

Analyzing Mineral Royalty in India: Insights from *Mineral Area Development Authority v Steel Authority of India*

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I. Introduction

The Supreme Court judgment on “*Mineral Area Development Authority v Steel Authority of India*” (‘MADA v SAI’) on July 25, 2024, by an 8:1 majority, held that states have the legislative capacity through Entries 49 and 50 of the State List in the Constitution of India¹ to levy taxes on mineral rights and mineral-bearing lands.² Additionally, the bench held that the ‘royalty’ paid by mine leaseholders under Section 9 of the Mines and Minerals (Development and Regulation) Act, 1957³ (‘MMDRA’) is not a tax.⁴ The judgment overruled the 1989 decision of “*India Cement Ltd. v State of Tamil Nadu*” (‘India Cements’)⁵, where “a seven-Judge Bench of this Court held that royalty is tax and the state legislatures lack competence to levy taxes on mineral rights because the subject-matter is covered by the MMDR Act”; thus, determined that royalty to be in the nature of a tax. In a later case a Constitutional bench stated that the above judgment stemmed from an inadvertent error and clarified that **royalty is not a tax**.⁶

The present judgment germinated from a 1999 public interest litigation and snowballed through the years into the judiciary’s attempt to conclude the matter.⁷ Further, this case came into being as a result of conflicting and open-ended judgements in these two judgements which caused ambiguity regarding who at last has the legislative competence to impose these taxes and whether royalty collected are to be considered as a ‘tax’? Finally, on 30 March 2011, a Bench of three Judges noticed the divergence between India Cement (supra) and Kesoram (supra) and referred the following questions to a Bench of nine Judges. While the Supreme Court spoke further on the issue on July 31, 2024, it reserved its judgment on whether the State’s power to

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¹ INDIA CONST., Sch. VII, List II, *State List*, Items 49 & 50.

² Nature of royalty paid by mine leaseholders, SUPREME COURT OBSERVER, <https://www.scoobserver.in/cases/is-royalty-paid-by-mine-leaseholders-to-the-union-government-a-form-of-tax-mineral-area-development-authority-v-steel-authority-of-india/> (last visited on August 9, 2024).

³ Mines and Minerals (Development and Regulation) Act, 1957, §9, No. 67, Acts of Parliament, 1957 (India)

⁴ *Id.*

⁵ *India Cement Limited v State of Tamil Nadu*, 1990 AIR 85

⁶ *State of West Bengal v. Kesoram Industries Ltd*, (2004) 10 SCC 201.

⁷ *Id.*

levy taxes would apply retrospectively or prospectively.⁸ The ruling has raised questions regarding the state of fiscal federalism in India, making it essential to revisit the conflicts flagged by the architects of our Constitution.

In a 1949 Constituent Assembly speech, B.R. Ambedkar warned his listeners about the tumultuous road of inequities that the Indian government had to address.⁹ Nehru believed the appropriate response, to be a federal system skewed towards the Union.¹⁰ Over time, this asymmetric federalism became less about equalization and more about aggressive central policy-making.¹¹ The present judgment valiantly defends the State's legislative domain from unnecessary central interference while still acknowledging the limits to this freedom.

Part II of this article establishes the contextual framework, outlining the foundational concepts and pertinent facts of the case essential for comprehending the judgment. Part III of this article extensively examines the jurisprudence leading up to this case, emphasizing three landmark Supreme Court decisions. In Part IV, the paper delves into a detailed analysis of the judgment, exploring the sources, ideological foundations and rationale underlying both the majority opinion and the lone dissenting view. Part V of the paper concludes the discussion.

II. Contextual Analysis: Essential Facts and Concepts

A. Mineral Governance in India: Constitutional Powers, Royalties, and Dead Rent

The legal framework of mineral governance in India has been shaped through constitutional provisions, legislations and judicial developments. 'Mines' have been defined as any excavation where activities relating to the exploration and extraction of minerals occur.¹² This broad definition encompasses various components and categories of activities like borings, oil wells, shafts, open cast workings, conveyors and associated facilities.¹³ Further, 'minerals' refer to all such extracted substances from the earth, excluding mineral oils like natural gas and

⁸ The Hindu Bureau, *SC Reserves Decision on Whether Its Verdict Upholding State's Right to Tax Mineral Rights Should Apply Only Prospectively*, THE HINDU, Jul. 31, 2024, <https://www.thehindu.com/news/national/centre-opposes-plea-in-supreme-court-seeking-refund-of-royalty-on-minerals-to-states-retrospectively/article68467640.ece> (last visited on August 9, 2024).

⁹ Kalaiyarasan A, *The Poor State of India's Fiscal Federalism*, THE HINDU, Jul. 27, 2022, <https://www.thehindu.com/opinion/lead/the-poor-state-of-indias-fiscal-federalism/article65690849.ece> (last visited on August 7, 2024).

¹⁰ *Id.*

¹¹ *Id.*

¹² The Mines Act, 1952, §2(i), No. 35, Acts of Parliament, 1952, (India).

¹³ *Id.*

petroleum.¹⁴ The regulation of mines and mineral development in India is governed by a division of powers between the Central and State Governments, as outlined in the Constitution.

Under Entry 54 of the Union List, the Central Government has the authority to regulate mines and mineral development when it is deemed expedient by Parliament for the public interest.¹⁵ In contrast, State Governments are empowered under Entry 23 of the State List to regulate mines and mineral development, but this authority is subject to the Union's Control.¹⁶ The judgment in question places this separation of legislative power under scrutiny. In furtherance of its authority, the State enacted the MMDRA, which established a framework for mineral development in India, majorly under the control of the Union.

Section 9 of MMDRA outlines mineral royalty in India. Royalty is a payment made by the mining lessee in proportion to the quantity of mineral extracted.¹⁷ The lessor holds a legislative and judicial right to receive royalties as compensation for the benefit the lessee gains from extracting minerals from the lessor's land. Under the MMDRA, royalty is paid at rates set by the Central Government, subject to periodic revision.¹⁸ Royalty and Dead Rent are interlinked concepts. Section 9A of MMDRA codifies dead rent. Dead Rent is the minimum amount the lessee pays the lessor, irrespective of mining activity.¹⁹ This ensures a continuous profit flow for the lessor and prevents the lessee from keeping the mine dormant. Similar to Royalty, the rates of Dead rent are also determined by the Central Government.

B. Brief Facts and Holding

Before exploring the nuances of the judgment, it is beneficial to outline the key facts, issues and the resulting decision associated with the case. Civil Appeal No. 4056-64 was filed in 1999 in the Patna High Court challenging the validity of the Bihar Coal Mining Area Development Authority (Amendment) Act 1992 and the Bihar Mineral Area Development Authority (Land Use Tax) Rules 1994.²⁰ The ground for the challenge was that the state government was not legislatively capable under Entry 49 of List II of the Constitution to levy taxes on mineral-

¹⁴ The Mines Act, 1952, §2(jj) No. 35, Acts of Parliament, 1952, (India).

¹⁵ INDIA CONST, Sch. VII, List I, *Union List*, Item 54.

¹⁶ INDIA CONST. Sch. VII, List II, *State List*, Item 23.

¹⁷ Mines and Minerals (Development and Regulation) Act, 1957, §9, No. 67, Acts of Parliament, 1957 (India)

¹⁸ Mines and Minerals (Development and Regulation) Act, 1957, §9, No. 67, Acts of Parliament, 1957 (India)

¹⁹ Mines and Minerals (Development and Regulation) Act, 1957, §9A, No. 67, Acts of Parliament, 1957 (India).

²⁰ Mineral Area Development Authority and Anr v State M/S Steel Authority of India & Anr Etc., 2024 INSC 554, ¶4 ('MADA').

bearing land. The High Court, relying on the India Cements judgment, allowed the petition. However, this decision was challenged in 2011 before a three-judge bench in the Supreme Court.

The judges noted the interpretational inconsistency developed through the contradictory judgments of the India Cements case and the '*State of West Bengal v Kesoram Industries Ltd.*' ('Kesoram Industries'). While the former had disallowed states from imposing additional cess on minerals due to the nature of royalty as a tax, the latter ruled the precedent erroneous. They referred this appeal, along with a cohort of similar cases, to a nine-judge constitutional bench for a decisive ruling. The bench comprised the Chief Justice of India, D.Y. Chandrachud, Justice Hrishikesh Roy, Justice A.S. Oka, Justice J.B. Pardiwala, Justice Manoj Misra, Justice Ujjal Bhuyan, Justice S.C. Sharma, Justice A.G. Masih and Justice B.V. Nagarathna.²¹

The primary issues addressed in the judgment involve Sections 9 and 15(1) of the MMDRA²² and the inter-relationships between Entries 49 and 50 of List II of the Seventh Schedule and Entry 54 of List I.²³ The judgment settled three key issues: the nature of royalty under Section 9 of the MMDRA, whether Section 9 or any other provisions of the MMDRA limit the exercise of Entry 54 of List I in relation to the State's taxation powers under Entry 50 of List II, and whether mineral-bearing lands can be taxed based on the value of their produce under Entry 49 of List II.

The judgment has been passed by an 8:1 majority, with the sole dissent authored by Justice B.V. Nagarathna. Firstly, the Court has drawn a clear distinction between royalty and tax. It has determined royalty to be a contractual consideration paid by the leaseholder due to the landowners parting with their exclusive mineral privileges. Secondly, it has been decisively held that no provision of the MMDRA forms an express and specified limitation on the State's power under Entry 50 of List II. However, the Parliament is free to create new limitations due to Entry 54 of List I on the taxing power to the extent of completely prohibiting it. Thirdly, the Court has ruled that state legislatures are permitted to tax mineral-bearing land based on the value of the minerals under Entry 49 of List II, with neither Entry 50 nor Entry 54 posing any impediment to this authority.

²¹ Supreme Court Observer, *supra* note 2.

²² Mines and Minerals (Development and Regulation) Act, 1957, §9& §15(1), No. 67, Acts of Parliament, 1957 (India)

²³ *Id.*

The court's rationale behind recognizing and providing states with the power to levy and collect tax on mineral-bearing land is to uphold the 'federal nature of our state'. In the lines of the same, the court highlighted that "Federalism is one of the basic features of our Constitution and defined Indian federalism as an Asymmetrical one because it tilts more towards the center, resulting in a strong center but this doesn't necessarily make the states weaker." "The Indian States are sovereigns within the legislative competence assigned to them." The said delicate balance is maintained by the interpretation of judiciary in carrying out distribution of powers. Additionally, any constitutional court by means of any action or decision should not dilute this federal character or spirit of our nation. This shows the dedication of the Apex court to recognize and protect the federal nature of our state which further forms part of our constitutional principle of 'basic structure'.

On the contrary, Justice Nagarathna, in her dissent, held that royalty is in the nature of a tax. She argued that on deconstructing the legislative intent behind the MMDRA it can be seen as a limitation on the State's power to impose levies. Furthermore, she maintained that if land subject to royalty is also taxed under Entry 49 of List II, it will result in double taxation, which contradicts the constitutional intent and scheme of Entries and Lists. Justice Nagarathna also identified multiple fallacies in the Kesoram Industries judgment and upheld the India Cement decision as the correct interpretation. She warned that allowing states unchecked taxation powers could lead to unhealthy profiteering competitions, ultimately causing a disproportionate increase in mineral prices and a slump in mineral development in India. To fully comprehend the context of this judgment, it is essential to analyse the jurisprudential developments that have led to it.

III. Tracing the Legal Developments to the Judgment

To understand the judgment, it is crucial to retrospectively analyse the key judicial precedents and legal developments before it. This section will examine three significant Supreme Court judgments relevant to the issues at hand, exploring how these decisions have shaped and influenced the present ruling.

Prior to the India Cement judgment, there was a uniform and concurring belief that royalty was not a tax. Multiple judicial precedents before 1989, like '*D.K Trivedi & Sons v State of*

*Gujarat*²⁴, *H.R.S Murthy v Collector of Chittoor*²⁵, *Laxmi Nayaran Agarwalla v State of Orissa*²⁶ and *Shanti Saroop Sharma (Dr.) v State of Punjab*²⁷ have emphasised that royalty was only a consideration payable to the land owner by the mining leaseholder for the exclusive enjoyment, use and exploitation of the resources embedded in the land. In an identical vein, *Surajdin Laxmanlal v State of M.P., Nagpur*²⁸ identified two key features of royalty that distinguished it from a tax: firstly, the payment is in proportion to the quantity removed, and, secondly, the basis of the payment is an agreement.²⁸ These features later served as a guiding principle for the majority opinion in the *MADA v SAI* judgment. However, an alteration in this settled position was brought about by the *India Cement* judgment.

The decision originated around the levy of a local cess on the payable royalty by the Tamil Nadu government, which the *India Cement Ltd.* ('Company') challenged to be out of the scope of its legislative authority.²⁹ A mining lease was granted by the Tamil Nadu government to the Company for a period of 20 years following the Mineral Concession Rules of 1960, which laid down the rates at which the Company was expected to pay surface rent, royalty and dead rent.³⁰ In addition to this, the Company was expected to pay a local cess following the Madras Panchayats Act (XXXV of 1958) ('MPA'). Section 115(1) of the MPA reads:

*"There shall be levied in every panchayat development block, a local cess at the rate of 45 naye Paise on every rupee of land revenue payable to the Government in respect of any land for every fasli."*³¹

The explanation of the section includes royalty within the scope of 'land revenue'.³² This explanation was inserted within the legislation by an amendment in 1964.³³ The primary conflict arose regarding the viability of this section.

The Company filed a writ petition in the Madras High Court, where it was held that the cess under Section 115(1) of the MPA was a land tax and, therefore, was within the state legislature's

²⁴ *D.K. Trivedi & Sons v State of Gujarat*, 1986 Supp SCC 20.

²⁵ *H.R.S Murthy v Collector of Chittoor*, AIR 1965 SC 177.

²⁶ *Laxmi Nayaran Agarwalla v State of Orissa*, AIR 1983 Ori 210.

²⁷ *Shanti Saroop Sharma (Dr.) v State of Punjab*, AIR 1969 P&H 79.

²⁸ *Surajdin Laxmanlal v State of M.P.*, AIR 1960 MP 129.

²⁹ *India Cement Ltd. and Ors. v State of Tamil Nadu and Ors.*, AIR 1990 SC 85, ¶1 ('*India Cement*').

³⁰ *Id.*

³¹ The Tamil Nadu Panchayats Act, 1958, § 115(1), No. 35, Tamil Nadu, 1952.

³² *Id.*

³³ *India Cement*, *supra* note 27, ¶5.

capacity as per Entry 49 of the State List.³⁴ On an appeal to a division bench in the High Court, it was concluded that this provision did not contravene Section 9 of MMDRA in any respect.³⁵ Both judgments relied on the stance established in the ruling of '*H.R.S. Murthy v Collector of Chittoor*', which recognised the cess imposed under Section 115 as a land tax, even though it is calculated based on the land revenue.³⁶

The decision was further appealed in the Supreme Court and taken up by a seven-judge bench with Justice Mukherjee and Justice Oza authoring concurring opinions.³⁷ In Justice Mukherjee's judgment, the court examined three primary issues. Firstly, whether the cess was being imposed on royalty or was a levy on the land itself. Secondly, whether such an imposition was justified under Entry 49 of the State List. And thirdly, whether such an imposition can be sustained under Entry 50 of the State List.

The first issue questioned the target of the cess. At the outset, according to Section 115 of MPA, the cess was imposed on land revenue, which included royalty within its scope. There was an attempt to justify the levy through Entry 45 of the State list, which deals with land revenue. However, a distinction was drawn between the import of 'land revenue' and royalty, the former being a share of the produce of the land and the latter being a return received in exchange for the resources utilised from it.³⁸ Also, the amendment's artificial expansion of 'land revenue' within the MPA indicated that the two are conventionally distinct.³⁹ Hence, it was concluded that the cess was being imposed specifically upon royalty and was thus unjustifiable under Entry 45 of the State List.

The second argument advanced by the State was that the cess could be sustained under Entry 49 of the State List, which allowed for taxation on lands and buildings. However, considering Section 9 of MMDRA, royalty was only paid when the mining leaseholder consumed minerals from the land.⁴⁰ Therefore, royalty was not related to the land as a unit but to the proportion of the extracted minerals, whereas Entry 49 was specifically concerned with direct land taxes.⁴¹

³⁴ *Id.*, ¶4.

³⁵ *Id.*, ¶9.

³⁶ *H.R.S. Murthy v Collector of Chittoor*, AIR 1965 SC 177.

³⁷ *India Cement. supra* note 27.

³⁸ *India Cement. supra* note 27, ¶21.

³⁹ *Id.*

⁴⁰ Mines and Minerals (Development and Regulation) Act, 1957, §9No. 67, Acts of Parliament, 1957 (India)

⁴¹ *Id.*, ¶23.

Therefore, a cess on royalty, imposed in relation to utilising the natural resources contained within it, would not fall under the scope of this Entry.

The State's final argument was that the cess could be defended as an exercise of the power given under Entry 50 of the State list. Entry 50 allows the states to impose taxes on mineral rights subject to limitations imposed by the Parliament in pursuance of mineral development.⁴² The Court held that the explicit provisions under Section 9 of the MMDRA fully occupied this area of legislation, denuding the State's competence.⁴³

A notable development occurred in 1995 in the case '*State of M.P. v Mahalaxmi Fabric Mills Limited and Ors.*' ('Mahalaxmi'), a three-judge bench declared that the ratio of India Cement had suffered from a grave typographical error while holding royalty to be a tax.⁴⁴ To that effect, the Court pointed out several precedents, referred to in the judgment, where royalty was held not to be a tax, but none were critiqued.⁴⁵ Ultimately, the judges were bound by the decision and concluded that the determination of royalty as a tax logically flowed from the deliberations.⁴⁶ However, this was the first time the ratio had been questioned, creating an inconsistency in the law.

This inconsistency would be compounded by the 2004 ruling in the Kesoram Industries case. The judges identified that the phrase "royalty is a tax", mentioned in the ratio of the India cement judgment, was a typographical error and should have instead read, "cess on royalty is a tax".⁴⁷ Considering the ratio in its entirety, it is evident that royalty is not a tax but a payment made in consideration for utilising the land's minerals.⁴⁸ Hence, the Court found that this correction offers a more accurate interpretation of the judgment. The court highlighted that this error had thrown the jurisprudence into disarray, giving rise to multiple erroneous judgments.⁴⁹ This five-judge bench pronouncement stood in direct conflict with the earlier seven-judge bench ruling in India Cement, and an urgent need was felt for a decisive clarification on the matter.

⁴² INDIA CONST, Sch. VII, List II, *State List*, Item 50.

⁴³ India Cement, *supra* note 27, ¶34.

⁴⁴ *supra* note 1.

⁴⁵ State of M.P. v Mahalaxmi Fabric Mills Limited and Ors., AIR 1995 SC 2213, ¶14.

⁴⁶ *Id.*

⁴⁷ State of W.B. v Kesoram Industries Ltd. and Others, (2004) 10 SCC 201, ¶56.

⁴⁸ *Id.*

⁴⁹ *Id.* ¶70

Nevertheless, the Kesoram Industries judgment failed to evaluate all the elements discussed before the ratio, which indicated a different conclusion than the one they drew. Firstly, in Paragraph 22 of the judgment, it was concluded that the cess could not be justified under Entry 49 as royalty was not a direct land tax. However, the Court did not definitively conclude that royalty was not a tax.⁵⁰ Consequently, the possibility remains open that royalty may be classified under the category of any other taxes. Secondly, '*M/S Laxminarayana Mining Co., Bangalore v Taluk Dev. Board*'⁵¹, and '*Laddu Mal v State of Bihar*'⁵², were referred to, which decisively held that royalty was a tax. These judgments were not critiqued at any point.⁵³ Therefore, the precedents were used to fortify the ratio India Cement ultimately drew. Hence, the argument that the ratio resulted from a mere stenographer's error stands weakened.

The nine-judge bench ruling in *MADA v. SAI* sought to resolve a legal conundrum that had persisted for decades. By the time the writ petition reached the Supreme Court, 85 pending cases had been consolidated, underscoring the immense significance of the judgment.

IV. A Scrutiny of the Verdict

A. The Majority Opinion

The judgment was delivered with an 8:1 majority, with the majority opinion authored by the Chief Justice of India, D.Y. Chandrachud. The judgment addressed three primary questions: first, whether royalty qualifies as a tax; second, the extent of the legislative power conferred by Entry 50 of the State List and whether MMDRA poses a limitation to it; and third if States can tax mineral-bearing land with respect to the mineral's values under Entry 49 of the State List.

Before delving into the core pronouncements and elucidations provided by the Court, we must understand the ideological foundations on which the decisions were taken. The two primary principles emphasised throughout the judgment have been the concepts of 'Fiscal Federalism' and the 'Public Trust Doctrine'. Wallace E. Oates has described fiscal federalism as assigning

⁵⁰ Velpula Audityaa & Devansh Mani, '*Royalty: a Tax? : An Analysis of the Judicial Uncertainty and its Service Tax Implication*', INDIACORPLAW, July 17, 2018, available at <https://indiacorplaw.in/2018/07/royalty-tax-analysis-judicial-uncertainty-service-tax-implications.html> (last visited on August 9, 2024).

⁵¹ *M/S Laxminarayana Mining Co., Bangalore v Taluk Dev. Board*, AIR 1972 Mys 299.

⁵² *Laddu Mal v State of Bihar*, AIR 1965 Pat 491.

⁵³ *Id.*

different functions to individual organs of the federation and devolving fiscal instruments to facilitate the same.⁵⁴ When the concept is applied to our quasi-federal system, differential taxation powers are attributed to the Union and the States to provide services and generate revenue. The principle accentuates the importance of the Union and the State having adequate fiscal measures to carry out their constitutional responsibilities. Justice Chandrachud has employed the principle to establish the negative consequences of diluting the State's taxation powers.⁵⁵ Without adequate revenue in its coffers, a state cannot provide welfare schemes and services to its people, putting crores of marginalised people at risk.⁵⁶

Public Trust Doctrine is an environmental law principle that mandates the preservation of vital natural and cultural resources for 'public use' and prohibits their commercialisation.⁵⁷ Justice Chandrachud discussed it as a critical philosophy in placing the State and the Union as the trustees of the mines and minerals under Entry 54 of the Union List and Entry 23 of the State List, respectively.⁵⁸ The MMDRA grants superior control to the Union for developing the mines and minerals to protect them from over-exploitation.⁵⁹ With a clear understanding of the key concepts underlying the judgment, the focus can shift to the individual issues addressed.

The first issue concerned determining whether royalty could be considered a tax. Before the formulation of the MMDRA, royalty was paid as a consequence of individual contracts between the mine leaseholders and the land owners.⁶⁰ The legislation allows the Union government to modulate royalty rates to ensure uniformity across the country.⁶¹ The Court clarified that the determination of royalty by the Union government should not be seen as a compulsory exaction but only as a regulatory measure.⁶² In determining the nature of royalty, the Court adhered to the perspective established before the 1989 India Cement judgment, which characterised royalty as a payment made to the landowner for relinquishing exclusive control over the minerals. Three characteristic distinctions between tax and royalty were drawn:⁶³

⁵⁴ Wallace E. Oates, *An Essay on Fiscal Federalism*, Vol. 37, Journal of Economic Literature, No.3 (1999).

⁵⁵ MADA *supra* note 18, ¶53.

⁵⁶ *Id.*, ¶54.

⁵⁷ Erin Ryan, *A SHORT HISTORY OF THE PUBLIC TRUST DOCTRINE AND ITS INTERSECTION WITH PRIVATE WATER LAW*, vol. 38, Virginia Environmental Law Journal, No.2 (2020).

⁵⁸ *Id.*, ¶58.

⁵⁹ Mines and Minerals (Development and Regulation) Act, 1957, §2, No. 67, Acts of Parliament, 1957 (India)

⁶⁰ MADA, *supra* note 18, ¶78.

⁶¹ *Id.*

⁶² *Id.*, ¶114.

⁶³ *Id.*, ¶98.

- (i) Royalty is paid to the proprietor whether he be a private individual or the State. On the other hand, tax is an imposition by the sovereign in exercising Article 265 of the Indian Constitution.
- (ii) As per Section 9 of MMDRA, an individual is liable to pay royalty only in scenarios of extraction of minerals from the soil, whereas tax is generally a compulsory levy on a taxable event that the State determines.
- (iii) As described, royalty existed before the MMDRA and flowed from individual contracts. Section 9 of MMDRA has only codified this contractual relationship, whereas tax is essentially imposed by the authority of law.

Hence, it was established that a payment made to the government under a mining lease agreement is fundamentally different to a tax.⁶⁴ The Court referred to Rule 27(c) and Rule 45 of the Mining Concession Rules, 1960, to conclude that the same principles would also apply to 'dead rent' as described under Section 9A of MMDRA.⁶⁵ Dead rent is levied on the mining leaseholder based on the amount of land held, ensuring a steady income for the land owner regardless of the mining activity conducted on the property.⁶⁶ This is yet another consequence of mining lease agreements.

The second issue taken up by the Court was deliberation on the scope of the State's legislative power with respect to Entry 50 of the State List and whether the MMDRA posed a limitation to it. Entry 50 relates to the imposition of taxes on mineral rights and is subject to any limitation imposed by the Parliament in pursuance of mineral development.⁶⁷ The Court cited a test developed by the '*Hingir-Rampur Coal Co. Ltd. v State of Orissa*' judgment, which stated that the process to determine the legislative competence of the state legislature in respect of a specific aspect of mines and mineral development is to check whether the MMDRA has covered it.⁶⁸ The Court noted that the MMDRA did not expressly pose any limitation to the power of the State under Entry 50.⁶⁹ One of the primary contentions was that the entire legislative field was occupied through Section 9 of the MMDRA, disabling the State from

⁶⁴ *Id.*, ¶127.

⁶⁵ Apoorva, *Supreme Court's verdict on 'royalty' as a tax and States power to levy cess on mining and mineral activities*, SCC ONLINE TIMES, July 29, 2024, available at <https://www.scconline.com/blog/post/2024/07/29/supreme-court-verdict-royalty-as-tax-states-power-to-levy-cess-on-mining-mineral-use-activities/> (last visited on August 9, 2024).

⁶⁶ Mines and Minerals (Development and Regulation) Act, 1957, §9, No. 67, Acts of Parliament, 1957 (India)

⁶⁷ *supra* note 30.

⁶⁸ *Hingir-Rampur Coal Co. Ltd. v State of Orissa*, (1961) 2 SCR 537.

⁶⁹ MADA, *supra* note 18, ¶229.

imposing further taxes. However, with the conclusion that royalty and dead rent are not taxes, it was established that Sections 9 and 9A do not limit the authority under Entry 50.⁷⁰ However, the court added that "any limitations" implied that Parliament had the absolute authority to impose restrictions on this power, including abolishing it entirely if necessary.⁷¹

The third issue contemplated by the Court was whether the State could tax mineral-bearing lands with respect to the valuation of the minerals under Entry 49 of the State List. It was noted at the outset that the State has the power to levy taxes in any manner and any rate it seems fit. The expression 'lands' has been given a general interpretation and, therefore, includes all categories of land, including mineral-bearing lands.⁷² The apex court relied on the precedent of '*Goodricke Group Ltd. v State of West Bengal*', which held that the income or yield of land could be a parameter for determining tax.⁷³ Therefore, the tax on mineral-bearing land can be determined by referring to the value of the minerals embedded within it. Implementing such a tax would not conflict with Entry 50 as the nature of the taxes is dissimilar. The former is a tax imposed upon the land as a unit, whereas the latter is a tax on 'mineral rights', i.e. the rights held by any individual with an interest in the land.⁷⁴

Hence, the judgment completely reverses the India Cement precedent and defends the legislative independence of the States. Upon its thorough reading, we see the underlying objective of allowing greater taxation power to the states is for their economic proliferation. The need for States to continue funding their time-tested welfare schemes becomes pertinent as the wealth gap grows to an unfixable chasm. This is a welcome measure to the country's increasingly politically centralised economy as the states struggle to raise revenue.⁷⁵ However, the possibility remains that the Centre will abolish the State's taxation powers by instrumentalising the power attributed to it under Entry 50.

B. The Minority Opinion

Justice B.V. Nagarathna has authored the sole dissenting opinion. She has thoughtfully reconsidered the same three issues from a different perspective.

⁷⁰*Id.*, ¶231.

⁷¹*Id.*, ¶327.

⁷²*Id.*, ¶327.

⁷³ *Goodricke Group Ltd. v State of West Bengal*, 1995 Supp (1) SCC 707.

⁷⁴ MADA, *supra* note 18, ¶280.

⁷⁵ Kalaiyarasan A., *supra* note 7.

While contemplating the first issue, she concluded that royalty is in the nature of a tax. She considered Section 9 of MMDRA along with the judicial precedent in *India Cement* to conclude that the compulsory exaction required of royalty distinguished it from a mere contractual fee.⁷⁶ She argued that the mandatory nature of the payment and its moderation through a statute established it as akin to a tax. Additionally, she noted that the imposition of royalty as a tax has considerable policy benefits for the State as it allows them to benefit from and regulate mineral extraction.⁷⁷

While pondering over the second issue, she established that MMDRA is an express limitation on the State's authority under Entry 50 of the State List. While Entry 50 grants taxing power to the State, it is subject to "any limitations imposed by the Parliament by law relating to mineral development". It was emphasised that "any limitation" allows for the broadest possible interpretation. Therefore, Sections 9 and 9A relating to royalty and dead rent, respectively, and any other provision of MMDRA can limit Entry 50.⁷⁸ She concluded that since royalty and dead rent function as taxes, they effectively strip the states of their taxation authority by occupying that entire legislative field, denuding their power.⁷⁹

Finally, she reasoned that the States could not instrumentalise Entry 49 of the State List to levy taxes on mineral-bearing lands as that would supersede the Parliament's object, purpose and intent in passing MMDRA through Entry 54 of the Union List.⁸⁰ Even though 'lands' under Entry 49 must be given the broadest scope of interpretation, including mineral-bearing land within it would lead to double taxation.⁸¹ An individual would be expected to pay royalty, dead rent and surface rent under MMDRA to the State along with the land levy passed by the State under Entry 49, creating an unnecessary burden on miners.

Additionally, she critiqued the *Kesoram Industries* judgment as unwarranted and erroneous, suggesting that it be overruled.⁸² She stated that the judgment failed to fully grasp the entire reasoning employed by the judges in reaching their conclusion in the *India Cements* case. She

⁷⁶ MADA *supra* note 18, ¶39.

⁷⁷ *Id.*

⁷⁸ *Id.*, ¶41(d).

⁷⁹ *Id.*

⁸⁰ *Id.*, ¶22.6.

⁸¹ Apoorva, *Read Justice BV Nagarathna's sole dissent in S.C.'s verdict on 'royalty' as tax and States power to levy cess on mineral rights*, SCC ONLINE TIMES, August 5, 2024, available at <https://www.scconline.com/blog/post/2024/08/05/justice-bv-nagarathna-dissent-sc-verdict-royalty-as-tax-states-power-to-levy-cess-on-minera-rights/> (last visited on August 9, 2024).

⁸² MADA *supra* note 18, ¶35.2.

also pointed out that the judgment failed to envision the potentially severe economic consequences such a judgment could have.

Justice Nagarathna accentuated the pitfalls of the unregulated taxation power handed over to the states, anticipating an unhealthy revenue generation competition.⁸³ Such a contest would have cascading effects through the market, marked by a steep spike in mineral prices and a decelerating economy.

V. Conclusion

The article delves into the complex issue of state authority in imposing additional taxes on minerals and mineral-bearing lands alongside the payments mandated by the MMDRA, which the Union governs. In pursuance of this, the recent judgment of *MADA v SAI* has been discussed at length throughout the article. The article begins by establishing the context of the judgment, succinctly summarising the facts and the ruling. It then explores the judicial precedents and legal developments that necessitated this judgment, with a particular emphasis on clarifying the controversy that the ruling ultimately resolves. Finally, the article provides a comprehensive analysis of the issues and propositions addressed in the judgment, carefully examining both the majority and minority opinions.

The Supreme Court's ruling in *MADA v SAI* marks a significant shift in the legal landscape concerning mineral taxation in India. It is a decisive clarification of the legal lacuna created by Kesoram's contrary opinion to the *India Cement* judgment. The decision is underscored by granting greater fiscal autonomy to the states. The majority and minority opinions have thoroughly examined the tradeoffs between enhancing revenue generation for welfare and the risk of fostering an overly competitive market.

The judgment aims to facilitate a more equitable distribution of fiscal duties and powers between the Centre and the State. As the decision regarding whether the judgment would apply retrospectively or prospectively remains on hold, the stakeholders must critically monitor the economic and legal ramifications of the judgment.

⁸³ *Id.*, ¶38.