

PATNA HIGH COURT UPHOLDS 18% GST ON MINING ROYALTIES:

A JURIDICAL ANALYSIS IN LIGHT OF THE MADA JUDGMENT

The applicability of Goods and Services Tax (GST) on royalty payments for mining rights has been reaffirmed by the Patna High Court in Broad Son Commodities Pvt. Ltd. & Ors. v. Union of India & Ors., (CWJC No. 3531 of 2022) on 18 April 2025.

A bench comprising of Justice Rajeev Ranjan Prasad and Justice Sourendra Pandey upheld the validity and constitutionality of the 18% GST rate on royalty payments as valid and constitutional. The ruling came in the light of the precedent set by the Supreme Court's landmark nine-judge Constitution Bench decision in Mineral Area Development Authority v. Steel Authority of India Ltd. (2024 INSC 554) (MADA).

The Foundational Principle: Deconstructing The Mada Judgment

In the MADA Judgment, the nine-judge bench overruled the case of India Cement v. State of Tamil Nadu (1989) (1990 (1) SCC 12) where a seven-judge bench held that “royalty is a tax”, clarifying that royalty is a contractual, while tax is a statutory levy imposed by the state.

The MADA judgement observed that, “... ‘Mineral-bearing’ lands fall under the definition of ‘Lands’ under List II Entry 49.” Which was in the earlier judgment understood that minerals extracted from a land do not fall under “Land” under List II Entry 49 making the state legislature incompetent to tax.

The judgement further held that the legislative power to tax mineral rights vests with the state legislature and the parliament cannot use its residuary power with respect to that subject matter under List I Entry 54 since the power to tax mineral is enumerated in List II Entry 50. Notwithstanding this, the Parliament has the power to impose “any limitations” on the legislative field created by List II Entry 50 and that the scope of “any limitations” is wide enough to include the imposition of restriction, condition, principle, as well as a prohibition.

Further, the court stated that Entries 49 and 50 of List II deal with distinct subject-matters and operate in separate fields. Therefore, the limitations which Parliament may prescribe in relation to mineral rights under List II Entry 50 do not curtail the State’s power to levy taxes under List II Entry 49, there being no constitutional stipulation to that effect.

The Patna High Court Ruling: Applying the MADA Paradigm

The High Court while pronouncing the judgement dealt with the following questions:

1. Whether royalty is not a statutory impost/tax?

The court relied on the MADA judgment to hold that royalty is not a statutory impost/tax. To the point the court in para 76 stated that, “*Since royalty is a consideration paid by the lessee to the lessor under a mining lease, it cannot be termed as an ‘impost’.*”

2. Whether royalty becomes payable on the mere grant of mining lease or only up to actual extraction and consumption of minerals?

The court answering this question in para 79, sided with the submissions of the state, stated that, *“GST is payable on the payment of every instalment of the settlement amount and in case where royalty on extracted quantity of sand is more than the settlement amount, then the settlee shall be liable to pay additional settlement amount.”* The court further stating that, *“In view of the judgment of the Hon’ble Supreme Court, there is no iota of doubt that the transfer of interest in minerals is distinct from the exercise of minerals rights and the royalty is required to be paid only upon exercise of the mineral rights by the lessee.”*

3. Whether periodic payments of royalty made after 01.07.2017 (commencement of GST) can attract GST even if the mining lease was granted prior to GST?”

The court answered the question in positive and negated the submissions by opining that, *“That merely because periodic payment of royalty is made post the commencement of GST, the State would have no jurisdiction to impose GST because the taxable event has taken place prior to coming into force of GST.”* Stating in para 79, that GST is payable on the payment of every instalment of the settlement amount which were executed post 01.07.2017.

4. Whether grant of mining rights is “supply” under CGST/BGST Act, 2017?

The court in this regard observed, that [s/7\(1\)\(a\)](#) of CGST/BGST Act, 2017, includes all forms of supply of goods and services including licence, rental and lease for consideration within the expression “supply”. Hence, including leasing mines and grant of mineral rights fall within the ambit of “supply of services”.

5. Whether the Liquor Industry and the Mining Industry should be treated at par?

The court clarified in para 103 that, “Grant of mineral rights under a lease deed is not the same as the licence for sale of liquor”.

Conclusion:

The MADA judgment declared the essential character of royalty as consideration and not a tax, a principle the Patna High Court has given effect to by extending it into the GST framework. By holding that the grant of mineral rights and mining leases constitute a ‘supply of services’ liable to 18% GST, the Court has brought clarity to the fiscal treatment of royalties. This ruling not only reinforces the authority of the MADA verdict but also sets a binding precedent for other High Courts and tribunals in resolving disputes of similar nature.