

PAC-134

**COMMITTEE ON PUBLIC ACCOUNTS
(2013-2016)**

HUNDRED AND THIRTY FOURTH REPORT



सत्यमेव जयते

(Thirteenth Assembly)

Report of the Committee on Public Accounts,
Assam Legislative Assembly on the Report of the
Comptroller and Auditor General of India (R/R) for the
year 2009-2010 relating to
Mines and Minerals Department,
Government of Assam.

Presented to the House on 15-02-2014

Assam Legislative Assembly Secretariat,
Dispur, Guwahati-6.

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(i)

COMPOSITION OF THE COMMITTEE

Chairman:

1. Shri Keshab Mahanta

Members:

2. Shri Abdul Muhib Mazumdar
3. Shri Gautam Bora
4. Capt. Robin Bordoloi
5. Shri Binanda Kumar Saikia
6. Shri Aklius Tirkey
7. Shri Kamal Sing Narzary
8. Shri Emmanuel Mosahary
9. Shri Utpal Dutta
10. Md. Sirajuddin Ajmal
11. Shri Swapan Kar
12. Shri Prasanta Phukan
13. Shri Jatin Mali

Secretariat:

1. Shri G.P.Das, Principal Secretary
2. Shri P.K.Hazarika, O.S.D.
3. Shri Animesh Chaudhury, Under Secretary
4. Shri Karuna Kanta Deka, C.O.

(ii)

PREFATORY REMARKS

I, Shri Keshab Mahanta, Chairman, Committee on Public Accounts, Assam Legislative Assembly having been authorized to submit the report on its behalf present this Hundred and Thirty Fourth Report of the Committee on Public Accounts on the Audit paras contained in the Report of the Comptroller and Auditor General of India (R/R) for the year 2009-2010 pertaining to Mines and Minerals Department, Government of Assam.

2. The Report of the Comptroller and Auditor General of India (R/R) for the year 2009-2010 was laid before the House on 08-06-2011.

3. The Report mentioned above relating to the Mines and Minerals Department was considered by the Sub-Committee-'A' of the Committee on Public Accounts under the Convenership of Shri Keshab Mahanta, M.L.A.(as at Annexure-I) in their sitting held on 21st May, 2013. The Sub-Committee also adopted the draft Report in their meeting held on 03-12-2013 for the consideration and approved by the main Committee. The out-going Committee as in Annexure-II had considered and approved this draft Report in their sitting held on 03-12-3-2013, but could not present the same before the House owing to expiry of its term.

4. The Committee has considered the draft report and finalized the same in their sitting held on 30-01-2014.

5. The Committee places on records their appreciations to the Sub-Committee-'A' for their strenuous works for obtaining various records, information and clarification pertaining to the Audit paras relating to the Mines and Minerals Department. The Committee also wishes thanks to the departmental witnesses for their co-operation. The Committee is also appreciates the Accountant General (Audit), Assam and his Junior Officers for their valuable assistance. The Committee also pleased to offer thanks to the Principal Secretary, Assam Legislative Assembly with his officers and staff of the Committee on Public Accounts Branch for their valuable services rendered to the Committee.

6. The Committee earnestly hopes that the Government would implement the recommendations made in this Report.

Dispur:
The 30TH January, 2014.

SHRI KESHAB MAHANTA,
Chairman
Committee on Public Accounts.

The Report

Mines & MINERALS DEPARTMENT

Trend of Revenue

(Audit para 6.2.6 C&AG/(R/R)/2009-2010)

1.1 The audit has pointed out that as per the provision of the Assam Budget Manual, the estimates of revenue should be prepared taking into consideration the actual demand including arrears due for past years and the probability of its realization during the year. Again, according to the provisions of the Assam Financial Rules, the responsibility for preparation of estimates of revenue rests with the Finance Department. The Commissioner & Secretary, Mines and Minerals Department is required to compile correct estimates and send the same to the Finance Department within the due date. The Finance Department/Mines & Minerals Department did not take the inputs/criteria into consideration while preparing the estimates of revenue. The share of total mining receipts which was around 10 per cent of the total State receipts between 2005-06 and 2007-08 fell to 8.02 per cent in 2008-09. The percentage share of total mining receipt in the non-tax receipts which had been increasing steadily every year and had reached 84.41 per cent in 2005-06 declined to 63.81 per cent in 2008-09, mainly due to allowance of royalty on post discount prices on crude oil. Thus there was an increasing trend in the collection of revenue over the budget estimates except in 2008-09. The increase ranged between 4.18 and 48.31 per cent for the period 2004-05 and 2007-08. In 2008-09 the actual decreased to 17.23 per cent over the budget estimate. The share of other mining receipt remained less than one per cent of the total State receipt between 2004-05 and 2008-09. The percentage share of other mining receipt in the non-tax receipt declined to 0.87 per cent in 2008-09 from 1.27 per cent in 2004-05.

1.2 The department by their written reply has stated that if it is observed that the Report of the Comptroller and Auditor General of India for the year ended 31st March, 2010 (R/R) has stated that the estimate of revenue receipts of Mines and Minerals Department have been taken from the Finance Department. In this connection it is to be mentioned that the Budget estimates prepared by the Mines and Minerals Department are more realistic and based on the past trends of mining receipts. However, preparation of accurate budget estimates is difficult due to unpredictable sudden fluctuation in the international price of crude oil as well as to some extent of the price of natural gas since

major portion of royalty receipt is from these only. As for the figures of the Finance Department ,the Mines & Minerals Department has no role in the budget estimates prepared by it. The budget estimates prepared & actual royalty receipts by the Mines and Minerals Department are shown below ;-

Year	Budget estimates of Mining receipts of Mines & Mineral(Rs. Crores)	Actual receipts of Mines & Minerals Department(RS. Crores)	Variation Excess (+) Less (-)
2004-05	628.96	893.07	(+) 264.11
2005-06	750.70	1230.86	(+)480.16
2006-07	1214.50	1404.58	(+)190.00
2007-08	1315.50	1568.88	(+) 253.38
2008-09	1318.50	1590.07	(+ 271.57

OBSERVATIONS/RECOMMENDATION

1.3 The Committee observes that it is a fact that there is difficulty in preparation of accurate Budget Estimate of Revenue Receipt due to unpredictable fluctuation in the market price of crude oil, natural gas and coal, hence the Committee decided to drop the para.

Non-reconciliation of figure with those of AG/Treasury

(audit para 6.2.7 C&AG(R/R)2009-2010)

1.4 The audit has pointed out that the Directorate did not reconcile its figure with those booked by the Accountant General (A&E) though they were requested regularly by the AG (A&E) for reconciliation on a quarterly basis. AG noticed variations (as indicated below) during 2004-05 to 2008-09 due to non compliance of the provision of the Assam Financial Rules. AG also observed that no reconciliation of figures was carried out by the directorate with the treasuries during the period covered in audit to ascertain the correctness of the deposits made by the lessees. Such lapses on the part of the department may lead to misappropriation, defalcation and embezzlement of Government money. The Department stated (August 2010) that receipt schedules in respect of four treasuries have been collected and reconciled with departmental figures and it would be easier to carry out reconciliation, if royalty receipt statements are received from the AG(A&E), A.G. do not agree with this as it is the responsibility of the Department to carry out the reconciliation.

1.5 The department by the written reply has stated that the reconciliation of figures was carried out with the concerned Treasuries by the Directorate Geology & Mining ,Assam for the period covered by the audit and figures were found in order. As such the observation made by the audit in the report that no reconciliation of figures was carried out by the Directorate with the Treasuries during the period covered in audit to ascertain the correctness of the deposit made by the lessees was not based on facts.

OBSERVATIONS/RECOMMENDATIONS

1.6 The Committee observes that reconciliation was carried by the Department with the Treasuries in July 2010 while Audit was carried out between October 2009 to May 2010. This indicate that the reconciliation was carried out by the Department after the deficiency was pointed out by audit . The Committee Recommends that the Department should give utmost importance in future for regular reconciliation to avoid any discrepancies, fraud etc. in payment of royalty .Hence ,the Committee has decided to drop the para.

Absence of a mechanism for obtaining relevant data records from the lease holder

(Audit para 6.2.8 C&AG/(R/R)2009-2010)

1.7 The audit observed that DG&M finalized the royalty on the basis of the monthly returns submitted by the leaseholders and there was no system prescribed for raising a demand after calling ,collecting and cross linking the following important data/details, essential for making a correct assessment.

- i) Lease-wise annual quantity tally statement for oil and natural gas separately;
- ii) Trading and manufacturing account;
- iii) Profit and loss account and balance sheet wherever required; and
- iv) Monthly detail of opening stock ,gross production, details of dispatch ,internal use (purpose-wise),transit losses, wastages, losses due to human errors, losses due to theft and closing stock etc.Thus, the assessment were being finalized exclusively on the basis of the monthly return furnished by the lease-holders. A.G. did not find any records relating to any inspection/monitoring of the leased areas conducted by the officers/officials of the Department/Directorate. As the Department did not have field units, no periodical reports or returns were being generated for the latter to examine and monitor the operations undertaken by the lease-holders. Besides, no internal audit of the Department/Directorate was conducted during 2004-05 to 2008-09. Thus, the Department/Directorate accepted as receipt whatever was paid by the lease holders. Some cases which were noticed in audit are discussed in the following paragraphs, bringing out the above issues.

1.8. The department by their written reply has stated that as per the Rule 14(2) of the Petroleum & Natural Gas Rules, 1959,the lessee has to furnish full and proper return showing the quantity of crude oil, casing head condensate and natural gas obtained from the mining operation from the leased area to the State Government every month. Secondly, as per Rule,14 (1)of the Petroleum & Natural Gas Rules, 1959 the lessee has to pay royalty at the rate specified in the Schedule to the Oil Field (Regulation & Development) Act,1948 on monthly basis by the last day of the month succeeding the period in respect of which it is payable. Similar provision has also been stipulated for major minerals in the Mineral Concession Rules, 1960.Accordingly the Directorate of Geology & Mining, Assam receives monthly returns and payment of royalty on the production figures furnished in the monthly returns by the lessee. However, if any irregularity is noticed or not fully satisfied

with the figures of payment made by the lessees, the matters is taken up with the concerned lessees and necessary action is taken accordingly as per provision of the Acts & Rules. The production figures furnished by the lessee in the monthly return for the period from 2004-05 to 2008-09 were cross verified by the Directorate of Geology & Mining Assam with the following documents.

- a) Annual Report of Oil India Ltd. (for Oil India Ltd)
- b) Lease wise production & disposal statement along with reconciliation statement(for Oil India Ltd)
- c) Refinery receipt collected from the four refineries of the State Copies of the refinery receipts.

The Directorate of Geology & Mining, Assam made a demand of Rs. 13.24 crore against Oil India Ltd. as short payment of royalty on crude oil on the basis of the cross verification of the monthly return with the lease wise production and disposal statement for the period from 2004-05 to 2008-09 vide letter No.GM/MM/16-B/8588 dat.28.9.2009. The matter is yet to be settled. Apart from that the Directorate of Geology & Mining also collected relevant documents from time to time like(i) information on calorific value of natural gas of Oil India Ltd. & ONGC Ltd. for verification of correctness of calculation of rate of royalty on natural gas paid by them. ii)Information on deduction of post well head cost of collection by Oil India Ltd. for payment of royalty on natural gas.

d)Information in connection with use of natural gas at high rate for operation purposes by Oil & ONGC. As such ,the observation made in the Report of the C& AG that the Directorate accepted receipts whatever was paid by the lease holder exclusively on the basis of the monthly return is not based on facts.

OBSERVATIONS/RECOMMENDATIONS

1.9 The Committee observes that since the department do not have field units, therefore no independent report returns are being generated . The Committee therefore recommends that the department install a system of regular assessment instead of periodic assessment intermittently by co-relating the returns of the lessees with other connected records . with this observations the Committee recommends to drop the para

Short payment of royalty on crude oil ,condensate and natural gas due
to suppression of production

(Audit para 6.2.8.1 C&AG/(R/R)2009-2010)

1.10. The audit has pointed out that the AG found from the monthly return of net production of crude oil and condensate obtained from the nine oil fields in the State furnished by OIL that production of crude oil and condensate during the period from April 2004 to March 2009 was 177.25 lakh KL on which royalty was paid. A.G. cross-checked these figure with those depicted in the Annual Accounts of the lessee and found that the actual production during the aforesaid period was 179.52 lakh KL crude oil and condensate leading to short payment of royalty of Rs. 72.40 crore including interest of Rs.14.05 crore. The Department stated (August 2010) that the actual production of crude oil was 177.24 lakh KL on which royalty was paid. This is not correct as actual production of crude oil (as per annual accounts) was 177.72 lakh KL and condensate was 1.80 lakh KL on which royalty. Similarly ONGCL submitted return of not production of crude oil for 65.39 lakh MT from fourteen oil fields for the period 2004-05 to 2008-09 whereas the net production figure was 66.74 lakh MT as depicted in the records of the Ministry of Petroleum/Annual Accounts. This resulted in suppression of production of 1.35 lakh MT and short payment of royalty of Rs. 46.68 crore including interest of Rs .9.54 crore to the State Government. The Department stated that the matter was taken up (August 2010) with the ONGCL to clarify the position on difference between the two sets of figures.(II) As per the monthly returns of production of natural gas furnished to the Directorate by OIL, extraction/production of gas during the period from April, 2004 to March 2009 was 78,445.76 lakh SCUM on which royalty was paid. A.G. cross checked these figures with those in the Annual Accounts of the lessee and observed that the actual extraction/production during the aforesaid period was 99,763.68 lakh SCUM gas from those six gas fields in the State. This resulted in suppression of production of 21,317,92 lakh SCUM GAS and consequent short realization of royalty of Rs. 49.40 crore including interest of Rs. 9.81 crore. The Department stated that the figure shown by A.G. were inclusive of the production figure of OIL in Arunachal Pradesh. A.G. do not accept the reply as the production figures of Assam only was taken into consideration.

1.11 The department by their written reply has stated that after scrutiny of the statement received from OIL and relevant documents available in the department it is observed that the actual production of crude oil of Oil India Ltd. during the period from April, 2004 to March, 2009 was 17738612 KL (i.e. 177.38 Lakhs KL) instead of 17772176 KL (i.e. 177.72 KL) as recorded in the report of C & AG for 2009-2010. A complete and detail picture of crude oil production by OIL for the period is furnished in the Annual Accounts of OIL showed a combined gross production quantity of Assam and Arunachal Pradesh .A.G. deducted the quantity of crude oil Arunachal Pradesh and then LPG condensate and unavoidable loss and thus arriving at the net production of Assam under colm. 8 to be 17738612 KL. After deducting the quantity used for petroleum mining operation, the royalty payable quantity becomes 17724233 KL and OIL has paid royalty for 17724590 KL. So the above table reveals that oil has paid royalty in excess for 357 KL of crude oil. So there is no suppression of production in crude oil by OIL as recorded in the Report of the C & AG. The earlier statement submitted by the Directorate in August, 2010 was correct on the following grounds.

1. Royalty on LGP condensate as shown in the Annual Accounts was not paid by OIL as the same was obtained as by-product in the LPG plant located in Duliajan and royalty on natural gas from which the LPG condensate was obtained as by-product has already been paid by OIL. As per P & N G Rules, royalty is payable on casing head condensate only.
2. As per provision of PNG Rules, royalty is not payable in the quantity shown under Colm. 7 of table 1 as unavoidable loss. Thus, there was actually no short payment of royalty on 2.27 Lakh KL of crude oil by OIL for the period from April, 2004 to March, 2009 as per Annual Statements submitted by OIL. Similarly, the actual production of crude oil O.N.G.C was 6674000 MT as depicted in the report of the MOP&NG, Govt. of India for the period from MT as depicted in the report of the MOP&NG, Govt. of India for the period from 2004-05 to 2008-09. On examination of the production figure furnished by O.N.G.C Ltd. to the Directorate of Geology & Mining, Assam vide letter NO.AA/ST/Tech/2/2011-12 dated 27th July, 2011. It was found that there was a short payment on 27681.60 MT of crude oil for the period from 2004-05 to 2008-09 as shown in the table -2 below.

Table: 2 Crude oil production of O.N.G.C .Ltd. in MT

Year	Crude oil	Unavoida	Used for	Net	Quantity
Short/Excess	Production	ble loss	mining	production	on which
			Purpose	for royalty	royalty
				Payment	paid
2004-05 (-) 30778.69	1546230.9	14116	3943	1528171.9	1497393.21
2005-06 (+) 3097.09	1284163.73	21082.35	448	1262633.38	1265730.47
2006-07	1330460.01	26335.77	0	1304124.24	1304124.24
2007-08	1290233.48	23502.57	0	1266730.91	1266730.91
2008-09	1222851.67	13992.01	0	1208859.66	1208859.66
Total (-) 27681.60	667393.79	99028.70	4391	6570520.09	6542838.49

On the basis of the above Table-2, the Directorate of Geology & Mining Assam has claimed an amount of Rs. 50131533.00 from O.N.G.C. Ltd. short payment of royalty on 27861.60 MT of crude oil for the period from 2004-05 to 2008-09. In this regard, the Mines & Minerals Department, also vide its letter No. PEM.236/2002/385 dated 21.12.11 requested the on O.N.G.C. Ltd to the deposit the amount . In reply ,O .N.G.C Vide their letter dated 19.4.12 cited technical reasons of changeover of measurement systems adopted by them from Manual (Legacy) system to SAP based enterprise wide system for the difference in the production figures during 2004-09. But this explanation was not accepted by the Directorate of Geology & Mining. Assam and reasserted the claim on O.N.G.C. for payment

of Rs. 5,01,31,533/- vide letter dated 03.7.12. After careful examination of the annual report and the clarification furnished by Oil India Ltd. And other relevant records available in the Directorate, it is found that the figures in the report of the C& AG were inclusive of the production of natural gas of Arunachal Pradesh and Rajasthan as shown in their statement.11(A) at para 6.2.8.1 for the year 2004-05 and 2005-06. Secondly, the net production figures of the annual report of OIL were inclusive of the quantity of natural gas used for operational purposes. These two figures were not taken into account in the C& AG report for payment of royalty. The quantity used for operational purposes was deducted from the net production figure shown in the annual report in the Table-3 below.

Table :3 :- Natural gas production of OIL in MMSCM

Year	Total Quantity As per Annual Report paid	Net Production of Andhra Pradesh	Net Production of Rajastgan	Net Production of Assam	Net Production for oper- ational purpose	Gas used on which royalty is payable	Quantity on
2004-05	1843 1253	4	189	1650	297	1335	
2005-06	2148 1590	4	254	1890	300	1590	
2006-07	2118 1618	-	-	2118	272	1846	
2007-08	1963 1663	-	-	-	1963	300	
2008-09	1904 1621	-	-	1904	283	1621	
	9976	8	443	9525	1452	8073	7845

Copies of the annual report of Oil India Ltd. For the year 2004-05 to 2008-09 and clarification furnished by OIL . However ,the Government of Assam has found differences between the production figures in the annual report of Oil India Ltd. ,and in the statement furnished along with the clarification for the period from 2006-07 and claimed an amount of Rs. 3.70 crores as short payment of royalty on 228 MSCM of natural gas for the period from 2004-05 to 2008-09 vide letter NO.GM/MM/16-B/2362-64 Dated 20.10.2011. As such, there was actually no short realization of Rs. 49.40 crores on natural gas of OIL for the aforesaid period as indicated by C& AG at para 6.2.8.1 in its report for the year ending March, 2010.

OBSERVATION/RECOMMENDATIONS

1.12 The Committee observes that the O.N.G.C Ltd. do not pay royalty on a huge amount of crude oil showing it as unavoidable loss. There is no norm in defining the term "un-avoidable losses" for which Government loss royalty. The Committee recommends that immediate steps should be taken for fixing the norms of un-avoidable loss.

1.12.1 The Committee also recommends that the State Government should take-up the matter with the Central Government. A joint Committee is to be constituted comprising of representative of both the State and Central Government and the Oil India Ltd. to resolve all issues relating to payment of royalty. The Committee directed the Department to pursue the matter vigorously with Oil and O.N.G.C for payment of outstanding amounts claimed and recovery of the demand raised may be intimated to the Committee within three month time from the date of presentation of this report before the House.

Short realization of royalty due to deduction of from well head

price discount of well head price

(Audit para 6.2.8.2 C&AG/(R/R)/2009-2010)

1.13. The audit has pointed out that the AG found that the Ministry of Petroleum and Natural Gas (MoPNG), Govt framed a mechanism in October, 2003 through an administrative order for sharing of under-recoveries of Oil marketing companies on account of non-revision of the selling prices of PDS kerosene and domestic LPG without affecting the revenue of the State Government in terms of royalty on crude oil. The MoPNG subsequently withdrew (May 2008) the provision of the said order without any consultation with the State Government. OIL and ONGCL accordingly paid royalty for the period from April 2008 to February 2009 after deducting discount from the well head price for non-recovery/under recoveries (as per the directive of May 2008 of MoPNG in respect of crude oil supplied to Indian Oil Limited-Assam Unit and Bongaigaon Refineries and Petrochemicals Limited. The issue of the administrative order (instead of a notification) by MoPNG without consultation with the State Government was in violation of the provision of the ORD Act. This adversely impacted the State revenue and as such, the State Government belatedly took up the matter in August, 2009 with the MoPNG to withdraw the order of May 2008 and to restore the provisions of the order of October 2003 for calculation of royalty at pre-discount price but with no result. Thus, the state was deprived of revenue of Rs. 525.04 crore (OIL Rs. 477.99 crore and ONGCL Rs. 47.05 crore).

1.14. The department by their written reply has stated that as per Oil Field (Regulation & Development) Act, 1948, the holder of a mining lease has to pay royalty on the mineral oil at the rate specified in the schedule to the Act. The Ministry of Petroleum and Natural Gas, Govt. of India vide its notification No. GSR.559(E) dtd. 20th August, 2007 made certain amendment in the Schedule of the Oil Field (Regulation & Development) Act, 1948 wherein at Note 1 of clause 2, it was stated that the well head price of crude oil and casing head condensate for nominated blocks of Oil India Ltd. and Oil & Natural Gas Corporation Ltd. shall be determined by deducting rupees one thousand two hundred and fifty one only per metric tone for onshore from the Sale price of crude oil casing head condensate. As such both Oil India Ltd. and ONGC Ltd. determine the well head price by deducting Rs. 1251.00

per metric tone from the sale price of crude oil and royalty is paid accordingly as per provision of the Act since May 2008 following the directive of the Ministry of Petroleum and Natural Gas, Govt of India. However, the Govt. of Assam vide its letter No. PEM.7/2009/8, dated 12th August, 2009 and No. PEM/7/2009/52, Dated 28th July, 2010 had taken up the matter with the Minister of Petroleum & Natural Gas of India to withdraw the order No. P-20012/28/97 PP (Part 11 A) Dtd. 23.5.2008 and to restore the provision of para (VI) of the order No. P-20012/28/97-PP dtd. 30-10-2003 of the Ministry of Petroleum & Natural Gas, Govt. of India. It had also requested to reimburse the loss of revenue of Rs. 550.00 crore due to discount on crude oil. But no reply was received by the Govt. of Assam from the Central Government. Finally the Chief Minister of Assam has taken up the issue before the Minister of Petroleum & Natural Gas, Govt. of India in 2011 vide his D.O. No. CMO,1/2011/2209 Dtd. 9th September, 2011.

OBSERVATIONS/RECOMMENDATIONS

1.15. Since pursuance of the matter is going on in right earnest the Committee decided to drop the para. However, the Committee directed the Department to intimate the latest position of the matter within thirty days from the date of presentation of this report before the House.

Non- submission of claim for additional royalty on crude oil**(Audit para 6.2.8.3 C&AG/(R/R)2009-2010)**

1.16 The audit has pointed out that CRL started commercial production from April 2006 and extracted 32,645.536 MT crude oil from Amguri block and paid royalty at the rate of Rs.528 per MT to the tune of Rs.1.73 crore during the years 2006-07 to 2008-09. The State Government ,however, had not submitted the claim for the additional royalty to the OI DB on a monthly basis as required. A.G. observed from the Annual Accounts of OI DB for the year ended 31 March 2009 that while OI DB had considered liability for payment of additional royalty for the Government of Arunachal Pradesh and Gujarat for the year 2008-09,no such liability had been provided for the Government of Assam due to non-submission of claim. This resulted in non-realisation of additional royalty of Rs. 10.48 crore for the month from April 2006 to March 2009. The Directorate in December 2008 and April 2010 requested the Government to submit the claim but the Government preferred the claim for Rs. 12.33 crore for the period from April 2006 to December 2009 in July 2010 only after the issue was raised by audit.

1.17. The department by their written reply has state that the Government of Assam has already received an amount of Rs. 14.96 crores as additional royalty from Oil Industry Development Board for the period of 2006-07,2007-08,2008-09 and 2009-2010.(up to September,2010.)

OBSERVATIONS/RECOMMENDATIONS

1.18. Since the Government has already received an amount of Rs.14.95 crore as Additional royalty from Oil Industry development board for the period from 2006-2007 up to September 2010,The Committee therefore decided to drop the para.

Short realization of royalty due to computation of price of crude oil at lower side**(Audit para 6.2.8.4.C& AG/(R/R)2009-2010)**

1.19 The audit has pointed out that the ONGCL paid royalty of Rs. 792.69 crore for the years 2004-05 to 2008-09 in respect of oil marketing companies determining the price of crude on a lower side compared to the price fixed by the Commercial group of ONGCL, New Delhi against Rs. 900.30 crore payable. This resulted in short realization of royalty amounting to Rs. 119.01 crore including interest of Rs. 11.40 crore. The Department while accepting the point stated that the difference occurred due to deduction of discount on price to IOCL and the ONGCL had already paid Rs. 56.95 crore in adjustment of IOCL price discount and the matter for payment of balance amount would be taken up. The reply of the department is not tenable as the payment of Rs. 56.95 crore made by the ONGCL during January 2007 and May 2008 was the adjustment of deduction of discount amount and not against the short payment as we observed.

1.20. The department by their written reply has stated that the matter of short realization of royalty in the audit report was re-examined and taken up with ONGC Ltd. The department collected price build-up of crude oil of IOCL and other refineries. These price build ups were compared with the price indicated at annexure VI(A),(B),(C),(D),(E),(F) and (G) of the audit report and found that there were variations of price of crude oil between the price build-up statement furnished by ONGC Ltd. and price indicated in the audit report where price of crude oil were shown at higher rate almost for every month for the period from 2004-05 to 2008-09 for which the rate of royalty also appeared at a higher side in the audit report. As such, there was no short payment of Rs.119.01 crore due to fixation of price at lower side as indicated in the report..

OBSERVATIONS/RECOMMENDATIONS

1.21. The Committee satisfied with the submission of the departmental representative and pleased to drop the para.

Non- inspection of leased areas of oil and Natural Gas.

(Audit para 6.2.9.1 C& AG/(R/R)2009-2010)

1.22. The audit has pointed out that it is inherent the responsibility of the State Government to ensure that surveillance is adequately exercised for systematic development and regulation of the minerals in the State. A.G. observed that the directorate did not prescribe any system or procedure for inspection of the leased areas of Oil and natural gas. They did not also inspect any of the 36 leased areas in operation at any time during 2004-05 to 2008-09. Non-inspection of leases is fraught with the risk of non-detection of whether exploration activities were carried out in a lawful manner as per the provisions of the ORD Act and the Rules made there under and as per the terms and conditions of the lease agreement. Adequate measures were adopted for preservation, conservation and development of oil and natural gas, and other minerals, if available, from the leased area and nature resources available therein and exploration activities were carried out without excessive wastage of minerals, and the quantity of oil natural gas and other major/minor minerals excavated were correctly reflected in the monthly production returns submitted by the lease holders and royalty, dead rent and surface rent were correctly paid thereon. The Department attributed the reasons for not undertaking inspections to lack of infrastructure facilities like branch/field offices, trained manpower and good vehicles etc., and assured that a system for periodic inspection of the leased areas would be developed.

1.23. The Department by their written reply has stated that Zonal/District offices along with adequate number of technically qualified and experienced manpower, sufficient number of good vehicles are most essential for constant monitoring of the production activities of the oil companies and other mineral production sites. The Directorate of Geology & Mining, Assam with its headquarters in Guwahati has only one small unit at Dibrugarh headed by the Resident Geologist with a skeleton staff which is not adequate at all for effective monitoring of exploration, production and dis patch activities in the leased/licensed areas/production sites in respect of crude oil, natural gas and other minerals located in interior locations primarily in the districts of Dibrugarh, Tinsukia, Sivasagar, Jorhat, Golaghat, Cachar, Karimganj, Hailakandi, Karbi Anglong, Dima Hasao. It is also not possible to depute persons from the headquarters in Guwahati for regular

inspection of the sites. However, the Mines & Minerals Department has taking necessary steps for setting up branch/field offices in various districts of State

OBSERVATION/RECOMMENDATIONS

1.24. The Committee observes that the department is needed to be strengthened with more man power. Branch office should also be established. Vehicle should be provided to the branch offices for patrolling and inspection . In view of the assurance given by the departmental representatives that steps have already been taken in this regard, hence the Committee has decided to drop the para.

Non-preparation of departmental manual

(Audit para 6.2.9.2/(R/R) 2009-2010)

1.25. The audit observed that the department did not have a departmental manual setting out the function and the responsibilities of staff of all categories in accordance with the instruction issued by the Government/Department, which could act as a key document for perspective planning, reference and internal controls. Due to the absence of such an important document, the departmental officers did not have a reference point for their day to day activities. The Department while noting the point stated that action will be initiated in this regard.

1.26. The Department by their written reply has stated that the Mines & Minerals Department is initiating action for preparation of the Departmental Manual as suggested in the report.

OBSERVATIONS/RECOMMENDATIONS

1.27. The Committee satisfied with the departmental reply and decided to drop the para.

Information Technology

(audit para 6.2.9.3 C&AG/(R/R)/2009-2010)

1.28. The audit has pointed out that the activities of the department are three fold (i) issue of lease for mining activities, (ii) assessment, levy and collection of fees, royalty, dead rent etc., from mining activities and (iii) to attract new investors by sharing mining related information. Audit found that the activities of the Department/Government in connection with granting lease, assessment, levy and collection of mining receipts etc., had not been computerized. The department while noting the point stated that action will be initiated for introduction of information technology for effective functioning. The Government may consider early introduction of computerized system covering entire gamut of activities of the Department and introduce on line submission of returns and payment thereof to detect evasion or late payment.

1.29. The department by their written reply has stated that the Mines & Minerals Department is initiating necessary action for introduction of information Technology for effective functioning.

OBSERVATIONS/RECOMMENDATIONS

1.30 The Committee observed that Information Technology is of utmost importance now a days and all necessary measures should be taken early for introduction of Information Technology. The Committee satisfied with the departmental reply and decided to drop the para.

Internal audit

(Audit para 6.2.9.4.(R/R)/2009-2010)

1.31. The audit has pointed out that the Government had neither put in place any internal audit wing in the Directorate nor arranged for any internal audit by the Examiner of Local Audit or otherwise, to help in the management of mining receipt from oil and natural gas. As a result, the records of the directorate were not subjected to internal audit during 2004-05 to 2008-09 and therefore, the irregularities discussed in this review could not be detected. The Department stated that it does not have a system of internal audit and will take necessary action in the matter. The Government may consider either setting up an internal audit wing in the Directorate or arrange for internal audit by the Finance Department.

1.32. The Department by their written reply has stated that the Mines & Minerals Department is considered for internal Audit of the Directorate by the Finance Department as suggested in the report.

OBSERVATIONS/RECOMMENDATIONS

1.33. The Committee stressed on the need for conducting internal audit of the directorate for correct assessment and realization of revenue. In view of the steps taken by the department in this regard the Committee has decided to drop the para.

**Non-maintenance of control registers
(Audit para 6.2.9.5 C&AG/(R/R)2009-2010)**

1.34. The audit has pointed out that the directorate did not maintain a DCR to watch the licenses or leases. The Department stated that separate registers for each lease holder for each type of mineral for assessment and collection of royalty etc. are maintained. The registers contain the figures of the quantity of minerals produced, dispatched, gross production, stipulated deductions, net production and amount of royalty payable/paid with Challan number and date. The fact remains that the registers lacked information on month wise opening balance, demand raised, recoveries made and closing balance of mineral. Moreover, the Government has not yet prescribed any format for the DCR.

1.35. The Department by their written reply has stated that the Directorate of Geology & Mining Assam has 37 big size registers where records of gross and net production, quantity dispatched, various production, opening & closing stock, rate of royalty, amount payable/paid, any short/excess payment made by the lessee, challan number and date of payment for each payment made by the lessee against each month are properly recorded. These registers have been maintained by the Directorate since 1987. The rate of royalty on crude oil, natural gas and other major minerals are fixed by the Government of India from time to time whereas the Government of Assam has fixed the date of payment for each minerals as per provision of the Rules. Accordingly, the Directorate of Geology & Mining, Assam receive monthly return and royalty from the lessee as per rate specified by the Government of India. If any short/excess payment or delay in payment of return or any other irregularity are noticed the matter is taken up with the concerned lessee and take necessary step for realization of the same as per provision of the Act & Rules. Hence, the observation made in the report that Demand and Collection Registers (DCRs) is not maintained by the Directorate is not based on facts.

OBSERVATIONS/RECOMMENDATIONS

1.36. The Committee recommends that the department may maintain a demand and collection register for effectively watching the payment of revenue by the lessees in addition to the registers which are being maintained at present and decided to drop the para.

Non enforcement of preventive measures**(Audit para 6.2.9.6 C&AG/(R/R)2009-2010)**

1.37. The audit has pointed out that the Directorate did not have vigilance, enforcement and inspection wings for conducting search and seizure, detecting of fraud and evasion cases and preventing illegal mining. In the absence of these wings, unauthorized activities relating to mining could not be ruled out. The Government may consider ensuring establishment of vigilance enforcement/protection squads/wings to enforce and seizure ,detection of fraud ,illegal mining and evasion.

1.38. The department by their written reply has stated that it is true that due to lack of proper infrastructure, staff and sufficient nos of vehicles regular inspection/vigilance could not be carried out against unauthorized activities relating to mining of State. However, the department takes necessary measures to stop illegal mining etc. Whenever such activities are reported to or come to the notice of the department.

OBSERVATIONS/RECOMMENDATIONS

1.39. The Committee has already given its observation and recommendations against para 6.2.9.1 which is of similar nature. As such the para is drop.

Loss due to absence of standard norms for deduction.

(Audit para 6.2.10.1. C& AG/(R/R)2009-2010)

1.40. The audit has pointed out that the ONGCL and OIL claimed deduction of 11,392.07 lakh SCUM and 20,191,44 lakh SCUM natural gas respectively (on which no royalty was paid) as operational utilization, out of the total gross production of 23,375.71 lakh SCUM respectively during 2004-05 to 2008-09. The monthly return of gross production and operational utilization of natural gas furnished by ONGCL and OIL indicated wide variations which ranged between 18.33 and 52.60 per cent. The Government of Assam had taken up the matter (May 2002 and November 2008) with the Central Government to restrict the operational utilization of natural gas to five per cent but with no result. The Directorate also took up the matter with OIL in October 2004 to restrict operational utilization to around five per cent. Though OIL assured (2004) to bring down the flare level, it has not taken any action in this regard. Thus, in the absence of any standard norms for use of natural gas in mining operation and non-initiation of appropriate measures to fix the norm at five per cent, the state Government was deprived of revenue of Rs. 46,67 crore for allowing operational utilization above the proposed limit of five per cent. From the monthly return of gross production and operational utilization of crude oil furnished annually by ONGCL, Audit found wide variations in the percentage of operational utilization to total production, ranging from 0.93 per cent in 2004-05 to 1.98 per cent in 2006-07, which declined to 1.82 to 1.14 per cent in the subsequent years. In the absence of any specified standard norm for utilization of crude oil in mining operations, excess utilization, if any, was not quantifiable in audit. The Government of Assam sanctioned 20 leases during 2004-05 to 2008-09 in favour of ONGCL. We observed from the monthly production statements of the lessee (ONGCL- Assam assets) that during the above period, 99,028.702 MT crude was deducted as unavoidable loss from gross production for the purpose of computation of realizable royalty without specifying the cause of the unavoidable loss. The Government MoPNG had not fixed any norms in this regard. The Department stated that MoPNG in clarification of the above point intimated that ONGCL was paying royalty on the quantity acknowledged by the refineries. These quantities are reconciled with the production quantity on wet basis adjusted for quantity used either internally for operations or quantity unavoidably lost. Audit do not agree to the contention of the

Ministry as the 7.5 per cent deduction allowed from payment of royalty covers all losses including transportation loss from well head to Central Tank Farm (CTF) No. loss/deduction is allowable for the supply from CTF to the refineries.

1.41. The department by their written reply has stated that there are three admissible deductions for exemption of royalty payment on crude oil and natural gas the provision of Petroleum and Natural Gas Rules, 1959 viz .unavoidable loss, used for operation purposes and return to the natural reservoir. On examination of monthly return it is found that Oil India Ltd. deducted 14355.98 lakh SCUM out of total 99140.43 LAKH SCUM of natural gas for operation purposes of 20191.44 lakh SCM as indicated in the audit report. Similarly ONGC Ltd. deducted 7984.45 lakh SCUM for operation purposes instead of 11392.09 lakh SCUM as recorded in the audit report as shown below. The Directorate of Geology & Mining, Assam took up the matter with OIL/ONGC Ltd. in 2004.ONGC Ltd. stated that utilization of natural gas for captive power generation, bath heater ,other petroleum operation like gas lift etc., are accounted under the head internal use without and power generation. Bath heather and lift , production of oil and gas will not be feasible and the utilization may increase or decrease depending upon the production condition and various other factors. Gas used for above, which are of production operation are deducted in calculation of royalty as per P & NG Rules. The Company also furnished a detailed statement showing the use of gas for operation purposes the Govt. of Assam has no authority to fix any norm for use of natural gas for production operation purposes as per provision of the existing Act & Rules. On examination of monthly return it is found that ONGC Ltd. used 0.26% and 0.03% of crude oil during the year 2004-05 and 2005-06 respectively for operation purposes instead of 93% and 1.98 % as recorded in the audit report as shown below.

Year	Gross production (MT)	Used for operation Purposes (MT)	Percentage of use for operation
2004-05	1515483	14116	0.26
2005-06	1287260	448	0.03

It is a fact that ONGC Ltd. had shown 99028 MT crude Oil as unavoidable loss for the period from 2004-05 to 2008-09 and no royalty was paid for the said quantity. Rule 14 of

the P & NG Rules, 1959 provides that no royalty is payable on royalty is payable on the quantity of crude oil and casing head condensate which are unavoidable lost. However, the matter of unavoidable loss quantity of crude oil was taken up with the ONGC Ltd at the highest level since 2004 ONGC Ltd .has stated that unavoidable losses occur at different level as shrinkage, evaporation, removal of dispersed quantity of water etc., The unavoidable losses occur between CTF and custody CTF are losses which are reported in the royalty statement. The Directorate of Geology and Mining, Assam did not accept the views of ONGC Ltd . As such the matter taken up the Govt . of Assam with the Ministry of Petroleum and Natural Gas, Govt. of India with a claim of Rs. 33.80 crore on the quantity of unavoidable loss shown by ONGC in the monthly return for the period from April, 1985 to March, 2004. But the Ministry of Petroleum & Natural Gas did not accept the demand of the Govt. of Assam and stated that no royalty is payable on Petroleum unavoidably lost or used for operations. The matter was again taken up by the mines & Minerals Department, Government of Assam in June, 2007. But no favourable reply was received from the Govt. of India.

OBSERVATIONS/RECOMMENDATIONS

1.42. During the course of discussion the Committee enquired whether there is any norms regarding the quantum of unavoidable loss and natural gas used for production and operation purposes. The department stated that existing oil fields regulation and development Act, 1948 and petroleum, O.N.G.CS, rules 1959 have not provided any norm in this regards and State Government has no authority to fix the norms. It was further stated the Government of Assam had in the past requested to the Government of India for fixation of a maximum limit regarding allowable unavoidable loss and quantity of Oil and gas used for Petroleum operation . But unfortunately there was no response from the Government of India. The Committee recommends that the State Government should take up the matter with the Central Government to fix a norms to restrict the percentage of unavoidable loss.

1.42.1 The Committee also recommends that a joint Committee should be formed involving both State and Central Government to examine the matter and take decision in the interest of the State. Action taken in this regards may be intimated to the Committee within three months time from the date of presentation of this report before the House.

Non-registration of lease deed after sanction of lease
(Audit para 6.2.11 C&AG/(R/R)2009-2010)

1.43. The audit has pointed out that the Department while granting mining lease neither specified the extractable quantity of minerals in the lease deeds executed nor made any assessment of royalty and incorporated the same in the deeds. However, in respect of 17 out of 36 lease deeds, the Directorate levied and realized the stamp duty of Rs. 11.47 lakh based on dead rent which led to short realization of stamp duty and registration fees. Audit could not quantify the short realization due to absence of estimates of extractable quantity of minerals. The balance 19 lease deeds remained unregistered (May 2010) In the absence of details, the leviable stamp duty and registration fee could not be quantified. The department accepted the fact but remained silent as regards realization of dues in respect of the remaining 19 lease deeds.

1.44 The department by their written reply has stated that the section 35 of the India Stamp (Assam Amendment) Act,2004 applicable to Assam has specified the amount of stamp duty payable on instruments of lease. As per section 35 (iv) of the Act, where the lease purports to be a term exceeding ten years but not exceeding twenty years the amount of stamp duty payable is same as a conveyance (No-23) for a consideration equal to twice the amount or value of the average annual rent reserved. The term of the 19 leases as stated in the CAG Report had already expired much earlier. Hence payment of stamp duty and registration for the expired leases could not be insisted.

OBSERVATIONS/RECOMMENDATION.

1.45. The Committee observes that the lease deeds in respect of 19 had already expired much earlier hence realization of dues could not be made which the amount has been lost by the Government . The Committee recommends that appropriate steps should be taken up by the department for arresting recurrence of such omission leading to loss of revenue. The Committee also recommends that all lease agreement with private parties should be registered and stamp duty should be fixed by the revenue department. The department should ensure the execution of lease deeds only after payment of stamp and registration fee .Action taken in this regards may be intimated to the Committee within three months time from the date of presentation of this report before the House.

Short realization of royalty

(Audit para 6.2.12 C& AG (R/R)/2009-2010)

1.46. The audit has pointed out that the ONGCL and OIL paid royalty during 2007-08 and 2008-09 at different rates based on the selling price of natural gas to the consumers instead of royalty payable at 10 per cent on the value/price of natural gas at the well head. This led to short realization of Rs. 24.56 crore including interest of Rs. 1.28 crore as indicated. The Department stated that royalty on natural gas is 10 per-cent of the value of natural gas obtained by the lessee at the well head. Both OIL and ONGCL work out the well head value from the sale value of natural gas based on the selling price of natural gas to the consumers. The price of natural gas also varies according to the calorific value of natural gas of which ONGCL has been paying royalty on natural gas at different rate. Audit does not agree as the lessees are required to pay royalty on the price of natural gas at the well head value.

1.47. The department by their written reply has stated that the as per the provision of OIL Field (Regulation and Development) Act.1948, the lessee has to pay royalty at 10% of the value of the natural gas obtained at wellhead. The value of natural gas at well head is determined by Oil India Ltd. and ONGC Ltd. and ONGC Ltd. based on the sale value of natural gas at well head with a difference that Oil India Ltd. deduct the post well head cost from the sale value. The Price of natural gas was revised by the Ministry of Petroleum and Natural gas, Govt .of India vide order No.L- 12015/5/04/GP dtd. 5th june,2006. The Price of Rs. 2304/1000 SCUM was applicable to only small consumers viz. Tea Garden Grid, Domestic gas grid etc. The above order was Issued with reference to the Ministry of Petroleum & Natural Gas letter No. dtd. 20.6.2005 wherein at para (ii)it was stated that price of 10.000 K.cal/cubic metre. As such the price of natural gas increase or decrease with the increase or decrease of caloric value of gas supplied to the consumers. The rate of royalty also varies accordingly. Hence, there was actually no short realization of royalty of Rs. 24.56 crore as indicated in the audit report.

OBSERVATIONS/RECOMMENDATIONS

1.48. The Committee satisfied with the departmental reply and decided to drop the para.

Short payment due to levy of royalty at different rates

(Audit para, 6.2.13 C& AG/(R/R) 2009-2010)

1.49. The audit has pointed out that the OIL paid royalty to the State Government on 31,91,094,971 thousand SCUM of natural gas between April 2004 and May 2006 at rates ranging from Rs. 113.42 to Rs. 143.28 per thousand SCUM after deducting gas collection cost whereas ONGCL during the same period paid royalty at rates ranging from Rs.160.70 to Rs.180.73 per thousand SCUM without deducting gas collection cost. The deduction of gas collection cost by OIL for payment of royalty on natural gas resulted in short payment of royalty to the extent of Rs.11.97 crore. The department stated that the matter was taken up with MoPNG which clarified that the deduction of post well head cost of collection is also in line with international practice for determination of royalty on well head value basis. But ONGC paid royalty on the sale value or producer's price. The ministry further stated that GoI by Gazette Notification of August 2007 modified the schedule of ORD Act whereby well head value has been clearly defined and it is provided that per unit rate of post well head cost shall be determined based on actual post well head expenditure reported in previous year's audited account and OIL has been following this. Hence, Government of Assam is not in a position to claim royalty from OIL without deducting post well head cost. Audit do not accept the contention of the ministry/department as stated by quoting notification ibid is specifically for other than nominated block.OIL and ONGCL are under nominated block.

1.50. The department by their written reply has stated that the difference of rate royalty between Oil India Ltd. and ONGC Ltd. occur mainly for two factors viz. (1) Difference of calorific value of natural gas (2) Deduction of post well head cost of collection by Oil India Ltd. for determination well head value. The matter of short payment of royalty by Oil India Ltd. for deduction of post well head cost was taken up with Oil India Ltd. at various level since 2004. Govt. of Assam also submitted a demand of Rs. 35.88 crores for the period from April, 1992 to March, 2003 before the Ministry of Petroleum & Natural Gas, Govt. of India on account of deduction of post well head cost. The Govt. of Assam received two replies one on 22nd June,2006 where it was stated that the representation of Assam Government for payment of royalty on gas on the sale price has emanated from the Ministry on 15th April, 2008 where it was stated deduction of post well head cost is also in

the line with international practice for determining of royalty on well head value basis. It also stated that vide Gazette Notification dtd. 20-8-2007, the Govt. has modification the schedule of OFRS Act whereby the well head value has been clearly defined and it is provided that per unit rate of post well head cost shall be determined bases on actual post well head expenditure reported in the previous year audited account OIL has been following this methodology since from inception and ONGC is contemplating the uses of this methodology in immediate future. The above notification was published in the Official Gazette in August,2007 and therefore the same is not applicable prior to 2007. Secondly, after received the reply from the Ministry of Petroleum and natural Gas, Govt of India, on the issue of deduction of post well head cost, the Directorate of Geology & Mining, Assam could not demand royalty on natural gas from Oil India Ltd. without deduction of post well head cost for the period from 2004-05 to 2005-06.

OBSERVATIONS/RECOMMENDATIONS

1.51. The Oil fields registration & Development Act. 1948 was modified by gazette Notification dated 20.8.2007. The audit observation is related to the period 2004-2005 to May 2006 and if the Government Notification of August 2007 do not give retrospective effect, the short payment of royalty as pointed out by audit becomes recoverable.

1.51.1 The Committee therefore recommends that the department should pursue the matter with Ministry of Petroleum, Government of India for recovery of the unpaid royalty. Action taken in this regards may be intimated to the Committee within a period of 30 days from the date of presentation of this report before the House.

Non-levy/realization of penal interest on delay in adjustment of discount/payment of royalty on crude oil

(audit para 6.2.14 C &AG(R/R)/2009-2010)

1.52. The audit has observed that ONGCL had paid the royalty for the period from April 2005 to December 2007 after deducting discount of Rs. 23.32 crore from the royalty payable. The discounted amount was subsequently paid by the lessee after delays ranging between 26 and 149 days. But the lessee had not paid the penal interest on the amount for the delayed period. This resulted in non-levy of penal interest of Rs. 1.30 crore. The Department stated that the matter would be examined and taken up with ONGCL. We did not receive further information on raising the demand (November 2010). ONGCL had made payment of royalty on crude oil during the period between March 2005 and April 2008 with delays on account of arrear royalty due to revision of IOCL/Numali Garh Refineries Limited price, Wholesale Price Index deduction etc. ranging from 27 to 183 days. The Directorate did not raise any demand for realization of the penal interest. This resulted in non-realisation of penal interest of Rs. 71.09 lakh. The Department stated that the matter will be examined and if any irregularity is noticed, the same will be taken up with ONGCL for realization of the penal interest.

1.53. The department by their written reply has stated that the amount paid for the period from April, 2005 to June, 2007 of Rs. 20701068.00 (Rs. 233223628.00- 1212522560.00) as additional royalty on account of discount as indicated in the report was actually not due to the Govt. of Assam but wrongly paid by ONGC Ltd at different periods. The matter was taken up by the Directorate of Geology & Mining, Assam in April, 2008 with ONGC for clarification. ONGC Ltd. vide their letter No. ERBC/SBS/SALES/ROYALTY/(Addl.) 2007-08 dtd. 7.5.2008 submitted that the additional royalty paid to the Govt. of Assam was worked out by considering before discount price and deducting the rate from the lower amount of VAT payable on the post discount price. In fact there was no need for any additional payment of royalty. As the amount of VAT on before discount price included in the price build up had already been correctly deducted during the course of payment of royalty. Accordingly ONGC Ltd. requested to allow to make deduction/adjustment of excess payment made by ONGC to the State Government during the period from 1.4.2003 to 20.9.2007 amounting to Rs. 49581074.00 from the amount payable for the month of April,

2008. The matter was examined and ONGC finally adjusted the said amount subsequently . As such, question of claiming of penal interest by the Directorate of Geology & Mining for the above payment did not arise. However, penal interest of Rs. 883442.00 was claimed against ONGC against the payment made for the period from October, 2007 to December, 2007 on Rs. 121522650.00 as indicated in the report. But the amount has not deposited by ONGC till date.

OBSERVATIONS/RECOMMENDATIONS

1.54. The Committee recommends that the department should pursue the matter with the O.N.G.C. for recovery of the penal interest of Rs. 88.34 lakh and submit a report to the Committee within three month time from the date of presentation of this report before the House.

Short payment of royalty on coal**(audit para 6.2.15 C&AG(R/R)2009-2010)**

1.55. The audit has pointed out that payment of royalty on coal by North-Eastern Coals Fields Ltd (NECFL) was based on the quantity of coal dispatched from the leased area for sale rather than the quantity of coal extracted. During 2004-05 to 2008-09, NECFL extracted 51.99 lakh MT coal (including opening balance of 3.31 lakh MT), but paid royalty on dispatched quantity of 49.66 lakh MT. This resulted in short payment of royalty amounting to Rs. 6.45 crore (2.33 lakh MT X Rs. 276.76 per MT).The Department stated that the lessee dispatched 49.66 lakh MT coal on which royalty was paid and as such there was no loss of revenue . We do not agree with this contention in light of the Apex Court's judgement.

1.56. The department by their written reply has stated that as per report of the Audit and after detailed examination of the monthly returns submitted by Coal India Ltd., the Directorate of Geology & Mining, Assam placed a demand of Rs.8.19 crores against Coal India Ltd for short payment of royalty on coal for the period from 2004-05 to 2008-09 on the basis of production of coal vide letter NO.GM/AR/10/746-48 DATED 8.9.11. But CIL did not deposit the amount. So the Directorate vide letter dated 16.11.11 asked CIL to deposit the amount immediately. Subsequently, the Mines & Minerals Department, Govt. of Assam vide letter dated 21.12.11 and 02.06.12 asked CIL to deposit the amount of Rs. 8.19 crores to settle the issue. Then, the Directorate sent a reminder letter dated 27.6.12 to submitted a clarification vide letter dated 18.7.12 regarding payment of royalty on dispatched quantity instead of on production.

OBSERVATIONS/RECOMMENDATIONS

1.57. After threadbare discussion the Committee is satisfied with departmental replies and decided to drop the para.

Short payment of royalty and interest on coal and limestone**(Audit para 6.2.16 A&AG/(R/R)2009-2010)**

1.58. The audit has pointed out that the Assam Mineral Development Corporation Ltd. (AMDCL) extracted and dispatched two lakh MT coal during 2004-05 to 2008-09 from the leased area but paid royalty of Rs. 72.29 lakh only on 1.13 lakh MT. This resulted in short payment of royalty of Rs. 55.23 lakh and interest of Rs. 47.79 lakh. No. action was initiated to recover the balance amount of Rs. 1.03 crore. Similarly, Vinay Cement Ltd. and North East Cement limited (NECEM) extracted and dispatched 8.46 lakh MT limestones during 2004-05 to 2008-09 from their leased areas. The lessees paid royalty of Rs. 79 lakh against Rs. 1.51 crore. This resulted in short payment of Rs. 1.40 crore (royalty Rs. 0.72 crore and interest Rs. 68 lakh). The Department while accepting point stated that demand for royalty of Rs. 52.94 lakh Rs. 62.31 lakh and Rs. 9.95 lakh had been raised against AMDCL., Vinay Cement and NECEM respectively and the matter of the interest component would be taken up on receipt of the principal amount.

1.59. The department by their written replies has stated that as per monthly returns of Assam Mineral Development Corporation Ltd. extracted and dispatched 200141 MT coal for the period for 2004-05 to 2008-09 and paid royalty on 186627 MT and thereby made short payment of royalty of Rs. 2213310.00 against 13414 MT of Coal instead of 1.13 lakh MT and short payment of Rs. Rs. 55.23 lakh as indicated in the report. The Directorate of Geology & Mining Assam has directed AMDC Ltd. to pay the outstanding royalty on coal for the month of March, 2004 and for the period from April, 2006 to 2009 vide letter No. GM/MM/102/PT-C/225 Dtd. 29.4.2011 M/S Vijay Cement Ltd. extracted 406949 MT limestone for the period for 2004-05 to 2005-06 and paid royalty only on 47765 MT of limestone and thereby made short payment of royalty of Rs. 16163280.00 for the above period. On the other hand, the company extracted 363337 MT limestone for the period for 2006-07 to 2008-09 and paid royalty on the entire quantity of 363337 MT and there was no outstanding for the period for 2006-07 to 2008-09. The outstanding royalty for the period for 2004-05 and 2005-06 could not be realized due to non-settlement of a dispute on royalty. Similarly, NECEM Cement Ltd. has not paid royalty on 56222 MT of limestone for the period 2004-05, 2005-06 and 2006-07. The company has paid royalty on the entire quantity of limestone extracted for the year 2007-08 and 2008-09. The Directorate of

Geology & Mining, Assam has repeatedly directing NECEM Cement Ltd. to clear the outstanding royalty to avoid legal action under the provision of Acts & RULES. In spite of that the company has not paid the outstanding royalty on the pretext of BIFR case No. 87/1997 in respect of the company for declaring it as a sick industrial unit

OBSERVATIONS/RECOMMENDATIONS

1.60. The Committee recommends that the department pursue the matter vigorously with the three lessees for recovery of the unpaid royalty and the result may be intimated to the Committee within three month time from the date of presentation of this report before the House.

Short realization of surface rent

(Audit para 6.2.17 C &AG/(R/R)2009-2010)

1.61. The audit has pointed out that the State Government sent a proposal (1995) to the MoPNG to raise the surface rent to Rs. 5,597 per hectare per year on the basis of prevailing and assessable rates of land revenue. The matter was however not pursued further. Audit noticed that during January 2004 to December 2008, the area of land occupied by OIL and ONGCL was 6,136.17 hectare (15 PML) AND 17,172 hectare (20 PMLs) respectively. OIL paid surface rent of Rs. 1.37 lakh at rates ranging from Rs. 16.40 to Rs. 58.86 per hectare per year while ONGCL paid Rs. 55,000 in respect of four PMLs during 2004-05 to 2008-09. Thus, failure of the Department/Government to obtain the approval of the GOI for revision of the proposed rate and non-collection of surface rent at the prescribe rate of Land Revenue Department resulted in short realization of revenue of Rs. 8.72 crore. The Department stated that OIL and ONGCL were requested (December 2009) to pay surface rent at the prevailing rates of land revenue till the Government of Assam received approval of the revised rate from Gol. But OIL informed that pending the disposal of the writ petition challenging the validity of section 3A and 25B of the Assam Land Revenue Re-Assessment (Amendment) Act, 1977 they were paying surface rent of the old rent as per order (2003) of the Hon'ble Gauhati High Court and would pay at the enhance rate in the event of disposal of the wait petition. Audit found that the court order of 2003 gave an opportunity to the responded (Government) to move the court for modification/cancelation/alternation of the order, which the State Government has not done and as a result had to forgo the revenue.

162. The Department by their written reply has stated that Section 3A & 25B of the Assam Land Revenue Reassessment (Amendment Act), 1977 was challenged in the Gauhati High Court by Oil India Ltd. and the Hon'ble High Court in W.P.(C) No. 963/2003 and Misc. Case No. 320/2003 stayed the realization of enhanced rate of land revenue by the Government. As such, pending disposal of the writ petition of the OIL, is paying surface rent on the basis of old rates of land revenue. The matter is needed to be taken up with the Revenue Department for early disposal of the writ petition so that revised land revenue can be settled. At the same time the matter of fixation of surface rent at revised rate is needed to be taken up with the Govt. of India for obtaining approval.

OBSERVATIONS/RECOMMENDATIONS

1.63. The Committee recommends that the department should pursue the revenue department to take up the matter at the Hon'ble High Court for early settlement of the case and also pursue the Government of India for enhancing the rate of surface rent and intimate to the Committee action taken in this regard within three month time from the date of presentation of this report before the House.

Non-initiation of action under Public Demand Recovery Act resulted

in non-recovery of outstanding royalty

(Audit para 6.2.18 C&AG/(R/R)2009-2010)

1.64. The Audit has found from the records of the DG&M that royalty on coal ,limestone etc., against three lessees/agencies for the period from January 1979 to March 2009 for Rs. 4.66 crore including interest of Rs. 3.03 crore was realizable against which Rs. 4.22 lakh was realized from ONGCL. The Department, however, did not institute Bakijai cases against them for realization of the balance amount even after a lapse of 31 years. The Department stated that the matter was taken up with the lessees on several occasions but with no result and they were considering instituting Bakijai cases against them.

1.65. The department by their written reply has stated that for realization out standing royalty dues from the lesses/agencies the department is considering institution of Bakikai Cases as well as termination of mining leases against the defaulters.

OBSERVATIONS/RECOMMENDATIONS.

1.66. The Committee directed the department to install a system of periodic review of the pending cases and sending them to the Bakijai cases against the defaulters for recovery of outstanding royalty due from them. Action Taken in this regards and also action taken to recover the balance amount pointed out in the Audit Report may be intimated to the Committee within three month time from the date of presentation of this report before the House.

ANNEXURE-I

The Members of the Sub-Committee-'B' of the Committee on Public Accounts (2011-2013)

Convener :

1. Shri Keshab Mahanta

Members :

2. Shri Prasanta Phukan
3. Shri Kamal Sing Narzary
4. Shri Binanda Kumar Saikia
5. Shri Swapan kar

COMPOSITION OF THE OUT GOING COMMITTEE
(2011-2013)

Chairman:

1. Md. Sirajuddin Ajmal

Members:

2. Shri Gautam Bora
3. Shri Abdul Muhib Mazumdar
4. Shri Binanda Kumar Saikia
5. Dr. Rumi Nath
6. Shri Kamal Sing Narzary
7. Shri Emmanuel Mosahary
7. Shri Utpal Dutta
8. Shri Keshab Mahanta
9. Shri Swapan Kar
10. Shri Prasanta Phukan
11. Shri Jatin Mali