

Government and occupational rights of the leaseholders clearly. This has been exploited in some cases to sell lands held on lease and the buyers have got mutations done in their favour. In some cases the leased lands/parts thereof have been reverted. However, a comprehensive database incorporating all such cases with present RORs and survey numbers has not been prepared. Instances have been noticed where the RORs still indicate private parties as occupants despite reversion. This has enabled private persons to sell reverted government lands. The premium charged for granting class-I occupancy did not bear any relation with the market value of the land.

*Therefore it is recommended that;*

- *all leased lands granted under Decree No.3602 of 1917 may be identified and a database created linking lease records with current RORs and survey maps,*
- *the RORs need to be modified to indicate Government ownership of these lands and revenue authorities need to be sensitised not to allow mutation of such lands,*
- *the Department may be advised for taking action for identifying reverted lands and updating all related records and*
- *the premium at the market rate may be considered for granting class-I occupancy.*

In the exit conference Chief Secretary to the Government of Goa accepted the fact that a database linking leased lands to current RORs was needed and appropriate action would be taken on this aspect and on the findings and recommendations mentioned above.

The matter has been reported (December 2015) to Government and their reply is awaited (January 2016).

## **DEPARTMENT OF MINES AND GEOLOGY**

### **2.3 Short recoveries of mining revenue**

The mining belt of Goa covers an area of 700 sq. km. approximately and is mostly concentrated in four talukas<sup>10</sup>. The major minerals found are iron, manganese and bauxite/aluminum. The minor minerals mined include laterite stones, basalt stones, laterite rubbles, ordinary earth, sand *etc.* The grant of lease for mining of major minerals is governed by Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act)<sup>11</sup> enacted by the Parliament and Mineral Concession Rules, 1960 (MCR) framed thereunder. Under the MMDR Act, State Government is empowered to make rules to regulate the grant of mining leases in respect of minor minerals. Accordingly, the Goa Minor Minerals Concession Rules (GMMCR) 1985 was framed. The Secretary (Mines) is the administrative head of the Department. The Director of Mines and Geology (DMG) looks after the works of mineral administration of major and minor minerals

---

<sup>10</sup> Bicholim, Quepem, Sanguem and Sattari

<sup>11</sup> Amended by MMDR Amendment Act, 2015

which involves grant, renewal of reconnaissance permits, prospecting licenses and mining leases and is assisted by three Assistant Directors.

### 2.3.1 Scope of Audit

Audit test checked the records of Director of Mines and Geology for the period 2009-10, with a view to ascertain the correctness of the levy and collection of royalty, interest, penalty and collection of stamp duty for renewal of mining licenses.

We observed short levy and short recovery of royalty, interest, penalty totaling ₹ 17.73 crore and short levy of stamp duty and registration fee ₹ 4.73 crore as detailed in the following paragraphs.

### 2.3.2 Short recovery of royalty

Section 9(2) of MMDR Act, 1957 stipulates that the holder of a mining lease shall pay royalty in respect of iron ore removed or consumed from the lease area at the rate of 10 *per cent* of sale price. State wise sale price published by Indian Bureau of Mines (IBM) shall be the basis for levy of royalty. Further during the period from 13 August 2009 to 09 December 2009, 20 *per cent* over and above the value published by IBM had to be taken as sale price of the mineral. With effect from 10 December 2009 IBM sale price only was to be adopted.

Audit test checked records of 15 leases for the year 2009-10. Out of these, 13 lessees paid the royalty correctly while in respect of two leases, sale price for computation of royalty for Iron Ore Fines and Lumps for the respective month of production as notified by the IBM was not taken by the lessee while levying the royalty. Royalty of ₹ 5.90 crore was to be recovered for the 4.19 lakh MT of iron ore extracted by them during 2009-10. However, the DMG recovered only ₹ 4.47 crore leading to a short recovery of ₹ 1.43 crore as detailed in the following *Table 2.3.1*.

**Table 2.3.1: Details of short recovery of royalty**

(₹ in crore)

T.C. No.	Name of Lessee	Quantity (MT)	Royalty recovered	Royalty to be recovered	Short recovery of royalty
45/52	Sociedade De Formento Pvt. Ltd.	286321	2.97	4.18	1.21
02/51	M.S. Talaulicar & Sons	132181	1.50	1.72	0.22
<b>Total</b>		<b>418502</b>	<b>4.47</b>	<b>5.90</b>	<b>1.43</b>

After this was being pointed out the DMG replied (February 2016) that the lessees paid the royalty as per rates declared by IBM at the time of payment of royalty for the particular month which were later adjusted when the rates for the concerned month were declared by IBM in their subsequent payment of royalty.

The reply of the Department was not acceptable as in these two cases the DMG did not produce any records indicating the details regarding adjustment of short recovered royalty.

### 2.3.3 Short recovery of royalty due to arithmetic error

There was an arithmetic error in calculating the amount of royalty payable by a leaseholder under T.C No: 45/1952 in one Challan. We observed that the rate of royalty mentioned in the Challan No. 2756 dated 09.02.2010 for fines and lumps was ₹ 136 per MT and ₹ 96 per MT respectively. The royalty calculated and paid for 98,827 MT Fines and 42,235 MT Lumps was ₹ 1.49 crore. However, the royalty actually payable works out to ₹ 1.75 crore as per royalty rates notified by IBM for the month of October 2009<sup>12</sup> mentioned in the challan. The failure of the Department to detect the arithmetical inaccuracy resulted in short recovery of ₹ 0.26 crore.

DMG replied (February 2016) that the lessee was asked to pay the difference of ₹ 26.36 lakh.

### 2.3.4 Non-recovery of interest due to late payment of surface rent/dead rent

Rule 64-A of Mineral Concession rules 1960, stipulates levy of interest at the rate of 24 *per cent* per annum on dues unpaid from the 60<sup>th</sup> day after the due date fixed for payment of such dues. As per notification dated 10 July 2007 issued by Government of Goa under Rule 27(2)(a) of MCR, 1960, due date of payment of Surface rent/Dead rent was fixed as first of April, following the previous financial year.

We observed delay in 90 cases ranging from two to 16 months in payment of Surface Rent/Dead Rent for the year 2009-10. However, the Department did not levy interest on such delay in payment of dues by leaseholders and consequential non-realisation of interest amounted to ₹ 11.74 lakh.

DMG replied (February 2016) that notices have been issued in respect of 67 mining leases out of 90 leases. The remaining 23 leases have been declared as lapsed with effect from 22 November 2007.

### 2.3.5 Unauthorised excavations

Section 21(5) of the Mines and Minerals (Development and Regulation) Act, 1957 envisages that whenever, any person raised without any lawful authority, any mineral from any land, the State Government may recover from such person the mineral so raised, or where such mineral has already been disposed off, the price thereof along with royalty.

In test check of records of 15 leases for the year 2009-10, we observed (July 2015) from the challans relating to T.C. No. 55/51 that a leaseholder had excavated 11.49 lakh MT of iron ore in 2009-10. As per Environment Clearance issued by Ministry of Environment and Forest (MoEF) vide letter No. J-11015/85/2008-IA.II (M) dated 12 December 2008, Environment Clearance limit was fixed for excavation of 10 lakh MT of iron ore annually. We also observed that the quantity excavated shown in the returns filed by the leaseholder was 9.95 lakh MT. The Department issued the challans and accepted the royalty for iron ore, which was in

<sup>12</sup> {(98,827MT x ₹ 136/MT) + (42,355MT x ₹ 96/MT)}

excess of limits prescribed in the Environment Clearance limit. The excavation of 1.49 lakh MTs over and above the approved quantity was unauthorised. The sale value of the excess quantity based on the average rate applicable during December 2009 to March 2010<sup>13</sup> worked out to ₹15.92 crore as detailed in the following *Table 2.3.2*.

**Table 2.3.2: Details of over excavated ore and sale value**

Challan No.	Date	Month of production	Quantity extracted/ produced in excess of EC limit (in MT)	Monthly rate of iron ore prescribed by IBM (per tonne in ₹)	Total sale value as per IBM rates prescribed (₹ in crore)
2349	23.12.09	Nov 2009	10996 <sup>14</sup>	868	0.95
2781	09.02.10	Jan 2010	46800	1069	5.00
3116	08.03.10	Feb 2010	91000	1095	9.97
<b>Total</b>			<b>148796</b>		<b>15.92</b>

DMG replied (February 2016) that the additional quantities covered by challans were related to the old dump rejects. No specific proof was furnished to establish this contention.

Reply of DMG is not tenable as the limit of 10 Lakh MT was fixed including re-handling of excavated mineral being waste *i.e.* dump vide EC dated 12 December 2008. Further, the additional quantities covered by challans are of grade less than 60 *per cent*<sup>15</sup> lumps and fines, this grade of iron ore is unlikely to be retrieved from dumps.

### **2.3.6 Absence of mechanism for an independent check over ore grade and quantity of ore declared by the lessee for recovery of royalty**

As per MMDR Act, 1957 Royalty on iron ore lumps or fines or concentrates are to be recovered based on iron content. The rates of royalty for the period from 14 October 2004 to 12 August 2009 ranged from ₹ four to ₹ 27 per MT and from 13 August 2009 onwards were on the sale value published by the IBM. The sale value published by IBM varies according to the iron content of the extracted material. As per section 24(1) of MMDR Act, 1957 any person authorised by the State Government may enter and inspect any mine, survey and take measurements, weigh or measure the stocks of minerals lying at any mine.

We observed that assay<sup>16</sup> reports or third party test reports of the samples were neither insisted by the Department nor furnished by the exporter/producer of iron ore. Royalty paid on the quantity and iron content declared by the dealer was not verifiable from the records maintained by the Department. No supporting documents in this regard were available either in royalty challans or in any other documents available with the Department. Thus, in the entire process the quantity and iron content

<sup>13</sup> The excavation exceeded the limit from December 2009 onwards

<sup>14</sup> Total excavated = 15,930 MT. Within limit = 4,934 MT. Excavated in excess of limit = 10,996 MT

<sup>15</sup> Average sale value for the grade less than 60 *per cent* is fixed on all India basis

<sup>16</sup> Testing of ore to determine its ingredients and quality

declared by the dealers, which is the basis of levy of royalty was not independently verified by the Department.

DMG replied (February 2016) that a proposal for checking grade of ore through independent analytical laboratory was already moved to the State Government.

### **2.3.7 Short recovery of stamp duty and registration fee due to non-application of revised rates**

The DMG renewed<sup>17</sup> 88 leases between 06 November 2014 to 12 January 2015 under section 8(3) of MMDR Act, 1957. As per notification dated 19 July 2013, stamp duty shall be paid in the Government treasury by demand draft or pay order drawn in favour of DMG. Challans are issued by DMG after assessing the stamp duty.

As per notification dated 16 November 2012 issued by the Government of Goa, instrument of grant or renewal of a mining lease shall be chargeable with stamp duty. Stamp duty chargeable shall be equivalent to 15 *per cent* of the amount of royalty that would accrue out of the annual extraction of minerals permitted under environmental clearance issued for such mining lease under the relevant law in force, multiplied by the period of lease. Further, as per explanation given under the section 3A, stamp duty payable shall not exceed the amount in rupees arrived by applying a rate of ten times annual extraction of mineral permitted under the environmental clearance issued for such mining lease under the relevant law in force, multiplied by the period of the lease. Further, as per notification dated 18 December 2014, stamp duty payable was revised from 10 times to 15 times with effect from the date of notification. As per notification dated 14 May 2015, Registration fee at the rate of five *per cent* of stamp duty paid shall be paid for registration of mining leases.

Out of 88 lease deeds that were renewed, only three lease deeds were executed and registered as on July 2015. In these three lease deeds executed and registered we observed that the Directorate worked out the stamp duty erroneously in respect of two<sup>18</sup> mining leases executed during the period from 18 May 2015 to 08 June 2015. The stamp duty collected by DMG was ₹ 9.75 crore instead of ₹ 14.25 crore to be collected. This has resulted in short levy of stamp duty of ₹ 4.50 crore as mentioned in the following **Table 2.3.3**.

---

<sup>17</sup> The validity of the lease renewals and the process followed for renewal has been challenged before the Hon'ble Supreme Court of India under a Public Interest Litigation (PIL) WP 711 of 2015 and is sub-judice at present (December 2015)

<sup>18</sup> T.C. No. 8/61 and 8/41

**Table 2.3.3: Details of short levy of stamp duty**

Lease No.	Date of execution of lease deed/ transfer of deed	Period of Lease (in years)	EC limit (in MT)	Stamp Duty collected 10 X EC limit X Period (as per old rate) upto 17.12.14	Stamp Duty to be collected 15 X EC limit X Period (as per revised rate) w.e.f. 18.12.14	Short recovery (₹ in crore)
8/61	07.01.15	20	25000	0.50	0.75	0.25
8/41	07.01.15	15	600000	9.25	13.50	4.25
<b>Total</b>				<b>9.75</b>	<b>14.25</b>	<b>4.50</b>

The Registration fee collected by Civil Registrar-cum-Sub-Registrar amounted to ₹ 0.49 crore instead of ₹ 0.71 crore. This resulted in short realisation of Registration Fee of ₹ 0.22 crore. Total short recovery of stamp duty/registration fee in respect of two mining leases was ₹ 4.73 crore.

DMG replied (February 2016) that as per instruction of the Government the Department facilitated advance collection of stamp duty as the rates applicable on the date of passing of order. The exact stamp duty and registration fee were to be levied and collected by Civil Registrar-cum-Sub-Registrar of respective talukas. There was a proposal pending with Revenue Department for granting relaxation under Stamp Duty Act from payment of additional stamp duty.

The reply is not tenable since stamp duty was payable as per prevailing rates as on date of entering into lease agreement/renewal of lease agreement. The Department may take up the matter with the Civil Registrar-cum-Sub-Registrar for realisation of Stamp duty paid short so that the revenue of the Government is safeguarded.

### **2.3.8 Non-monitoring of quantity of minor minerals and royalty collected by other departments**

As per circular issued by the then Department of Industries and Labour (Now Department of Mines and Geology) on 23 March 1985, the work executing departments such as Public Work Department, Water Resources Department, Municipalities *etc.*, were required to deduct royalty in respect of minor minerals used by the contractors in construction work from the running account bills and the amount so recovered should be remitted to the government account.

We observed that the work executing departments/organisations were sending the copies of royalty payment challans only, without furnishing any details of quantity and type of minor minerals consumed/used, rate at which royalty recovered *etc.* A test check (August 2015) of 58 Running Account bills of two work executing units<sup>19</sup> for the year 2013-14 and 2014-15, showed short/non-recovery of Royalty amounting to ₹ 1.07 lakh in respect of 18 running account bills. The Department also did not monitor the deduction of royalty and its remittance to government account.

<sup>19</sup> Water Resource Department(WRD) II and WRD IX, Margao



DMG stated (February 2016) that a proposal is moved to State Government for monitoring of transportation, storage and trade of minor minerals on real time basis.

### 2.3.9 Conclusion and Recommendations

The Department did not collect revenue totaling ₹ 17.73 crore on account of royalty, interest, surface rent, dead rent and penalty from mining lease holders. The Department also did not recover stamp duty at revised rates applicable for registration of lease deeds resulting in short recovery of ₹ 4.50 crore and also consequent under recovery of registration fee of ₹ 22.50 lakh. The quality/grade of iron ore declared by the lessees was accepted without verification.

*It is recommended that the Department may strengthen its internal control mechanism to ensure correct and prompt collection of the royalty etc., and also ensure existence of an independent check to ascertain the quality/grade of the Iron ore for levy of royalty at the appropriate rates.*

The matter was reported (November 2015) to Government and their reply is awaited (January 2016).

## FINANCE DEPARTMENT

### 2.4 Short recovery of tax due to incorrect exemption of turnover

**The Commercial Tax Officer, Vasco did not confirm the EOU status of the purchaser company before allowing exemptions from turnover of the assessee. The total short levy was ₹ 0.42 crore.**

The Dealer 'A' (TIN: 30131202336), manufacturer of brass, copper strips and foils, an Export Oriented Unit (EOU) was re-assessed (May 2013) by the Commercial Tax Officer (CTO), Vasco under Section 29(2) of the Goa Value Added Tax (GVAT) Act, 2005 for the year 2008 -09.

Audit scrutiny of the re-assessment revealed that the company had claimed exemption for sales (Form A<sup>20</sup>) worth ₹ 6.56 crore to Dealer 'B' from its total turnover, under Section 5 (2) (b) of the GVAT Act, 2005 applicable for sales to EOU. Accordingly, the CTO, Vasco allowed exemption without verifying the EOU status of Dealer 'B'.

We observed that Dealer 'B' had mentioned in their Form A that the purchases made from Dealer 'A' were intended to be used for manufacturing, processing or assembling within the State of Goa. Therefore, the exemption given was incorrect and resulted in short recovery of tax of ₹ 0.26 crore. Further, the short paid tax attracted interest under Section 25(4) of the GVAT Act, 2005. The interest so recoverable worked out to ₹ 0.16 crore. Thus, ₹ 0.42 crore was recoverable from Dealer 'A'.

<sup>20</sup> Form A is the declaration form to be submitted by the purchaser stating their classification as EOU