CASE ANALYSIS: MINERAL AREA DEVELOPMENT AUTHORITY V. STEEL AUTHORITY OF INDIA LIMITED

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CASE CITATION- 2024 INSC 607

INTRODUCTION

There has been much discussion over the years regarding whether mineral development royalties are considered taxes in the context of Indian fiscal federalism. The crucial ruling in the Mineral Area Development Authority (MADA) v. Steel Authority of India case marked the end of this discussion. According to the Supreme Court's ruling, royalties from mineral mining are not considered taxes. It has maintained the State's legislative authority to impose mineral development taxes under Entry 50 of the State List.

BACKGROUND

The Mines and Minerals (Development and Regulation) Act (the "MMDR Act"), passed by the Union Government in 1957, gave it authority over mineral development. According to Section 9 of the Act, any "mineral removed or consumed" from the leased area required the mining lease holders to pay a royalty to the Union government. However, the significance of this clause became an issue in India Cement Ltd v. State of Tamil Nadu[1], where a seven-judge Supreme Court panel decided that the Tamil Nadu government's cess on royalty was actually a royalty tax and thus outside the state's legislative purview.

When a writ petition[2] was filed in 1999 challenging the Bihar Coal Mining Area Development Authority (Amendment) Act, 1992, the discussion came up again. This ultimately resulted in the recent ruling on the matter by a nine-judge bench. By a majority vote of 8 to 1[3], the Court

[1] AIR 1990 SC 85
[2] Mineral Area Development Authority (MADA) v. Steel Authority of India
[3] M. Janani, 'Race to the bottom': The possible consequences of the mineral royalty judgement, SCO, August 23, 2024, https://www.scobserver.in/journal/race-to-the-bottom-the-possible-consequences-of-the-mineral-royalty-judgement/

maintained the State's powers to impose mineral rights taxes under Entry 50 of the State List, so long as Parliament has not placed any statutory restrictions on them. By defining royalties as payments made to the owner, the Court made it clear that royalties obtained under Section 9 of the Mines and Minerals (Development & Regulation) Act are not taxes.

DISPUTE

The conflict started when the Parliament passed the Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act), which, among other things, regulated mineral development and established the rates that states should charge for permitting mining leaseholders to extract minerals[4]. The primary query was whether the States could impose and collect more royalty (or any other tax) than what was established by the MMDR Act. The matter was referred for a categorical decision by this nine-judge Supreme Court bench because there had been a number of contradictory rulings on the matter from the court's larger benches.

ISSUES

1. What is the true nature of royalty determined under Section 9 read with Section 15(1) of the MMDR Act? Whether royalty is in the nature of tax?

2. What is the scope of Entry 50 of List II of the Seventh Schedule? What is the ambit of the limitations imposable by Parliament in exercise of its legislative powers under Entry 54 of List I? Does Section 9, or any other provision of the MMDR Act, contain any limitation with respect to the field in Entry 50 of List II?

3. Whether the expression "subject to any limitations imposed by Parliament by law relating to mineral development" in Entry 50 of List II pro tanto subjects the entry to Entry 54 of List I, which is a non-taxing general entry? Consequently, is there any departure from the general scheme of distribution of legislative powers as enunciated in M P V Sundaram Iyer?

4. What is the scope of Entry 49 of List II and whether it covers a tax which involves a measure based on the value of the produce of land? Would the constitutional position

[4] Tarun Jain, States' Taxation of Mineral Rights and Land: Supreme Court Expounds the Law, SCC TIMES, August 2, 2024, https://www.scconline.com/blog/post/2024/08/02/states-taxation-of-mineral-rights-and-land-supreme-court-expounds-the-law/#fn8

be any different qua mining land on account of Entry 50 of List II read with Entry 54 of List I?

5. Whether Entry 50 of List II is a specific entry in relation to Entry 49 of List II, and would consequently subtract mining land from the scope of Entry 49 of List II?[5]"

DECISION HELD

By an 8:1 majority, the Supreme Court ruled that the Parliament has the authority to pass legislation restricting (even outright banning) the States (under Entry 50 of the State List) ability to impose and collect taxes on mineral rights, given Entry 54 of the Union List[6]. The majority did, however, also come to the conclusion that "royalty" as defined by the MMDR Act is not a tax on mineral rights, and even in that case, the Act does not restrict the States ability to impose such a tax. In other words, it was determined that the State's taxation of mineral rights is unrestricted in the absence of any real limitations imposed by Parliament through legislation.

The majority also came to the conclusion that the States can use the mineral value of land as the basis for imposing taxes on land and buildings, which is an independent taxing power of the States that is unrestricted, unlike their ability to impose taxes on mineral rights. This further advances the States taxing rights (under Entry 49 of the State List).

KEY TAKEAWAYS OF THE CASE

a) The case gave clarification on the opinion that royalty is not a tax. The mining lessee pays the lessor a royalty as part of the contract in exchange for the enjoyment of the mineral rights. Contractual terms of the mining lease give rise to the obligation to pay royalties. The fact that the statute allows for the recovery of the payments as arrears does not mean that they are taxes.

(b) The legal stance established in M.P.V. Sundararamier[7] is not altered by Entry 50 of List II. State legislatures have the authority to impose taxes on mineral rights. Since Entry 54 of List I

[5] Mineral Area Development Authority vs Steel Authority of India, AGARWAL LAW ASSOCIATES, https://aglaw.in/blogs-and-articles/mineral-area-development-authority-vs-steel-authority-of-india/
[6] Sunidhi Singh, Mineral Area Development Authority & ANR. v. M/S Steel Authority of India & ANR.: Emphasis on Prospective Overruling, ACA, August 30, 2024 https://www.acmlegal.org/blog/prospective-overruling/
[7] M. P. V. Sundarameir & Co v. The State of Andhra Pradesh 1958 INSC 17

is a general entry, Parliament lacks the legislative authority to impose taxes on mineral rights. Parliament is unable to use its residual powers in relation to that subject matter because the authority to tax mineral rights is listed in Entry 50 of List II.

(c) Under a law pertaining to mineral development, Entry 50 of List II allows Parliament to impose "any limitations" on the legislative field created by that entry. As of right now, the MMDR Act has not imposed any restrictions as specified in List II, Entry 50. Entry 50 of List II's definition of "any limitations" is broad enough to cover the imposition of prohibitions as well as conditions, principles, and restrictions.

(d) List II entries 49 and 50 operate in different fields and deal with different subject-matters. Because there is no explicit clause in the Constitution to that effect, the "limitations" imposed by Parliament in a law relating to mineral development with respect to Entry 50 of List II do not apply to Entry 49 of List II. Instead, mineral value or mineral produce may be used as a measure to impose a tax on lands under Entry 49 of List II.

(e) To the extent of the observations made in the current case, the rulings in India Cement, Orissa Cement, Federation of Mining Assns. of Rajasthan v. State of Rajasthan[8], Mahalaxmi Fabric Mills[9], Saurashtra Cement, Mahanadi Coalfields[10], and P. Kannadasan are overruled.

ANALYSIS

SHIFT AFTER DECADES

For more than thirty years, state governments and businesses approaches to mineral extraction were shaped by the belief that royalties on minerals were a type of tax. However, the Supreme Court's 8:1 majority decision made it clear that royalty is essentially distinct from a tax, even though it is imposed by the Mines and Minerals (Development and Regulation) Act (MMDR Act) of 1957[11]. This distinction was essential in upholding state legislatures constitutional authority to impose taxes on mineral-bearing lands without being constrained by the MMDR Act.

[8] AIR 1992 SC 103
[9] State Of Madhya Pradesh Petitioner v. Mahalaxmi Fabric Mills Ltd. And Others (1995 INSC 89)
[10] State of Orissa and Ors v. Mahanadi Coalfields Ltd and Ors 1995 INSC 286
[11] Souniya Dhuldhoya & Kanan Shivhare, Royalty: To Be or Not To Be Taxed? SCLD, Oct 14, 2024 https://www.tscld.com/mada-v-sail-judgment-fiscal-federalism-india

This decision clarifies and supports the notion that royalty is a contractual duty resulting from the mining lease rather than a governmental levy, as is the case with taxes. This gives states the power to tax mineral rights in new ways, which could result in different tax environments in different states.

By construing "land" broadly to encompass all forms of land, regardless of their use, the court also examined the idea of taxes on buildings and lands. States are able to tax lands that contain minerals thanks to this interpretation[12]. According to the Constitution, everything above and below the surface of the earth, including subsurface minerals, is considered land. This differentiation highlights the distinction between the state's authority to impose land taxation and its authority to impose mineral extraction rights taxation.

ECONOMIC IMPLICATIONS

Since mining companies now have to pay a cess on royalties on top of the current taxes for obtaining mineral rights, the ruling presents serious difficulties for them. Considering that the mining sector has some of the highest tax rates in the world, this extra financial strain is significant. As a result, whether as raw materials or for infrastructure, the industrial and consumer goods that rely on these minerals will increase significantly.

In Monnet Ispat and Energy Ltd. v. Union of India[13], the Supreme Court emphasised that investors need a stable and predictable regulatory environment in order to invest in coal mining, raising similar concerns. The already difficult high-tax environment is made worse by the current regulatory fragmentation, which also poses a threat to the effectiveness of Indian mining operations and their standing in the international market. The principles established in Jindal Stainless Ltd. v. State of Haryana[14], where the Supreme Court ruled that state-imposed taxes on interstate transactions could create economic barriers and impede the smooth flow of trade, thus violating the constitutional mandate for a unified national market, reflect this problem.

Additionally, the mining industry faces major obstacles due to the legality of different tax regimes in different Indian states, especially at a time when its share of the country's GDP has

[12] Rajnandan Gadhi, Joshua Joseph Jose, Post-MADA v. SAIL: GST's Effect on Mineral Royalty, IRCCL, Sept 7, 2024 https://www.irccl.in/post/post-mada-v-sail-gst-s-effect-on-mineral-royalty
[13] (2012) 11 SCC 1
[14] (2017) 12 scc 1

increased significantly. These differences have the potential for stimulating innovation and sustainability, even as they heighten worries about project viability and investment uncertainty. In accordance with the National Mineral Policy 2019, mining firms may be forced to invest in greener, cleaner technologies by the prospect of increased taxes. Finding the ideal balance is essential, though, as states need to increase revenue while maintaining the sector's vibrancy. To guarantee the fair distribution of mineral wealth, encourage economic growth, and support ethical mining practices, a concerted effort would harmonise state-level policies with national goals.

RETROSPECTIVE APPLICATION

The judgment's retroactive application adds another level of legal complexity. Mining companies still face a significant financial burden even after the Apex court ruled that fiscal obligations on mineral rights would not apply to transactions completed before April 1, 2005, and that they could permit staggered disbursements over a 12-year period beginning on April 1, 2026[15]. Some relief is provided by the renunciation of interest and penalties for demands made before July 25, 2024, but businesses will need to adjust their financial plans to account for these retroactive liabilities, which may limit their ability to invest in new projects or cutting-edge technology and impede industry advancement and competitiveness.

FISCAL FEDERATION

Interpreting the power structure and preserving the delicate balance of power among the federal units are the responsibilities of constitutional courts. The Hon'ble Court also had to decide how to properly interpret the connection between Entry 54 of List I, Entry 23 of List II, and Entry 50 of List II[16]. The majority held the opinion that, even though it is now established that the laws passed by the Parliament under Entry 54 of List I govern the regulation of mines and mineral development as listed in Entry 23 of List II, these restrictions should not restrict the State's ability to impose taxes under Entry 50 of List II in the absence of any particular legislation. The State Legislature's authority under Entry 23 of List II is only restricted to the

[15] Coal India issues statement on order of SC in Mineral Area Development Authority vs SAIL, BUSINESS STANDARD, https://www.business-standard.com/markets/capital-market-news/coal-india-issues-statement-on-order-of-sc-in-mineral-area-development-authority-vs-sail-124081401668_1.html

[16] Apoorva, Judgment on States' power to levy tax on mining and mineral-use activities to apply retrospectively from 2005: Supreme Court, SCC TIMES, 14 August 2024 https://www.scconline.com/blog/post/2024/08/14/judgment-on-state-power-levy-tax-mining-mineral-use-activities-apply-retrospectively-from-2005-supreme-court/

scope of parliamentary coverage when such a law is passed; it does not restrict Entry 50 of List II, which is a special entry. The Supreme Court ruled in MPV Sundararamier & Co. v. State of Andhra Pradesh[17] that tax-related legislative powers are separate from general legislative powers.

DISSENT OPINION

According to Justice Ms. BV Nagarathna's minority ruling, royalty was considered a tax, the Mines and Minerals (Development and Regulation) Act, 1957's Sections 9, 9A, and 25 denied or restricted the reach of Entry 50, List II, and taxes on buildings and lands considered taxes directly imposed on the land as a unit, excluding mineral-bearing lands from its purview. The minority ruling acknowledged that the only entry in Lists I and II that subjected the States taxing authority to restrictions imposed by Parliament through legislation pertaining to mineral development was Entry 50, List II[18].

CONCLUSION

The ruling of the Supreme Court represents a substantial change in the distribution of taxing authority between the federal government and the states. Although it increases the States authority to impose taxes on mineral rights, it also raises the possibility of uneven taxation throughout India, which might have an effect on the general effectiveness and competitiveness of the mining industry. States will need to adjust to a more complicated tax environment as they start to use their newly acquired power. Different tax obligations may apply to businesses that operate in several states, which could result in higher compliance costs and strategic difficulties. Nonetheless, the decision presents states with a significant chance to better profit from their abundant resources. States can better finance regional development projects by taxing mineral-bearing lands, which helps to promote more evenly distributed economic growth throughout the nation. This approach could lessen regional differences and encourage long-term growth, which would eventually result in a more equitable allocation of resources and income throughout the country.

[17] SUPRA 3

[18] Gurisimran Kaur Bakshi, Royalty Is Tax, States Have No Right to Tax Mineral. LIVELAW 27 July, 2024 https://www.livelaw.in/top-stories/justice-nagarathna-dissenting-judgment-royalty-mineral-rights-mineral-area-development-vs-steel-authority-of-india-264754

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