised tallies with that in the lease deed?
- (d) Whether the rates are according to the schedule III and Schedule I in case of Major and Minor minerals respectively to the Act?
- (e) Whether the rates been during the year, whether the higher of the rates are applied to that year, from that date of the changed rates?
- (f) Whether the rate of dead rent for any lease has been applied invariably of original lease deed?
- (g) Whether recovery of dead rent is continued till the expiry of the lease or date of termination of the lease by the Government of the expiry of the statutory notice of 12 months by the party?

- (h) Whether recovery of dead rent has been discontinued (wrongly) in the following cases?
 - (i) On completion of 12 months, where the notice issued by the party is not a proper notice, whether such determination is accepted by the Government or not?
 - (ii) On completion of 12 months valid notice, but the lessee had not paid the dues as computed whether such determination is accepted by the Government or not?
 - (iii) For the period of deemed extension of the lease on application for first renewal ultimately rejected or granted only in part.
 - (iv) For the period prior to the actual date of order of Government termination the lease or till the final disposal of a remission application, by the Central Government where the termination orders was stayed.

5.3.5 Royalty - In audit scrutiny of the assessment of royalty the following aspects may be examined:-

- (i) that the lessee furnishes promptly the monthly return showing the raising and dispatches and consumption of ores;
- (ii) that these are checked quarterly and half yearly by Inspector of Mines and Mining Officer with the original records kept by the lessee;
- (iii) that prompt positing of the returns have been made in the lessee;
- (iv) that prompt postings of the returns have been made in the register of raisings and dispatches;
- (v) that where weighbridges have been installed the weighments are recorded by and automatic process or are watched by a departmental representative;
- (vi) that the weighing machines are regularly inspected for correctness or where any discrepancy is noticed the royalty on past dispatches

up-to 3 months is recalculated accordingly (cl. 14/Part VII/Lease deed);

(vii) that the fare weight of lorries, wagons etc. are correctly and uniformly fixed or applied;

(viii) that the ore consumed is cross-checked by the department with reference to the internal records of the lessee;

(ix) that the ore consumed includes all such ore in whatever manner used except when throw away as mine spoil in predetermined location;

(x) that the coal allowance to workers is correctly computed with reference to the definition of a worker (workmen's compensation Act 1923) and there is proof available that each such worker was actually supplied with son much of coal and the number of workers employed has been checked by the department regularly failing which royalty is collected on such quality;

(xi) That dispatches are made only after written permission of the Mining Officer and after issue of a proper transit pass.

Note: - The Mineral Transit Pass Regulation, 1976 declared ultra vires by the High Court, Bihar

(xii) That the quantities so dispatched are correlated by audit wherever practicable, with other date such as:-

(a) Railway receipt weight in the case of rail dispatches;

(b) Returns submitted by the lessee to Labour;

(c) Returns submitted by the lessee to the Indian Bureau of Mines;

(d) Actual receipt by the purchasing organization.

(e) Toll gate records where the vehicles pass through such toll gates.

(xiii) That were check gates are established by the department, the check gate keeps suitable records for control of movements on the basis of transit passes;

- (xiv) That the removals are correlated with the copies of transit passes
- (xv) That the procedure prescribed for taking out samples and determining the grade of various stacks of the mineral proposed for removal is followed;
- (xvi) Where removal is permitted analysis of grade, the different royalty is claimed immediately on receipt of analysis reports;
- (xvii) In the case of ore of marginal grades, special care is taken in taking out samples and obtaining correct report of grades;
- (xviii) That the ore raised or removed can be and has been correctly related to the leased areas, both in respect of open cast mines and underground excavations with reference to properly fixed boundary pillars;
- (xix) that the rate of royalty is correctly applied with reference to the mineral concerned and the grade of ore and the arithmetical computations are correct;
- (xx) that in cases of change in royalty rates, the rate is applicable on the date of removal/consumption of ore is applied thereof;
- (xxi) Wherever rate for beneficiated mineral is not specified in the schedule and the mineral is removed after beneficiation, the royalty rate is applied to the mineral used in the beneficiation plant and not the beneficiated mineral finally dispatched;
- (xxii) Whether the demand for royalty includes amount of interest payable, if any.

5.3.6 Disposal of left over materials:- Following Points should be seen in respect of all leases that expired or have been determined, about disposal of left over materials:-

- (a) That soon after expiry of six months after the date of expiry/effect of determination, a detailed survey of the leased area is made and a

report obtained regarding the damage done to the surface and the full extent of left over property;

- (b) That in respect of any damage to the surface area the compensation payable is determined and recovered from the lessee;
- (c) That the notice of one month for removal of property is prepared is promptly issued and at the end thereof a full list of such property is prepared as had become the property of the Government;
- (d) That all buildings left on the land are taken on records and action taken to lease than out promptly at appropriate rates of rents properly fixed, either by the Mining Department of the Revenue Department or used for departmental purposes;
- (e) That all machinery or equipment have been taken on stock and disposed off in public auction;
- (f) All scrap and other materials are listed, valued, and auctioned in proper lots and money realized and credited to Government and the removal of lots is properly watched and accounted for;
- (g) that all minerals left and becoming property of Government is immediately surveyed, quality and grading determined and prompt action taken to dispose it of in auction or by any other method to the best advantage of Government;
- (h) those delays in disposal do not result in the deterioration of the equipment, material or ores or reduction in the quantity thereof.

5.3.7 Transfer of lease – In the case of transfer of leases by way of assignment, sub-leases etc. the following points should be seen:-

- (a) that the transfer was approved by the State Government/Central Government in the case of specified minerals;
- (b) that the terms of transfer do not confer any benefit or right on the transferee in excess of those contained in the main lease;

- (c) that in cases where the sub-lessee extracts any mineral, minor mineral or derives any other benefit out of the sub-lessee which the lessee is not, by virtue of the main lease, authorized the value thereof or the value of benefit derived there from is assessed and recovered from the lessee or the sub-lessee;
- (d) that the transfer is not operative beyond the term of the main lease;
- (e) that the transferor does not charge any premium other than proportionate cost, or royalties, etc. beyond those covered by the Act or the Rules;
- (f) that the transferee possesses the requisite certificates which an original lessee is to possess;
- (g) That the applicant for transfer is accompanied by a fee of Rs. 500.00

5.3.8 Unauthorised Mining – One of the important functions of the Mining Officer is to prevent illegal or unauthorised extraction and removal of minerals. In case where a person is known to be operating certain mines pending completion of formalities of execution of lease deed or the nature and extent of such removal could be easily known. In other cases of clandestine removal, the Mining Officer has to prevent his by periodical inspections, reports from sub-ordinate staff etc. In all such cases, the Mining Officer staff cannot directly seize the ore himself but has to obtain the services of magistrate by due process in course the mineral and its cost from the party concerned.

5.3.9 In relation to cases of unauthorized removal, audit should:-

- (a) Examined the cases of application, grants, leases etc. to determine whether any such removal has taken place prior to the actual execution of the lease deed or after the expiry or date of effect or

determination or other situations and whether action was taken to recover the cost of ore duly worked out.

- (b) Examine all reports of clandestine extraction of ore to see whether prompt action has been taken to investigate and inspect the pits and the extent of such removal is properly assessed on the basis of pit measurement, prompt action is taken to enquire and locate the miscreants; action to seize the ore or to demand the cost it taken promptly.
- (c) In all such cases the grade of ore and its cost has been determined on a realizable basis on market enquiries and the actual cost recoverable determined after allowing deductions for transport or other costs properly calculated.
- (d) In addition rent of royalty as may be due, had the lease been properly executed, is also demanded as prescribed in section 21(5) of the Act.
- (e) In all cases of unauthorized removal of ore or any other contravention of the Act or the Rules, whether penal action has been compounded for a suitable sum by an authorized officer.

5.4.1 Refunds – Refunds of mining revenue arise in the following cases:-

- (i) Application fee for certificate of approval or renewal thereof if not granted by Government.
- (ii) Application fee for prospecting licence or renewal thereof, if licence is not granted or renewal or is deemed to have been refused.
- (iii) Application fee where a mining lease or renewal thereof is not granted or renewed or deemed to have been refused.
- (iv) Security deposit on expiry of determination of a licence or lease.
- (v) Unspent balance of preliminary expenses paid in connection water rent or other fees or dues excess paid in advance or other reasons.
- (vi) Fines or penalties waived.

5.4.2 No specific time limit has been prescribed under the act or the rules for making an application for refund. Accordingly, all such refunds would be governed by the General Law of limitation.

5.4.3 In the audit of refunds it should be seen:-

- (a) that there was, in fact, a payment or excess payment actually credited to Government account earlier, which is now refunded;
- (b) that in case of refund of application fee, whether the application has been formally refused or deemed to have been refused (i.e. the prescribed period has actually elapsed) and the party has not applied to the Central Government for revision (unless the Central Government has also rejected the revision petition) and no refunds is made after grant even if the deed is not signed in time and consequently the grant is revoked;
- (c) that in the case in (b) above, whether the refund has been sanctioned by the Government;
- (d) whether in all cases, the amount to be refunded has been correctly calculated;
- (e) that all such refunds made by adjustment or other dues on cash payment through bills have been noted against the initial records of original receipt under proper attestation;
- (f) that all refund payment made by the treasury in the months selected are checked with the authorization issued by the mining officer;
- (g) In the case of refund of security deposit whether and the party has paid up all mining dues and the balance only is refunded after adjusting such dues and penalty levied.

CHAPTER VI
COLLECTION PROCEDURE

6.1 Mining revenue consists of payment made by the parties from whom it is due in the shape of –

- (i) application or other fee, security deposit etc. prior to making of such an application;
- (ii) royalty on ore removed/dead rent on the basis of their own calculation prior to assessment;
- (iii) all other dues in the nature of advance royalty demand, surface rent, dead rent; and
- (iv) Balance of royalty due on the basis of assessment and issue of demand noticed.

6.2 All such payments are generally made by the parties concerned by bank draft. In no case cash payments are accepted in Mining Office.

6.3 The bank drafts received from the parties are entered immediately in the register of bank draft under proper attestation. These bank drafts together with challans in triplicate prepared by the Mining Officer itself are sent to the treasury to credit to Government account.

6.4 As soon as the triplicate copies of challans are received from the treasury they are entered in the daily payment register in the order of receipt and also in the register of bank drafts of challans relating to such bank drafts.

6.5 The entries in the register of daily receipts are verified at the end of the month with the treasury records and certificate of the total amount credited to the concerned Head of Account of Government is obtained from the Treasury Office.

6.6 The amounts shown as collected in the register of daily receipts are posted against the relevant entries in the Demand and Collection Register and the amounts due not realized at the end of each month worked out separately. The copies of challans together with a monthly Demand Collection and Balance (DCB) statement is sent to the Director of Mines for verification and records.

6.7 The department is also required to verify the receipts as shown in the department records with the total amounts booked under mining receipts by the Accountant General (A & E) and any discrepancy noticed during such reconciliation should be rectified before the close of accounts of the year.

6.8 Action is to be taken by the Mining Officer to pursue the outstanding demands including interest or to consider the levy of penalty or issue of the security deposits under the terms of the lease deed. In respect of all demands which are not paid within reasonable time after issue of demand notices, the Mining Officer has to take recourse to the certificate procedure by issue of requisition for a certificate on the Certificate Officer concerned in due time.

6.9 Before filing the requisition a full list of properties held by the lessee has to be obtained and furnished to the Certificate Officer along with the requisition. The Mining Officer is required to watch the disposal and final recovery of certificate dues and take action for write off the amounts found to be ultimately irrecoverable.

6.2.1 Revision – Section 30 of MM(D&R) Act, 1957 empowers of the Central Government to revise any decision of the State Government either suo motto or on an application made within three month of the date of communication of the impugned order together with a fee of Rs. 500 to the

credit of the Central Government. The period of three months can be extended by the Central Government. The natures of orders that can be revised include the grant, the renewal or transfer or refusal or renew or transfer the whole or any part of an area applied for. All such remission orders are binding on the State Government.

CHAPTER VII

MINOR MINERALS

7.1 Power of State Government to make rule in respect of minor mineral:-Section 15 of the Mines and Minerals (Regulation development) Act, 1957 empowers of the State Government to frame rules for regulating the grant of mining leases or other mineral concessions in respect of minor minerals and for purposes connected therewith. The holder of a mining lease or any other minerals concession granted under rules made by the State Government shall pay royalty at the rate prescribed for the time being in the rules so framed. The State Government is not, however, empowered to enhance the rate of royalty in respect of any minor mineral for more than once during any period of three years.

7.2 Accordingly, the Bihar Minor Mineral Concession Rules, 1964 were first framed by the State Government. Later on the Bihar Minor Mineral Concession Rules, 1972 were framed (repealing the 1964 rules) which came into force from the 31st July 1972.

7.3 Mining lease: - Mining operations of minor minerals are undertaken through a mining lease. Mining leases of stone are granted by the Collector of the district for periods not exceeding 5 years and area not less than 5 hectares. Quarrying permit of ordinary earth is granted by the Mining Officer/Assistant Mining Officer for a specific quantity of minerals not exceeding three thousand cubic meters as mentioned in the permit and for a specified period. The Collector of the district are also empowered to settle sand ghat as minor mineral by public auction/tender as notified as notified by the State Government (Rule 11 A(1) BMMC Rule 1972. The period for settlement shall not be more than five years at a time and also with the

detailed procedure of settlement shall be as initiated by the State Government (Amended vide Govt. Notification no. 3032 dated 05.12.2013 & BMMC Rule 1972 amended in 2014).

Note: - The State Government vide their notification no. 4067 dated 12.11.2014 inserted a new rule 9 A by which any mineral may be leased out or settled by Public auction/Tender in the manner prescribed in rule-52. The quarrying lease of stone shall not be less than five years and extent of quarrying leased area shall not be more than 5 hectare accordingly.

7.4 Environmental Clearance:- Every holders of a mining lease/settlement/permit/stockist licensee shall take all possible precaution for the protection of environment and control of pollution while conducting mining operation, beneficiation, crushing or any other allied activity. A person undertaking any mining operation in any area except under and in accordance with the terms and conditions of a quarrying permit or mining lease or holding right of minor minerals under public auction system is liable or various penal actions laid down in the rules.

7.5 All mining lessees/settles/permit holder shall obtain a prior environmental clearance as per the prevailing environmental impact Assessment notification and latest instructions issued by the competent Authority of Ministry of Environment and Forest, Government of India in this regard and as per provisions of the environment Protection Act.

7.6 Royalty & dead rent:- Royalty at the rates prescribed in schedule II and dead rent as prescribed in schedule I to the Rules whichever is higher is payable by the lessee. In addition he is also required to pay surface rent for the area occupied or used by him in mining operation. A quarrying permit

holder is however required to pay royalty at prescribed rates in advance on the quantity of minerals specified in the permit.

7.6 Unlike in the case of major minerals dead rent in case of minor mineral is leviable from the date of execution of the lessee deed further in case of minor minerals, if the lease permits the working of more than one mineral in the same area, the Collector may charge separate dead rent in respect of each mineral.

7.7 Audit Checks:-

It should be seen in audit-

- (i) that minerals have been removed under valid quarrying permits/mining leases;
- (ii) that in case of illegal removal of minor minerals penal provisions have been involved;
- (iii) that the assessment has promptly and correctly been made, demand raised, realised and credited to proper heads of account;
- (iv) that monthly returns of raising and dispatch have timely been submitted by the lessee and in case of defaults, penalty as prescribed in rules has been imposed;
- (v) that there has been cross verification of mineral raised and removed to railway receipts, transporting challans etc.;
- (vi) that there was no undue delay in instituting certificate proceedings for realizing arrears of mining dues including cess and interest thereon.

Note: - Levy of Cess declared ultra vires by the Supreme Court of India (4.4.91) in Civil Appeal No.592 of 1986 – M/s Tata Iron and Steel Co. Ltd. Vrs. State of Bihar.

7.8 Inspection Notes:-

All the objections raised during local audit should be forwarded daily to the Officer-in-charge of the office and it should be insisted that objection memo are returned in original with reply/comments promptly. On return of objection memo with reply of the Officer-in-charge of the office, the tenability of the objections should be decided before incorporating it into the draft inspection report.

In drafting the preliminary objection memos care should be taken to avoid using offensive language. It should be courteously worded and not dogmatic conclusion should be drawn pertaining to any mistakes in assessments etc. The objection memo should also clearly bring out the omission that appear to have occurred in the computation of royalty, rent etc., or in the application of law or rule requesting the department officers to verify the audit objection and to take action as deemed necessary under intimation to audit.

The financial effect of the objection should always be worked out and mentioned in the paragraph.

In financial cases where audit objections are taken in local audit, the following details should invariably be included in the objection memos.

- (a) Name of the Mines;
- (b) Name of the Minerals;
- (c) Area in hectares;
- (d) Name of the lessee/licensee;
- (e) Period of Lease/license;
- (f) Period of assessment
- (g) Date of assessment
- (h) Whether checked by internal audit party.

CHAPTER VIII

RAISING AND PERSUANCE OF OBJECTIONS

8.1 The following procedure would be adopted in local audit of Mining Offices:-

On the first day of the start of local audit the Assistant Audit Officer should prepare a list of both working and non-working mines. Similarly, they should make out a list of permit holders of minor minerals. From these lists, a list of cases covering generally all types of minerals should be prepared for check in local audit. The Sr. Audit Officer/Audit Officer should approve this selection list when he joins the party. A detailed scrutiny of the assessment of royalty, dead rent, surface rent and other mining dues should be undertaken by the Assistant Audit Officer and Auditor as per allocation of work prescribed by the Comptroller and Auditor General of India. In addition, the audit party should also conduct a test check of application for prospecting licence.

Mining lease and renewals etc. – A test check of lease deeds executed since last audit and refunds of application fee, security deposit, preliminary expenses or any other revenue refunds should also be conducted.

8.2 Verification of remittances into treasury:-

A prescribed percentage of total challans received in token of deposits made into treasury towards various mining receipts during the period covered under audit scrutiny should be checked with reference to the treasury records, in addition to verification of two selected months, remittances into treasury.

8.3 Arrangement of audit objections in the Inspection Report:-

The Draft Inspection Report should be drafted during the concluding days of audit from the materials available in the paragraphs of objection memos. The various parts in the report should as far as possible also incorporate the views of the departmental officers and the reasons for not accepting such view or comments may also be given. The Draft Inspection Report may be divided into three parts as detailed below:-

PART – I

It contains introductory parts, outstanding objections from the previous report in brief persistent irregularities and statistical information.

A separate note should be submitted on the action taken by the party in discussion, obtaining replies to and verification of all outstanding replies to and verification of all outstanding parts of previous reports.

PART – II

It contained major irregularities and important points. Part – II is again divided in Section A and Section B. Section A should consist of points of irregularities which the inspecting Audit Officer/Assistant Audit Officer feels, are likely to develop into draft audit parts. Other major irregularities should be taken to Section B.

PART – III

It deals with major minor and procedural irregularities:

All parts in respect II-A or other parts likely to develop into draft parts should receive special attention of the Audit Officer and Assistant Audit Officer. In respect of all these cases, suitable draft notes should as far as possible be prepared by the Audit Officer. This should contain full and detailed information and all the facts mentioned therein should be fully documented by copies of relevant correspondence, or other papers in

support. The chronology of events should be carefully noted and in all case, the exact date and period should be mentioned.

8.5 Discussion –

The Draft Inspection Report should be discussed with the head of the office inspected at the closing phase of the audit and his specific replies or comments obtained in writing should be incorporated in Draft Inspection Report.

8.6 Forwarding of Draft Inspection Report to Headquarters –

If the audit is not supervised by the Audit Officer, the Assistant Audit Officer-in-charge of the party should forward the Draft Inspection Report direct to the headquarters within five working days from the date of completion of audit. If, however, audit is supervised by an Audit Officer he should ensure that the Draft Inspection Report direct to the headquarters within the stipulated period.

8.7 Work in the Headquarters Section –

The Draft Inspection Report should be vetted at the headquarters section duly checking the arithmetical, computation and legal validity of the objection and the final inspection report after approval by the Group Officer (Revenue Sector) should be issued within one month of the date of completion of audit. The report should be sent to the concerned Mining Officer or other head of the offices with a copy to the Director of Mines, Bihar, Patna. Important case of irregularities should be brought to the notice to the Government by special letter.

8.8 Pursuance of the Inspection Report –

The para included in inspection report should be pursued by the headquarters section till these are finally settled/dropped/dropped.

8.9 Duties of headquarters section-

The headquarters section entrusted with the work relating to audit of mining receipts will be responsible for the following work-

- (i) Watching the receipt of Draft Inspection Report from the parties concerned, examination / vetting and issue of inspection reports.
- (ii) Pursuance of objection contained in the Inspection Report
- (iii) Maintenance of objection books, monthly registers and watching their clearance.
- (iv) Study of all amendments to Acts, Rules, notification, circulars, relevant Court judgement and instructions from the Comptroller and Auditor General and communication thereof to field parties with suitable guidelines.
- (v) Examination of specific issue arising out of the Inspection Report and preparation and circulation of guideline for conducting the audit of mining receipt.
- (vi) Receipt and examination of doubtful points referred to by the field parties or others concerning the audit of mining receipts and issue of suitable clarification.
- (vii) Preparation and submission of reports relate to Comptroller and Auditor General and State Government or others.
- (viii) Preparation and issue of draft paras and brief of Audit Report and related works.
- (ix) Any other work which may be entrusted by the Principal Accountant General/Sr. Deputy Accountant General/ Deputy Accountant General (Revenue Sector).

CHAPTER-IX
Standard for review of Internal Control in Mines and Geology
Department

Internal controls are indented to provide reasonable assurance of proper enforcement of laws, Rules and department instructions. These also help in provision and detection of frauds and evasions and other irregularities. The internal controls also keep in creation of reliable financial and management information system for prompt and efficient services and for adequate safeguards against evasion of royalties.

It is, therefore, the responsibility of the department to ensure that a proper internal control structure is instituted, reviewed and update from time to time to keep it effective.

The survey, assessment and collection of royalties, dead rent, surface rent is governed by both State and Central laws and rules framed in case of minor minerals and major minerals respectively and administrative instructions issued from time to time there-under.

9.1 With reviewing the internal control structure in Mines and Geology department, we are required to evaluate that-

- (a) Whether the controls instituted are adequate to safeguard the interest of the department in achieving the objection;
- (b) Whether the control measures are effective i.e. they are in actual application in day to day operation of the department.

In course of evaluating the above factors we should have a clear cut understanding of the objective organizational structure and internal control instituted by the department through Act/ Rules and executive instructions issued in this regard.

However, keeping in mind the activities of the department in formulating plan and procedures for levy, assessment and collection of royalty without any leakage/ evasion of royalty with minimum royalty

remaining outstanding and forming policies and procedures for additional mobilization of resources, we may assess the following:-

1. Whether internal control instituted by the department provides reasonable assurance that the above mentioned objectives of the department will be accomplished.

Reasonable assurance equates to satisfactory level of confidence under given conditions i. e. minimum cost of collection of royalty, maximum collection with minimum risk of fraud, evasion of royalty and other irregularities taking place.

2. Whether higher authorities and employees of the department maintain and demonstrate a positive and supporting attitude towards internal controls of all times?

If top higher authority believes that internal control is important, others in the department will sense that and will respond by conscientiously observing the control established.

3. Whether higher authorities and employees of the department have the personal and professional integrity of the department and maintain a link of competence that allows them to understand the importance of developing, implementing and maintaining good internal control and accomplish the general objective of internal control?

- Has the department set out a code of conduct and personal are discharging their duties ethically under the operative code of control that support internal control?
- Competence includes the level of knowledge and skill of the personnel of the department needed to help ensure orderly, either, economical, efficient and effective performance of their duties as well as a good understanding of individual responsibilities with respect to internal control

4. Whether the department has developed specific control objective for each activity or the department and are appropriate, comprehensive, reasonable and in regard into the overall objectives of the department i. e. for grant to lease returns, assessment, recovery of demands, refunds and adjustment, receipt, issued and use of transporting challans, working of vigilance and monitoring and other incidental activities?
5. Whether higher authorities are continuously monitoring the application of internal controls instituted and take prompt responsive action on all findings of irregular, uneconomical, inefficient and ineffective and ineffective activities?
 - Continuous monitoring the internal controls ensures that internal control is achieving the desired results, if not; the department may take corrective action promptly to achieve its objective. Monitoring also includes addressing audit findings and recommendation report by the auditors to determine what corrective action is needed.
6. Whether the internal controls are clearly documented together with all transactions and significant events and the documentations are readily available for examination?
 - Periodical examination of position of grant of lease, scrutiny, returns, position of assessment and position of arrears revenue etc. helps in tracing the irregularities from the inception and taking prompt and effective corrective measures.
7. Whether all the transactions and significant events promptly recorded and properly classified?
 - Proper recording of returns in raising and dispatch register, cheques and drafts in demand and collection register and assessment records, distribution of transpiration challans for assuring the timeliness and reliability of events.

8. Whether the department has specified and authority for grant of lease, levy, assessment, collection of royalty and the work incidental to these activities and these functions have been executed by them i. e. segregation of duties reduces the risk of error, loss of Government revenue and other irregularities?
9. Whether key duties and responsibilities relating to transaction and events have been qualified by the department among individual authority?
10. Whether competent supervision has been provided by the higher authorities of the department to ensure the objective internal controls is achieved?
11. Whether the department has fixed accountability for resources.
 - It reduces the risk of misuse of resources i. e. Transporting challans etc?
12. Whether access of records is limited to the authorized individuals who are accountable for the custody and use of records.
 - Limited access to records helps in reducing the risk of unauthorities taking place.

Thus assessing of internal controls procedures implies:-

1. Determining the significance and the sensitivity of the risk for which controls are being assessed;
2. Assessing the susceptibility to misuse of resources, failure to attain objectives regarding, economy, efficiency and affectivity or failure to fulfil accountability obligation and non-compliance with laws and regulations.
3. Identifying and understanding the relevant internal controls;
4. Determining what is already known about control effectiveness
5. Assessing the adequacy of the control designs;
6. Determining, through testing, of controls are effective;

7. Reporting on the internal control assessments and recommending the correction measures

Assessment of specific control measures developed for each activity of the department:-

9.2 Grant/renewal of lease

Provisions for grant of lease/ permit under the Mines and Minerals (Development and Regulation) Act, 1957, Mineral Concession Rules, 1960 and Bihar Minor Mineral Concession Rules, 1972 for major and minor minerals.

No person shall undertake any mining operation in any area, except under and in accordance with the terms and conditions of quarrying permit or as the case may be, a permit lease, granted under this rules:-

- Was the application for grant or renewal made in the prescribed formal contending all relevant information specifying the area applied for?
- Was it accompanied a valid certificate of approval issued by the Government of Bihar?
- Was it accompanied by an income tax clearance certificate from the Income Tax Office?
- Was the grant or renewal of mining lease accomplices detailed mining plan duly approved by the Central Government?
- Was the grant of renewal made strictly in accordance with the principles, conditions and limitation of the Act or the Rules?
- Whether the area granted was not a virgin area, the procedure prescribed in Rules 59 of the M. C. Rules, 1960 followed prior to the receipt of application.

9.3 Licences/ Lease deeds

- Whether the deed was preceded by a sanction order of Government, not revoked by the Government on the meantime.

- Whether the deed was executed within the prescribed periods of the date of communication of the orders of grant or renewal.
- Whether the delay in execution of the deed was done to any default of the party and whether extension was recommended and granted despite the fact.
- Whether the deed is accompanied by a detailed map of the area with accurate boundaries described in sufficient detail together with schedule of land?
- Whether the prescribed amount of security deposit was paid into the treasury period to such execution?
- In case of sub-lease, whether such sub-lease are also specifically approved by the state Government and do not contain any provisions conferring rights on the sub-leases in addition to those in the main lease.
- Whether department has prescribed any periodic reports/returns for monitoring the process or grant/renewal of lease?
- Whether the prescribed report/returns are sufficient?
- Whether these reports/returns are submitted periodically to the apex office of the department?
- Whether the apex office head taken action upon monitoring assessing the situation?

9.4 Return

Every lessee or permit holder shall submit every month to the competent authority a true and correct return for minerals in Form "H" by the 15th of the following month to which it relates-

- Whether returns were submitted in time and royalty shown in return was deposited on the date.

- Whether penalty was imposed for delay in filing the returns under Rule 39(2) of the BMMC Rules, 1972.
- Whether the entries of the returns and amount of royalty were in raising and dispatch register and demand and collection register respectively and duly authenticated by the prescribed authority.
- Whether the returns receipted and authenticated by the prescribed authority.
- Whether any periodically reports/returns were prescribed for monitoring of returns of apex level or like at which these returns is to be monitored for check of leakage of revenue.

9.5 Assessment

Efficient assessment procedures have vital bearing on the revenue of the state ex-chequer. It is, therefore, necessary to keep a constant watch on certain critical aspects of assessment procedures. An auditor while reviewing the internal controls in respect of assessment will check:-

- Whether any norms were prescribed by the department through Act and Rules made/ instruction issued there under for finalization of assessment by the assessing authority.
- Whether these norms are being coupled? Whether these exists a system of monitoring through which follow up action is being taken in case of any shortfall?
- Whether the assessment procedure are served enough to check to leakage of revenue. A sound assessment order has the following salient feature:-

Natural Justice

- Based on relevant materials and evidence
- Fair, adequate opportunity to lessees
- Order must be speaking
- Firm from personal bias

- Procedure must be mandatory
 - Examining returns
 - Determination of royalty
 - Demand of royalty
- Whether there are any in Act/ Rules /instruction, under which evasion of royalty is taking place this is to be ascertained in the course of audit checks?
- Whether correct rates of royalty have been applied for?
- Whether correct quantity of extraction /dispatches have been reflected in the returns?
- Whether there exists a system in Act/ Rules / notification of cross verification of dispatch of minerals taken placed against issue of transportation challans and norms prescribed for verification?
- Whether these systems of are effective and norms and complied by the department?
- Whether there exists a system of cross verification of inter departmental information/ data? How for the system is effective and whether these are being complied with?
- Whether there exists system of monitoring of dispatches against transporting challans and inter departmental data through which follow up action is being taken?
- Whether grade of minerals reported by the lessee or departmental laboratory of coal controller was cluclaw before assessment of royalty?
- Whether demand notice was served on the lessee immediately after documentation of details of assessment in demand and collection register?
- Whether different royalty on receipt of analysis subsequent to assessment, if any, has been reckoned?

9.6 Dead Rent (Section 9 of MMDR Act 1957 and 26(i) (a) Of BMMC Rules 1972).

The lessee has to pay every months either dead rent or royalty as the case may be on the basis of monthly returns submitted by him.

In case of non- working have lease deed, demand for dead rent is to be computed every half year i.e. for the period January to June payable on or before 15 January and for the period from July to December Payable on or before the 15th July each year.

- Whether demand are promptly and correctly raised against all leases for payment or dead rent?
- Whether the amount of interest, of any, is included in the demand?
- Whether the area for which demand was raised falling with that in the lease deed?
- Whether the rates are according to the Schedule I and Schedule III in case of minor and Major Minerals respectively?
- Whether the rates have been changed during the year?
- Whether recovery of dead rent is continued till the expiry of the lease of date of termination of the lease by the Government?

9.7 Surface rent

Holder of a mining lease is liable to pay surface rent for the surface area used by him for mining operation.

- Whether the correct rate of surface rent has been applied as per lease deed and applied to the area of surface operation?
- Whether the rate applied was on the own actually permitted by the Collector from the date of such permission?
- Whether any area exchanged on the ground of public ways without clear indications of full right of way to the public?

9.8.1 Unauthorized mining

No person shall undertake any mining operation in any area without permit or mining lease-

- Whether any removal has been taken place prior to the actual execution of the lease deed or after the expiry or date of effect of determination or other situation and whether action was taken to recover the cost of minerals?
- Whether prompt action has been taken to investigate and inspect on the pits and the extent of such removal is properly assessed on the basis of pit measurement?
- Whether penal action has been compounded for a suitable sum by an authorized officer for unauthorized removal of minerals?

9.8.2 The following evaluation is to be done by an auditor to assess the existence/adequacy of internal control mechanism for efficient and effective realization of demand/ arrears-

- Whether royalty was deposited in full along with returns.
- Whether demand was created and demand notice has been issued and served immediately after completion of assessment
- Whether follow up action has been taken by the department after service of the demand notice.
- Whether notice regarding deterrent measures like interest, penalty has been served on the lessee.
- Whether certificate proceeding were initiated in case of payment of mining dues by the lessees, after seven months.
- Whether demand was raised on the basis of demand and collection register.
- Whether follow up action has been taken on the certificate initiated for quick realization of demand i. e. Correspondence with Certificate Officer may be analyzed.

- Whether extent of arrears has been brought to the notice of higher authorities through reports/ returns from time to time.
- Whether these reports/ returns have been monitored and departmental instruction were issued for action to be taken to reduce the extent of arrears.
-

9.9 Use of transporting challans

The Mining Officer issues a permit in Form 'C' for the removal of the mineral on the basis of the verification report of the Inspector of Mines. The clearance of minerals in Truck etc. are supported by issue of transit passes is duplicate to the carrier.

- Proper maintenance of stock and issue register of transportation challans
- To verify receipt and issue of transporting challans/ certificate
- To cross verification of entries of transporting challans/certificate between stock register, ledger maintained in the office.
- Whether transporting challans issued to the lessees after verifying that he has deposited the royalty upto the previous month/ current month and no amount is in arrear with lessee?
- Whether the transporting challans were used properly and for the purposes prescribed, if not, whether panel action provided in Rules has been taken?
- Whether transporting challans were issued by the Mining Officer after getting the requisition/application received from the lessee specifying the dispatches taken place therein?
- Whether the transporting challans were declared invalid by the department immetering after being lost, stolen or destroyed by fire and work notified in the newspaper?
- Whether the transporting challans declared invalid by the department and used by the lessee?

- Whether dispatch of minerals were properly accounted for?

9.10 Refund

While making refund of mining dues, audit should ascertain:-

- Whether application fee for certificate of approval of renewal thereof has not been granted by the Government?
- Whether application fee for prosperity license or renewal has not been granted or renewed?
- Whether unspent balance of preliminary expenses was paid in connection with a mining lease?
- Whether any amount of prospecting fee, dead rent, surface rent or fees or dues was paid in excess or in advance?
- Whether the fines or penalties for which refund has been claimed already levied by the Government?

9.11 Working of Task force and inspection wing

In Mines and Geology Department, Task force and inspection wing was set up under the charge of Additional Director of Mines.

- Whether any norms were prescribed for this wing and those norms are being followed and complied with by the officer of the wing.
- Whether there exists a system of monitoring of the performance of this wing through which follow up action is taken
- Taking the statistics of inspection report/ work performed by this wing cost analysis can be attempted.
- Whether meeting of task force is being held as per norms and action is taken thereon?

9.12.1 Appeal

Any lessee/ person objecting to an order passed by the competent authority of assessment or penalty or both against him may prefer an appeal to the appellate authority.

- Whether any norms were prescribed for disposal of cases by the appellate authority.
- Whether any system of monitoring the performance exists in the department through which follow up action is being taken.
- Whether the appeal was performed within the stipulated period of 30 days from the date of such order (Delay exceeding 60 days but not exceeding 180 days in filing the appeal may be condoned with the previous appeal of the Director of Mines.
- Whether prescribed fee was paid in respect of each appeal accompanying treasury challans.
- Whether appeal has been admitted against an order after the lessee has deposited 50 per cent of the amount assessed by the competent officer.
- Whether there exists any limitation of finalization of appeal cases, statistics of pending cases, may be analysed by audit.

9.12.2 May be the Commissioner on his own motion ought to start a proceeding for revision of the order. This power can also be exercised on receipt of the application by any person.

- Whether revision has been filed within 60 days from the date of communication of the order and within 75 days from the date on which an application is demanded days from the date on which an application is demanded to have been refused by the Collector?
- Whether delay in filing application for revisions have been conducted on sufficient reasons?
- Whether proper registers/records have been maintained and events are properly documented for analyzing the statistics?

ANNEXURE-I

Rate of Royalty Major Mineral

Notice. No. G.S.R. 574 (E), dated August 13, 2009-In exercise of the powers conferred by sub-section (3) of Section 9 of the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957), the Central Government hereby makes the following further amendments to the Second Schedule to the said Act, namely:-

In the Mines and Minerals (Development and Regulation) Act, 1957, for the Second Schedule, the following Schedule shall be substituted, namely:-

“Second Schedule
(See Section 9)
Rate of Royalty in respect of Minerals at item 1 to 9, 11 To 37, 39 to
45 and 47 to 51

1. Apatite and Rock Phosphate:
 - (i) Apatite Five per cent of sale price on advalorem basis
 - (ii) Rock Phosphate:
 - (a) Above 25 per cent P₂O₅ Eleven per cent of sale price on ad valorem basis
 - (b) Up to 25 per cent P₂O₅ Six per cent of sale price on ad valorem basis
2. Asbestos:
 - (a) Chrysotile Eight-hundred and eighty rupees per tonne
 - (b) Amphibole Fifteen per cent of sale price on ad valorem basis
3. Barytes Five and half per cent of sale price on ad valorem basis
4. Bauxite and Laterite
 - (a) Zero point five zero per cent of London Metal

	Exchange Aluminium metal price chargeable on the contained aluminium metal in ore produced for those despatched for use in alumina and aluminium metal extraction
	(b) twenty-five per cent of sale price on ad valorem basis for those despatched for use other than alumina and aluminium metal extraction and for export
5. Brown Ilmenite (Leucoxene), Ilmenite, Rutile and Zircon	Two per cent of sale price on ad valorem basis
6. Cadmium	Fifteen per cent of sale price on ad valorem basis
7. Calcite	Fifteen per cent of sale price on ad valorem basis
8. China Clay/Kaolin (including ball Clay, white shale and white clay):	
(a) Crude	Eight per cent of sale price on ad valorem basis
(b) Processed (including washed)	Ten per cent of sale price on ad valorem basis
9. Chromite	Ten per cent of sale price on ad valorem basis
10. Coal (including Lignite)	*
11. Columbite-tantalite	Ten per cent of sale price on ad valorem basis
12. Copper	Four point two per cent of London Metal Exchange Copper metal price chargeable on the contained copper metal in ore produced
13. Diamond	Eleven point five per cent of sale price on ad valorem basis

14. Dolomite tonne	Sixty-three rupees per
15. Feldspar	Twelve per cent of sale price on ad valorem basis
16. Fire Clay (Including plastic, pipe, lithomargic and natural pozzolanic clay)	Twelve per cent of sale price on ad valorem basis
17. Fluorspar (Also called fluorite)	Six point five per cent of sale price on ad valorem basis
18. Garnet:	
(a) Abrasive	Three per cent of sale price on ad valorem basis
(b) Gem	Ten per cent of sale price on ad valorem basis
19. Gold:	
(a) Primary	Two per cent of London Bullion Market Association Price (Commonly referred to as “London Price”) chargeable on the contained gold metal in ore produced
(b) By-product gold	Three point three per cent of London Bullin Market Association Price (Commonly referred to as “London Price”) chargeable on the by- product gold metal actually produced
20. Graphite:	
(a) With 40 per cent or more Fixed carbon	Two per cent of sale price on ad valorem basis
(b) With less than 40 per cent price on fixed carbon	Twelve per cent of sale ad valorem basis
21. Gypsum	Twenty per cent of sale price on ad valorem basis
22. Iron ore: Lumps Fines and concentrates all grades	Ten per cent of sale price on ad valorem basis
23. Lead	Seven per cent of London Metal Exchange lead metal price chargeable on the

	contained lead metal in ore produced Twelve point seven per cent of London Metal Exchange lead metal price chargeable on the contained lead metal in concentrate produced
24. Limestone:	
(a) L.D. Grade (Less than one and half per cent silica content)	Seventy-two rupees per tonne
(b) Others	Sixty-three rupees per tonne
25. Lime Kankar	Sixty-three rupees per tonne
26. Limeshell	Sixty-three rupees per tonne
27. Magnetite	Three per cent of sale price on ad valorem basis
28. Manganese Ore:	
(a) Ore of all grades	Four point two per cent of sale price on ad valorem basis
(b) Consent rates	Four point two per cent of sale price on ad valorem basis
29. Crude Mica, Waste Mica and Scrap Mica	Four per cent of sale price on ad valorem basis
30. Monazite	One-hundred and twenty-five rupees per tonne
31. Nickel	Zero point one two per cent of London Metal Exchange nickel metal price chargeable on contained nickel metal in ore produced
32. Ochre	Twenty rupees per tonne
33. Pyrites	Two per cent of sale price on ad balorem basis
34. Pyrophyllite	Twenty per cent of sale price on ad valorem basis
35. Quartz	Fifteen per cent of sale price on ad valorem basis

36. Ruby	Ten per cent of sale price on ad valorem basis
37. Silica sand, Moulding sand and Quartzite	Eight per cent of sale price on ad Valorem basis
38. Sand for stowing	**
39. Selenite	Ten per cent of sale price on ad valorem basis
40. Sillimanite	Two and half per cent of sale price on ad valorem basis
41. Silver:	
(a) By-product	Seven per cent of London Metal Exchange Price chargeable on by-product silver metal actually produced
(b) Primary silver	Five per cent of London Metal Exchange silver metal price chargeable on the contained silver metal in produced
42. Slate	Forty-five rupees per tonne
43. Talc, Steatite and Soapstone	Eighteen per cent of sale price on ad valorem basis
44. Tin	Seven point five per cent of London Metal Exchange tin metal price chargeable on the contained tin metal in ore produced
45. Tungsten	Twenty rupees per unit per cent of contained W_{O_3} per tonne of ore and on pro-rata basis
46. Uranium	***
47. Vanadium	Twenty per cent of sale price on ad valorem basis
48. Vermiculite	Three per cent of sale price on ad valorem basis
49. Wollastonite	Twelve per cent of sale price on ad valorem basis
50. Zinc	Eight per cent of London Metal Exchange zinc metal price on ad valorem basis

chargeable on contained
zinc metal in ore produced
Eight point per cent of
London Metal Exchange
zinc metal price on ad
valorem basis chargeable on
contained zinc metal in
concentrate produced

51. All other minerals not
hereinbefore specified [Agate,
Clay (others), Chalk, Corundum,
Diaspore, Dunite, Felsite, Fuschite,
Kyanite, Quartzite, Jasper, Perlite,
Rock Salt, Shale, Pyroxenite, etc.]

Rates of royalty in respect of Item No. 10 relating to Coal (including Lignite) as revised vide Notification Number G.S.R. 522(E), dated the 1st August, 2007, of the Government of India in the Ministry of Coal shall remain in force until revised through a separate notification by the Ministry of Coal.

** Rates of royalty in respect of Item No.38 relating to Sand for stowing as revised vide Notification Number G.S.R. 214(E), dated the 11th April, 1997, will remain in force until revised through a separate notification by the Department of Coal.

***Rates of royalty in respect of Item No.46 relating to Uranium as revised vide Notification Number G.S.R. 96 (E), dated the 13th February, 2009 will remain in force until revised.

Note-The rates of royalty for the State of West Bengal in respect of the minerals except the minerals specified against Item No. 10 shall remain the same as specified in the notification of the Government of India in the Ministry of Steel and Mines (Department of Mines) Number G.S.R. 458 (E), dated the 5th May, 1987 till the outcome of litigation pending in the Supreme Court of India.”

Mines & Minerals (D & R) Act,
I[THIRD SCHEDULES]

(See Section 9-A)

Rates of Dead Rent

1. Rate of dead rent applicable to the lease granted for low value minerals are as under:

Rate of dead rent in rupees per hectare per annum

From second year of lease	Third year and fourth year	Fifty year onwards
200	500	1000

2. Two times the rate specified in Paragraph 1 in case of lease granted for medium value minerals.
3. Three times the rates specified in Paragraph 1 in case lease granted for high value minerals.
4. Four times the rate specified in Paragraph 1 in case of lease granted for precious metals and stones.

Note:

1. For the purpose of this notification.
 - (a) “precious metals and stones” means gold silver, diamond, ruby, sapphire and emerald
 - (b) “high value minerals” means semi- precious stones (chrysotile variety) and mica;
 - (c) “medium value mineral” means chromite, manganese ore, kyanite, sillimanite, vermiculite, magnesite, wollastonite, perlite, diaspore, apatite and rock phosphate, fluorite (fluorspar) and barites.
 - (d) “low value minerals” means minerals other than precious metals and stones, high value minerals and medium value minerals.
2. The rates of dead rent for the State of West Bengal shall remain the same as specified in the notification of the Government of India in the Ministry of Steel and Mines (Department of Mines) Number G.S.R. 458 (E), dated the 5th May, 1987 till the outcome of pending litigation on the Supreme Court of India”

2[THE FOURTH SCHEDULE]

[See clause (ea) of Section 3]

Notified Minerals

1. Bauxite.
2. Iron ore.
3. Limestone
4. Manganese ore”

ANNEXURE-II

Rates of Royalty (Minor Mineral)

[Schedule-I]
[See Rule 26(1)(a)]

Dead Rent

Period	Rate of dead rent (in Rs.)
1	2
Rate per year for entire period of lease	30000 per acre per year

[Schedule-II]
[See Rule 26(1)(b)]

Sr. No.	Name of minerals	Rate per Cubic meter in Rupees
1	2	3
1	(a) Boulder, Gravel, shingle or stone as defined by name whichever (b) Stone settled by way of auction	100=00 In case of auction the amount of auction
2	(a) Ordinary sand used for construction purpose (b) Ordinary sand of auctioned ghats	50=00 In case of auction the amount of auction
3	Bricks earth (equivalent to 400 standard bricks)	11=60 (S.O. No. 244, dated 27.1.12)
4	Ordinary clay-Clay which is used for manufacturing of Rani Ganj tiles, commercial works which is used for construction of embankment, Road, Building or levelling the same of used for other commercial Works.	22=00
5	Lime shell, Lime stone and kankar used in Kilns for manufacturing of lime used as construction material and Lime shall used for manufacture of bottoms.	110=00
6	Murram	55=00
7	Chalcedony Pebbles used for Boli Mill purpose only	73=00
8	Granduler earth	55=00
9	Quartzite used for the purpose of Building Construction or for making road	73=00
10	Reh Mitti	26=00
11	Saltpetre	29=00
12	Slate and shell when used for making building material	73=00
13	Fullers earth	95=00
14	Stone used for making household utensils including	36=00

	grinding stone	
15	Stone sets and Stone Bricks per hundred	73=00
16	Stone dust	10 Percent Amount of sale price
17	Granite (in case of use for decorating stone) per hundred (i)Block more than 60 c.m. (ii)Block less than 60 c.m.	545=00, 273=00
18	All other minerals	25 Percent of sale price

1. Subs. By MB. Mu. 20-2209-245/M dated 27.1.2012

Note-(I) notwithstanding anything contained repugnant in Bihar Minor Mineral Concession Rules, 1972 or otherwise, the settle shall pay the extra Royalty for the excess quantity of extracted and dispatched stone more than the equivalent auction amount.

Note- (II) the settle shall pay the extra Royalty for the excess quantity of extracted and dispatched sand more than the equivalent auction amount.

Comments & Case Law

Levy of royalty on stone chips. All stone pieces, boulders, gravels and shingles which may be used for making chips either by lessee or by a subsequent purchaser, would be covered by entry at SI. No. 2 of Schedule II, Ramesh Prasad Verma vs. State of Bihar, 2012(3) PLJR 548.

Sand is not identified as minor mineral when used for construction purpose. Consolidated royalty being payable in respect of minor minerals used for manufacture of bricks. As such, demand of royalty on sand is not permissible. Bihar Bricks Manufactures Association vs. State of Bihar, 2005(4) PLJR 280.

ANNEXURE-III

(Referred to in 3.9 (xiii) of Chapter-III)

List of records maintained in Mining Offices and audit procedure there of

The following records and registers are kept in Mining Offices- the examination of which should be conducted on the lines indicated below:-

- 1. Register of demand and collection of mining revenue-** This is a permanent register with running entries for a period not less than 20 years based on the period of each individual lease. It contains lease wise particulars of the demand raised during a financial year, amount collected during the year with particulars of challan numbers etc. An examination of this register should be conducted to see that:-
 - (i) The register is complete and records account of all subsisting leases and pending demands of expired or determined leases;
 - (ii) All demands of royalty, dead rent etc, are promptly and correctly noted;
 - (iii) All realization are noted correctly and such noting of collection register;
 - (iv) Proper action is taken for levy of interest and penalties for delayed payments;
 - (v) In cases of non-payment, action is considered to determine the lease after 60 days notice, where necessary;
 - (vi) All old outstanding demands are examined and reasons for pendency.
- 2. Register of Daily Receipts-** This register contains particulars of all mining revenue realized. It is maintained month wise in chronological order and the dated of payment with the name of the depositors are noted against each credit the entries in the register are to be checked in audit to see that:-
 - (i) The figures of collection are monthly checked by the department with the treasury records and consolidated treasury receipt and a certificate of the treasury obtained in Col. 22;
 - (ii) The amount noted in the challans are traced in this register and conversely all entries are supported by challans;
 - (iii) The entries in this register are traced to the corresponding entries in the Demand and Collection Register;
 - (iv) The amount shown as collected are verified with treasury records (for selected months) to ensure accuracy of the amounts shown as realized / remitted in to treasury.

3. Register of Raising and Dispatch-

This register contains figures of rising and removal of minerals by the lessees and is posted from the monthly returns submitted by the lessees. To find out the accuracy of postings made therein.

4. Surface rent Register- It contains lease wise details of area actually occupied for surface operation and the No. and date of letter in which surface permission was granted by the Collector. The entries in the register are to be checked to see that:-

- (i) It is complete and covers all existing lessees;
- (ii) The actual area permitted is correctly recorded;
- (iii) The date of permission is correctly recorded;
- (iv) All further areas permitted are added up and the dates there of are also noted correctly and
- (v) The demands for surface rent are correctly compared on the basis of these entries and issued promptly for realization.

5. Lease Register- This register is maintained to record all leases within the Mining Office. It should be seen in audit that all lease deeds are available with reference to this register and a demand for royalty or rents for all these leases entered therein is noted in the demand and collection register.

Irrespective of the fact that the Mines is working or not and the register records of all leases actually entered into.

6. Register of Analysis- The register contains a record of joint samples taken for Mineral-wise analysis of the minerals sent to the Government analytical laboratories. The grade of the ore as per the report of the leases as well as the grade as per the final analysis report of the laboratory is noted in the register for calculation and recovery or different royalty, if any. The examination of the register will be confined to see whether-

- (i) All cases of extraction of joint samples as per the stock removal given by the Minerals Officer, have been duly entered therein;
- (ii) These samples have been sent to the laboratory promptly and their receipt back is watched;
- (iii) The result of final analysis reports of the laboratory are correctly noted and.
- (iv) On the basis of such final analysis, different royalty is correctly worded out and demanded.

7. Register of Transit Passes- This is stock register of transit pass book issued to the settle. In checking this register it should be seen that:-

- (i) All the books received from the press have been correctly recovered as receipts;

- (ii) That issue of books are properly acknowledged by the sessees and noted in the register;
- (iii) The issue of books to the lessees are made only after recovery of the cost of the books;
- (iv) Some of the used transit pass foils received back in the office are correlated with the books numbers;
- (v) The closing stock is physically verified and found correct.

Note: - The mineral transit pass Regulation Act, 1976 declared ultra vires by the Patna High Court Ranchi Bench.

After the use of challans one duplicate copy will be submitted in the concerned Mining Office with their monthly returns by the sessees.

- 8. Register of Refunds-** this register contains cases where refunds of revenue have been made. The examination of refund has been noted at 5.4.2 in detail.
- 9. Register of Bank Drafts-** According to the conditions of lease deeds, the lessee is required to pay the rents and royalties to Government on the rates prescribed. The lessees, who are remaining outside the State or outside the district in which the Mining Offices is situated discharge the liabilities through Bank Drafts obtained in favor of the Mining Officer concerned. These bank drafts are credited to Government A/c by presenting a challan for each bank drafts received are invariably entered in the register under proper authorization and promptly credited into Government treasury and there is no delay in taking such action on the part of the Mining Officer.
- 10. Register of Application for grant of Prospecting Licenses-** This register contains the particulars relating to the application for, date of submission of the application and the date for grant of Prospecting Licences, the register is posted chronologically duly assigning a serial number to each application entered.

A general review of the register should be conducted to see that:-

 - (i) There is no delay in processing of the application and;
 - (ii) Prospecting license deeds are executed in time in respect of cases where orders for grant of prospecting licenses were issued by the Government.
- 11. Register of Application for grant of Mining Leases-** This register is maintained on the same lines as mentioned in 10 above and the audit points to be seen are also as mentioned above.
- 12. Register of Prospecting Licenses-** This register contains and complete list o fall prospecting of the Mining Officer. This register should be examined on the following lices:-
 - (i) The demand for license fee is raised in respect of all license.
 - (ii) A comparison of the entries of this register with that of the D. C. B. register would reveal escapement of assessment.

- (iii) The entries in this register should be tallied with some of the prospecting licenses deeds to ensure its completeness.

13. Royalty of application for grant of stockiest licenses- This register contains the entire list of every person who carries business of minor minerals beyond any lease hold area stockiest licenses issued in Form of BMPIM & 2 S.O. rules 2003 any for stone minerals used for crushes issued in Form "L" of BMMC rule 1972.

This register should be examined in the following lines-

- (i) The total no. of stockiest licenses for the use of crusher is determined by the State Government on the recommendation of collector of the concerned district of application is accompanied.
- (ii) The stockiest license is based on Public Auction / Tender to highest bidder every with a permit fee register of stockiest license force of crushes.
- (iii) The installment of auctioned amount fixed properly and collected timely.
- (iv) A comparison of entries of their register with that of the Rule 7 (i) of Bihar Minerals (Prevention of illegal Mining, Transportation and Storage) rule 2003.

14. Half- yearly verification reports- After inspection of the mines at the end of the half year a report in the prescribed form on the results of inspection of the mines and the books of accounts of accounts of the lease is prepared by the Mining Officer should inspect all the mines within his jurisdiction and prepare a report for each mine.

- (i) Half- yearly inspection is conducted invariably in respect in respect of all mines.
- (ii) The quality of ore shown as removed tallies with the monthly returns submitted by the lessee.
- (iii) The figure contained in the register of raising and dispatch tally with those recorded in the half yearly report.

15. Register of illegal Mining Operation- A register of illegal mining operation is to be maintained in the proforma prescribed by the department of Mines and Geology under letter no. A/Q1-302/88-158/m dated 08.01.1988 in district mining offices for recording cases of illegal mining operation detected by the departmental officers or reported by anybody or individual. The register contains inter alia information in regard to date and time of inspection. The name and designation of the inspection Officer, particulars of area, the name and address of the person/persons undertaking illegal raised and removed date of submission of the report etc.

While examining the register, it should be seen that action has been taken promptly in all cases under the provisions of the Acts/ rules for finalization by levy and collection of royalty/fine/penalty and recovery of the cost of mineral.

Check List for Mines & Geology Department

**Head-
'0853'**

1. **Demand & Collection Register of Brick Kiln-** Checking & reconciled with Brick kiln files & Treasury schedule.
2. **Demand & Collection Register of Sand Ghat-** Checking & reconciled with Sand Ghat files, work order & Treasury Schedule.
3. **Demand & Collection Register of Stone Quarry-** Checking & reconciled with Stone quarry file, respective order & Treasury Schedule.
4. **Permit Register of Brick Kiln-** To Check from concerned files that valid permit has been issued & required document submitted.
5. **Monthly return of Mineral-** For checking the disposal with file concerned.
6. **Kachcha challan Register-** To Check cash receipts & remittance into Treasury through Bank Challan.
7. **Application register of lease (sand, stone etc.)-** Check & verify with lease file.
8. **Application & Permit of under ordinary lease-** Check application register, Permit register, concerned files for issuing of valid permit.
9. **Stockist license register-** Check & verify with concerned file for issuing of stockist license and checking for submission of monthly returns.
10. **Sand Ghat file-** To Check timely deposit of instalment and subsequent remittance into Treasury.
11. **Stone Quarry file-** To check timely deposit of instalments and subsequent remittance into Treasury.
12. **Bank draft register-** To Check collection of instalments & dues and reconciliation with Treasury schedule.
13. **Monthly register/return-** To check monthly & annual collection against fixed target. To check monthly stock and dispatch.
14. **Register IX-** To check institution of certificate case against defaulters.
15. **Register X-** To reconciled with register IX and to check disposal of certificate cases.
16. **Form M& N register-** To check actual Procurment sheet with transit Pass file/register.
17. **Illegal Mining register-** To check the cases of illegal mining with report & seizer file.
18. **File of Major Mineral-** To check period of lease, production & despatch, collection of dues & remittance accordingly.

**Head-
'2853'**

1. Cash Book :- To check 'transaction of Receipt side & Payment side of Cash Book with subsidiary register/ files and reconciliation with Treasury Schedule & Bank Passbook.
2. Bill Book :- To check 'entry in Receipt side of Cash Book with subsidiary register/ files and reconciliation with Treasury Schedule & Bank Passbook
3. Voucher register: - To check 'transaction of Receipt side & Payment side of Cash Book with subsidiary register/ files and reconciliation with Treasury Schedule & Bank Passbook
4. Cheque register: -To check entry in Payment side of Cash Book with subsidiary register/ files and reconciliation with Treasury Schedule & Bank Passbook
5. Acquittance roll: -To check 'transaction of Receipt side & Payment side of Cash Book with subsidiary register/ files and reconciliation with Treasury Schedule & Bank Passbook
6. Contingent register: -To check 'transaction of Receipt side & Payment side of Cash Book with subsidiary register/ files and reconciliation with Treasury Schedule & Bank Passbook
7. Copy of vouchers: -To check 'transaction of Receipt side & Payment side of Cash Book with subsidiary register/ files and reconciliation with Treasury Schedule & Bank Passbook
8. Allotment & Expenditure register: - To Check allotment with file and reconciled with Bill Book
9. Compliance of old IR if provided: - To check compliance of old Para raised.
10. Service Book: - Certificate & Fixation of pay of employees.
11. Register/File of Finance Audit & internal Audit: - To check fact & deficiency which have been pointed out.
12. Stock register: - Stock register of goods to verify with Cash Book and vouchers.

Mines & Geology Department

(Apex
Level)

1. Index register: - To check number of file & No. of works/scheme is going on.
2. Policy file such as Mineral policy, Major & Minor Mineral policy
3. Rent/Royalty fixation & revision file: To check revision of royalty/fee/rent
4. Auction file:- Auction file of sand, stone & other Mineral.
5. Mining plan approved file/ register.
6. Settlement & cancellation of lease file.
7. Application file:- To check grant of leases
8. Lease file of Major Mineral: - Grant of lease of Major Mineral.
9. Lease file of Minor Mineral(sand & stone):- Sanction & corresponding of lease from District.
10. Budget file:- To check fixation of target & collection.
11. Transit Pass register & file:- To check issuing & utilization of Transit Pass.
12. Monthly & Annual return of collection: - To check item wise collection against target.
13. Cash Book: - To check entry of receipt & payment from subsidiary register
Passbook with Treasury Schedule.
14. Bill Book: -To check entry of receipt & payment from subsidiary register
Passbook with Treasury Schedule
15. Voucher register: -To check entry of receipt & payment from subsidiary
register Passbook with Treasury Schedule
16. Aquittance Roll: - To check entry of receipt & payment from subsidiary
register Passbook with Treasury Schedule.
17. Allotment & Expenditure register: - To check Allotment & Expenditure with
file and Bill Book.
18. Service Book of Headquarter employees.
19. Purchase file
20. Electronic Transit Pass: - To check actual issue of E. Challan.
21. Target: - Collection Report.

Audit Design Matrix for compliance Audit of Mines and Geology Department

Sl.No.	Audit objectives/Sub objectives	Audit Questions on selected matters	Audit Criteria	Data collection and analysis method	Audit evidence
1	The efficiency and adequacy of the system for levy and collection of mining receipts/	<ol style="list-style-type: none"> 1. Whether sand policy was formulated in accordance with Supreme court's Guideline 2. Whether system was put in place in accordance with notifications issued by Government 3. Whether adequate inspection was conducted for preventing of illegal mining as per prescribed norms and guideline. 4. Whether check post was put in place and was operative to check transportation of minerals illegally 5. Whether collected amount was remitted into respective head of Government Account 6. Whether certificate cases were lodged against defaulters in case of non-payment 	<ol style="list-style-type: none"> 1. Bihar Miner Mineral Concession (BMMC) Rules, 1972 as amended time to time. 2. Mines and Minerals (Regulations and Development) (MMRD) Act, 1957. 3. Mineral Concession Rules (MC) 1960. 4. Mineral Conservation and Development Rules (MCD) 1988. 5. Bihar Minerals (Prevention of Illegal Mining, Transportation and Storage) (BMPIMTS) Rules 2003. 6. Bihar Financial Rules, Volume-1. 7. Indian Stamp Act 1899 and Indian Registration Act 1908. 8. The Bihar and Orissa Public Demand Recovery (PDR) Act, 1914. 9. Sand policy 2013 	<ol style="list-style-type: none"> 1. Scrutiny of records/files related to policy, orders and Notifications 2. records and cases regarding adherence to the provisions in operation of mining (major and minor minerals) 3. Monthly reports and returns 4. Remittance register and certificate case registers 5. Register IX and X 	<ol style="list-style-type: none"> 1. Records/files related to policy, orders and Notifications 2. records and cases regarding adherence to the provisions in operation of mining (major and minor minerals) 3. Monthly reports and returns 4. Remittance register and certificate case registers 5. Register IX and X

			10. Notification and circulars, executive and departmental orders and instructions issued by the Department from time to time.		
2	Whether action taken in the cases of default or illegal excavation of minerals was effective	<ol style="list-style-type: none"> 1. Whether mineral excavation was done as per mining plan 2. Whether inter departmental coordination was in place between works department & mines offices. 3. Whether brick kilns was operative with valid permit 4. Whether penalty/fine/interest was imposed in violation of procedures 5. Whether reconciliation of Register IX with Register X is being done. 	<ol style="list-style-type: none"> 1. Notifications circulars, executive & departmental orders and instructions issued by the Department from time to time. 	<ol style="list-style-type: none"> 1. Scrutiny of Stock and issue register of transit pass, Permit Register 2. Records/files related to illegal mining 3. Weekly, monthly & yearly Progress report and Monthly return filed by lessee. 	<ol style="list-style-type: none"> 1. Stock and issue register of transit pass, Permit Register 2. Records/files related to illegal mining 3. Weekly, Monthly & yearly Progress report and Monthly return filed by lessee. 4. Brick Kiln Register 5. Remittance register 6. Register IX & X
3	Whether an effective internal control and monitoring mechanism was in place in the Department to prevent leakage of revenue.	<ol style="list-style-type: none"> 1. Whether adequate man power was available for inspection and monitoring of mining area. 2. Whether adequate inspection was made for preventing of illegal mining. 3. Whether adequate man power was available for collection and remittance. 	<ol style="list-style-type: none"> 1. Notification and circulars, executive and departmental orders and instructions issued by the Department from time to time. 	<ol style="list-style-type: none"> 1. Scrutiny of Correspondence files of the department, Minutes of Meeting, Inspection reports/ returns. 2. Monthly & yearly 	<ol style="list-style-type: none"> 1. Monthly & yearly Progress report and returns. 2. Records related to working strength and men-in-position.

		4. Whether adequate inspection was made by higher authority for preventing of illegal mining.		Progress report and returns. 3. Records related to working strength and men-in-position.	
4	The Acts/Provisions of the environmental aspects were adhered in operation of mining leases.	<ol style="list-style-type: none"> 1. Whether Environmental Clearance Certificate was obtained before operation of mining. 2. Whether consent to establish and consent to operate have been obtained from Pollution Control Board before starting the business. 	<ol style="list-style-type: none"> 1. Bihar Miner Mineral Concession (BMMC) Rules, 1972 as amended time to time. 2. Air (Prevention and Control of Pollution) Act, 1981 and Environment (Protection) Act, 1986 3. Notification and circulars, executive and departmental orders and instructions issued by the Department from time to time. 	<ol style="list-style-type: none"> 1. Scrutiny of Records/files related to Environment Clearance 2. Files and Register related to valid permits 	<ol style="list-style-type: none"> 1. Records/files related to Environment Clearance 2. Files and Register related to valid permits

