

P.S. to REGISTRAR

COURT MASTER (NSH)

(Tax Case No.81/2025 and 27 other connected cases)



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HIGH COURT OF CHHATTISGARH AT BILASPUR

TAXC No. 81 of 2025

(Assessment Year 2018-19)

{Arising out of order dated 21-7-2023 passed by the
Income Tax Appellate Tribunal, Raipur Bench, Raipur in
ITA No.8/RPR/2023 and 37 others}

District Mining Officer, Bemetara Mining Office,
Collectorate Campus, Bemetara, Chhattisgarh – 491335

--- Appellant

versus

The Deputy Commissioner of Income Tax (TDS), Raipur,
Chhattisgarh

--- Respondent

TAXC No. 92 of 2025

(Assessment Year 2013-14)

District Mining Officer, Dantewada Mining Office,
Collectorate Campus, Anwarbhata, P.O. Dantewada,
District South Bastar Dantewada, Chhattisgarh – 494449

--- Appellant

Versus

The Deputy Commissioner of Income Tax (TDS), Raipur,
Chhattisgarh

--- Respondent

TAXC No. 85 of 2025

(Assessment Year 2014-15)

District Mining Officer, Bemetara Mining Office,
Collectorate Campus, Bemetara, Chhattisgarh – 491335

--- Appellant

Versus

(Tax Case No.81/2025 and 27 other connected cases)

The Deputy Commissioner of Income Tax (TDS), Raipur,
Chhattisgarh

--- Respondent

TAXC No. 73 of 2025
(Assessment Year 2017-18)

District Mining Officer, Bemetara Mining Office,
Collectorate Campus, Bemetara, Chhattisgarh – 491335

--- Appellant

Versus

The Deputy Commissioner of Income Tax (TDS), Raipur,
Chhattisgarh

--- Respondent

TAXC No. 100 of 2025
(Assessment Year 2018-19)

District Mining Officer, Bijapur, Collectorate Campus,
Bijapur, Chhattisgarh – 494444

--- Appellant

Versus

The Deputy Commissioner of Income Tax (TDS), Raipur,
Chhattisgarh

--- Respondent

TAXC No. 98 of 2025
(Assessment Year 2019-20)

District Mining Officer, Dantewada Mining Office,
Collectorate Campus, Anwarbhatha, P.O. Dantewada,
District South Bastar Dantewada, Chhattisgarh – 494449

--- Appellant

Versus

The Deputy Commissioner of Income Tax (TDS), Raipur,
Chhattisgarh

--- Respondent

(Tax Case No.81/2025 and 27 other connected cases)

TAXC No. 93 of 2025

(Assessment Year 2015-16)

District Mining Officer, Dantewada Mining Office,
Collectorate Campus, Anwarbhata, P.O. Dantewada,
District South Bastar Dantewada, Chhattisgarh – 494449

--- Appellant

Versus

The Deputy Commissioner of Income Tax (TDS), Raipur,
Chhattisgarh

--- Respondent

TAXC No. 97 of 2025

(Assessment Year 2019-20)

District Mining Officer Bijapur, Collectorate Campus,
Bijapur, Chhattisgarh – 494444

--- Appellant

Versus

The Deputy Commissioner of Income Tax (TDS), Raipur,
Chhattisgarh

--- Respondent

TAXC No. 86 of 2025

(Assessment Year 2016-17)

District Mining Officer, Bemetara Mining Office,
Collectorate Campus, Bemetara, Chhattisgarh – 491335

--- Appellant

Versus

The Deputy Commissioner of Income Tax (TDS), Raipur,
Chhattisgarh

--- Respondent

TAXC No. 82 of 2025

(Assessment Year 2015-16)

District Mining Officer, Bemetara Mining Office,
Collectorate Campus, Bemetara, Chhattisgarh – 491335

--- Appellant

Versus

(Tax Case No.81/2025 and 27 other connected cases)

The Deputy Commissioner of Income Tax (TDS), Raipur,
Chhattisgarh

--- Respondent

TAXC No. 83 of 2025
(Assessment Year 2013-14)

District Mining Officer, Bemetara Mining Office,
Collectorate Campus, Bemetara, Chhattisgarh – 491335

--- Appellant

Versus

The Deputy Commissioner of Income Tax (TDS), Raipur,
Chhattisgarh

--- Respondent

TAXC No. 84 of 2025
(Assessment Year 2019-20)

District Mining Officer, Bemetara Mining Office,
Collectorate Campus, Bemetara, Chhattisgarh – 491335

--- Appellant

Versus

The Deputy Commissioner of Income Tax (TDS), Raipur,
Chhattisgarh

--- Respondent

TAXC No. 95 of 2025
(Assessment Year 2019-20)

District Mining Officer, Bijapur, Collectorate Campus,
Bijapur, Chhattisgarh – 494444

--- Appellant

Versus

The Deputy Commissioner of Income Tax (TDS), Raipur,
Chhattisgarh

--- Respondent

TAXC No. 96 of 2025
(Assessment Year 2014-15)

District Mining Officer, Dantewada Mining Office,
Collectorate Campus, Anwarbhata, P.O. Dantewada,
District South Bastar Dantewada, Chhattisgarh – 494449

--- Appellant

(Tax Case No.81/2025 and 27 other connected cases)

Versus

The Deputy Commissioner of Income Tax (TDS), Raipur,
Chhattisgarh

--- Respondent

TAXC No. 101 of 2025

(Assessment Year 2016-17)

District Mining Officer, Dantewada Mining Office,
Collectorate Campus, Anwarbhata, P.O. Dantewada,
District South Bastar Dantewada, Chhattisgarh – 494449

--- Appellant

Versus

The Deputy Commissioner of Income Tax (TDS), Raipur,
Chhattisgarh

--- Respondent

TAXC No. 99 of 2025

(Assessment Year 2017-18)

District Mining Officer, Dantewada Mining Office,
Collectorate Campus, Anwarbhata, P.O. Dantewada,
District South Bastar Dantewada, Chhattisgarh – 494449

--- Appellant

Versus

The Deputy Commissioner of Income Tax (TDS), Raipur,
Chhattisgarh

--- Respondent

TAXC No. 94 of 2025

(Assessment Year 2018-19)

District Mining Officer, Dantewada Mining Office,
Collectorate Campus, Anwarbhata, P.O. Dantewada,
District South Bastar Dantewada, Chhattisgarh – 494449

--- Appellant

Versus

The Deputy Commissioner of Income Tax (TDS), Raipur,
Chhattisgarh

--- Respondent

(Tax Case No.81/2025 and 27 other connected cases)

TAXC No. 102 of 2025

(Assessment Year 2018-19)

Deputy Director (Mineral & Administration), Jagdalpur
Mining Office, Collectorate Campus, P.O. Jagdalpur,
District Bastar, Chhattisgarh

--- Appellant

Versus

The Deputy Commissioner of Income Tax (TDS), Raipur,
Chhattisgarh

--- Respondent

TAXC No. 106 of 2025

(Assessment Year 2016-17)

Collector Mining, Kanker (Deputy Director Mineral
Administration), Mining Office, Collectorate Campus,
Kanker, Chhattisgarh

--- Appellant

Versus

The Deputy Commissioner of Income Tax (TDS), Raipur,
Chhattisgarh

--- Respondent

TAXC No. 109 of 2025

(Assessment Year 2014-15)

Deputy Director (Mineral & Administration), Jagdalpur
Mining Office, Collectorate Campus, P.O. Jagdalpur,
District Bastar, Chhattisgarh

--- Appellant

Versus

The Deputy Commissioner of Income Tax (TDS), Raipur,
Chhattisgarh

--- Respondent

TAXC No. 110 of 2025

(Assessment Year 2017-18)

Collector Mining, Kanker (Deputy Director Mineral
Administration), Mining Office, Collectorate Campus,
Kanker, Chhattisgarh

--- Appellant

(Tax Case No.81/2025 and 27 other connected cases)

Versus

The Deputy Commissioner of Income Tax (TDS), Raipur,
Chhattisgarh

--- Respondent

TAXC No. 112 of 2025

(Assessment Year 2013-14)

Deputy Director (Mineral & Administration), Jagdalpur
Mining Office, Collectorate Campus, P.O. Jagdalpur,
District Bastar, Chhattisgarh

--- Appellant

Versus

The Deputy Commissioner of Income Tax (TDS), Raipur,
Chhattisgarh

--- Respondent

TAXC No. 107 of 2025

(Assessment Year 2014-15)

Collector Mining, Kanker (Deputy Director Mineral
Administration), Mining Office, Collectorate Campus,
Kanker, Chhattisgarh

--- Appellant

Versus

The Deputy Commissioner of Income Tax (TDS), Raipur,
Chhattisgarh

--- Respondent

TAXC No. 105 of 2025

(Assessment Year 2018-19)

Collector Mining, Kanker (Deputy Director Mineral
Administration), Mining Office, Collectorate Campus,
Kanker, Chhattisgarh

--- Appellant

Versus

The Deputy Commissioner of Income Tax (TDS), Raipur,
Chhattisgarh

--- Respondent

(Tax Case No.81/2025 and 27 other connected cases)

TAXC No. 104 of 2025

(Assessment Year 2017-18)

Deputy Director (Mineral & Administration), Jagdalpur
Mining Office, Collectorate Campus, P.O. Jagdalpur,
District Bastar, Chhattisgarh

--- Appellant

Versus

The Deputy Commissioner of Income Tax (TDS), Raipur,
Chhattisgarh

--- Respondent

TAXC No. 108 of 2025

(Assessment Year 2016-17)

Deputy Director (Mineral & Administration), Jagdalpur
Mining Office, Collectorate Campus, P.O. Jagdalpur,
District Bastar, Chhattisgarh

--- Appellant

Versus

The Deputy Commissioner of Income Tax (TDS), Raipur,
Chhattisgarh

--- Respondent

TAXC No. 113 of 2025

(Assessment Year 2019-20)

Collector Mining, Kanker (Deputy Director Mineral
Administration), Mining Office, Collectorate Campus,
Kanker, Chhattisgarh

--- Appellant

Versus

The Deputy Commissioner of Income Tax (TDS), Raipur,
Chhattisgarh

--- Respondent

TAXC No. 103 of 2025

(Assessment Year 2019-20)

Deputy Director (Mineral & Administration), Jagdalpur
Mining Office, Collectorate Campus, P.O. Jagdalpur,
District Bastar, Chhattisgarh

--- Appellant

Versus

The Deputy Commissioner of Income Tax (TDS), Raipur,
Chhattisgarh

--- Respondent

For Appellant : Mr. Rahul Tamaskar, Government Advocate.
For Respondent : Mr. Amit Chaudhari and Mr. Ajay Kumrani,
Advocates.

Division Bench: -
Hon'ble Shri Sanjay K. Agrawal and
Hon'ble Shri Deepak Kumar Tiwari, JJ.

Judgment on Board
(16/06/2025)

Sanjay K. Agrawal, J.

1. Since common question of law and fact is involved and common substantial question of law has been formulated in all these connected tax appeals, they are tagged together and heard together and are being disposed of by this common judgment.
2. This batch of tax appeals have been preferred under Section 260A of the Income Tax Act, 1961 (for short, 'the IT Act') calling in question legality, validity and correctness of judgment & order dated 21-7-2023 passed by the Income Tax Appellate Tribunal (ITAT), Raipur Bench, Raipur in respective tax appeals affirming the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, by which the ITAT has

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dismissed the appeals of the assessee upholding the order of the CIT (Appeals) in which following common substantial question of law has been formulated separately in each appeal: -

“Whether provisions of Section 206(1C) of the Income Tax Act, 1961 are applicable for collecting TCS from offenders who do illegal mining or transportation/storage without having lease or license or have not entered into the contract for transfer of right in Mines or Quarry and from whom Compounding Fine is collected as per provisions under Rule 71(5) of the Chhattisgarh Minor Mineral Rules, 2015?”

3. For the sake of convenience, Tax Case No.81/2025 is taken as lead case. The aforesaid question of law arises for consideration on the following factual backdrop: -

4. On 24-9-2018, TDS Survey under Section 133A(2A) of the IT Act was conducted in the office of the District Mining Officer, Bemetara, which is the Mining Department of the State of Chhattisgarh. During the course of aforesaid proceeding, the Income Tax Officers came across certain issues, viz., the assessee i.e. the appellant herein by not collecting tax at source (TCS) on the amount of compounding fees/ fine that was recovered from illegal miners and transporters of minerals had violated the provisions contained in Section

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206C(1C) of the IT Act, and two other issues, which were not being dealt with in the instant batch of appeals, as they have been settled finally by the order of the ITAT between the parties. Thereafter, on 1-7-2019, order under Sections 206C(1C), 206C(6) & 206C(7) of the IT Act was passed after treating the assessee as 'assessee-in-default' and saddled it with an obligation to make good the said non-collection of tax at source. The appellant herein being aggrieved by the order of the Assessing Officer preferred an appeal before the CIT (Appeals) on the issue of saddling it with the liability for failure to collect tax at source on the amount of compounding fees received from illegal miners/transporters of minerals on the ground that the same is not contemplated under Section 206C(1C) of the IT Act, therefore, the appellant was not liable to collect tax as per Section 206C(1C) as it is not covered by the said provision, however, the appeal filed by the assessee before the CIT (Appeals) was dismissed by the CIT (Appeals) on 17-11-2022 and feeling aggrieved against that order, the appellant herein/ assessee preferred an appeal before the ITAT and the ITAT though allowed the appeal with reference

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to other issues which we are not concerned, but dismissed the appeal holding that the appellant/ assessee was obliged to collect tax at source (TCS) as per the provisions contained in Section 206C(1C) of the IT Act.

5. Feeling dissatisfied and aggrieved against the order of the ITAT, the appellant herein/assessee has preferred these appeals calling in question legality, validity and correctness of the order of the ITAT, as the ITAT has upheld the demand of TCS, interest and penalty for the assessment year 2018-19.

6. Mr. Rahul Tamaskar, learned Government Advocate appearing for the State of Chhattisgarh/appellant/ assessee, would submit that tax at source (TCS) has to be collected by the appellant/assessee under Section 206C(1C) of the IT Act from lease holder or license holder and person must be either lease holder or license holder by which the assessee has entered into a contract or otherwise transfers any right or interest in whole or in part in any parking lot or toll plaza or mine or quarry, to another person, and in this case, the assessee must be liable to collect royalty. He would further

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submit that in case of illegal mining, the offender is neither a lease holder nor a license holder and the assessee has not entered into contract or not having any personal right or interest. He would also submit that the amount to be paid is not in the form of royalty but a fine to drop the prosecution against the offender and as such compounding fees has been charged by virtue of the provision contained in Section 23A of the Mines and Minerals (Development and Regulation) Act, 1957 (for short, 'the MMDR Act') read with Rule 71(5) of the Chhattisgarh Minor Mineral Rules, 2015, therefore, the mandate of tax collection at source as contained in Section 206C(1C) of the IT Act would not be applicable in the case of illegal mining lease and as such, the appellant/assessee cannot be branded as 'assessee in default' and raising demand with interest is completely illegal, arbitrary and beyond the scope of Section 206C(1C) of the IT Act. In the circumstances, the order impugned is liable to be set aside in all the appeals and the appeals deserve to be allowed.

7. Mr. Amit Chaudhari, learned counsel appearing for the respondent/Revenue, would submit that the

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provisions contained in Section 260C(1C) of the IT Act would also be applicable for collecting TCS from offenders who do illegal mining or transportation/storage without having lease or license or have not entered into contract for transfer of rights in mines or quarry. He would further submit that the obligation cast upon an assessee to collect tax at source (TCS) under Section 206C(1C) of the IT Act does not presupposes the existence of a lease or license or a contract, but would also be applicable to a case where a person had transferred any right or interest, either in whole or in part, *inter alia*, in a mine to another person. He would also submit that in the instant case, it is not absolutely justified in holding that collecting compounding fees under Section 206C(1C) of the IT Act would be attracted and the ITAT is justified in dismissing the appeals upholding the demand, interest and penalty and as such, all the appeals deserve to be dismissed.

8. We have heard learned counsel for the parties and considered their rival submissions made hereinabove and also went through the record with utmost circumspection.

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9. The sole and common substantial question of law involved, formulated and to be answered in this batch of tax appeals has been projected in the opening paragraph of this judgment.

10. In order to answer the substantial question of law, it would be appropriate to notice Section 206C(1C) of the IT Act which states as under: -

“206C. Profits and gains from the business of trading in alcoholic liquor, forest produce, scrap, etc.—(1) xxx xxx

xxx xxx xxx

(1C) Every person, who grants a lease or a licence or enters into a contract or otherwise transfers any right or interest either in whole or in part in any parking lot or toll plaza or mine or quarry, to another person, other than a public sector company (hereinafter in this section referred to as ‘licensee or lessee’) for the use of such parking lot or toll plaza or mine or quarry for the purpose of business shall, at the time of debiting of the amount payable by the licensee or lessee to the account of the licensee or lessee or at the time of receipt of such amount from the licensee or lessee in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, collect from the licensee or lessee of any such licence, contract or lease of the nature specified in column (2) of the Table below, a sum equal to the percentage, specified in the corresponding entry in column (3) of the said Table, of such amount as income-tax:

TABLE

Sl.No.	Nature of contract or	Percentage
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	licence or lease, etc.	
(1)	(2)	(3)
(i)	Parking lot	Two per cent.
(ii)	Toll plaza	Two per cent.
(iii)	Mining and quarrying	Two per cent.

Explanation 1.—For the purposes of this subsection, “mining and quarrying” shall not include mining and quarrying of mineral oil.

Explanation 2.—For the purposes of *Explanation 1*, “mineral oil” includes petroleum and natural gas.”

11. A careful perusal of the aforesaid provision would show that tax at the rate of 2% has to be collected by the assessee from the lease holder or license holder or with whom the assessee has entered into contract or otherwise transferred any right or interest either in whole or in part in any parking lot or toll plaza or mine or quarry, on the amount of payment made by them to the appellant herein. The person must be lease holder or license holder or with whom the assessee has entered into contract or otherwise transferred any right or interest in the mines or fields, meaning thereby the person from whom the TCS is collectable must be the person to whom the lease or license or otherwise any express contract, right or interest has been transferred by the assessee to any mine or quarry and royalty is payable by them to the State

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Government through the District Mining Officer. In the instant case, mining lease must be granted in terms of Section 9 of the MMDR Act which provides as under: -

"9. Royalties in respect of mining leases.—

(1) The holder of a mining lease granted before the commencement of this Act shall, notwithstanding anything contained in the instrument of lease or in any law in force at such commencement, pay royalty in respect of any mineral removed or consumed by him or by his agent, manager, employee, contractor or sub-lessee from the leased area after such commencement, at the rate for the time being specified in the Second Schedule in respect of that mineral.

(2) The holder of a mining lease granted on or after the commencement of this Act shall pay royalty in respect of any mineral removed or consumed by him or by his agent, manager, employee, contractor or sub-lessee from the leased area at the rate for the time being specified in the Second Schedule in respect of that mineral.

(2A) The holder of a mining lease, whether granted before or after the commencement of the Mines and Minerals (Regulation and Development) Amendment Act, 1972, shall not be liable to pay any royalty in respect of any coal consumed by a workman engaged in a colliery provided that such consumption by the workman does not exceed one-third of a tonne per month.

(3) The Central Government may, by notification in the Official Gazette, amend the Second Schedule so as to enhance or reduce the rate at which royalty shall be payable in respect of any mineral with effect

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from such date as may be specified in the notification:

Provided that the Central Government shall not enhance the rate of royalty in respect of any mineral more than once during any period of three years."

12. By virtue of Section 9(1) of the MMDR Act, the holder of a mining lease is obliged to pay royalty in respect of any mineral removed or consumed by him or by his agent, manager, employee, contractor or sub-lessee from the leased area at the rate for the time being specified in the Second Schedule in respect of that mineral and the Central Government is empowered to amend the Second Schedule so as to enhance or reduce the rate at which royalty shall be payable in respect of any mineral with effect from such date as may be specified in the notification.

13. Section 23A of the MMDR Act provides for compounding of offences, which states as under: -

"23A. Compounding of offences.-(1) Any offence punishable under this Act or any rule made thereunder may, either before or after the institution of the prosecution, be compounded by the person authorised under section 22 to make a complaint to the court with respect to that offence, on payment to that person, for credit to the Government, of such sum as that person may specify:

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Provided that in the case of an offence punishable with fine only, no such sum shall exceed the maximum amount of fine which may be imposed for that offence.

(2) Where an offence is compounded under sub-section (1), no proceeding or further proceeding, as the case may be, shall be taken against the offender in respect of the offence so compounded, and the offender, if in custody, shall be released forthwith."

14. By virtue of sub-section (1) of Section 23A of the MMDR Act, any offence punishable under this Act or any rule made thereunder may, either before or after the institution of the prosecution, can be compoundable by the person authorised under Section 22 to make a complaint to the court with respect to that offence, on payment to that person, for credit to the Government, of such sum as that person may specify and sub-section (2) provides that where an offence is compounded under sub-section (1), no proceeding or further proceeding, as the case may be, shall be taken against the offender in respect of the offence so compounded, and the offender, if in custody, shall be released forthwith, meaning thereby, once the offence is compounded by paying the compounding fine, the offence punishable under the MMDR Act i.e. the act of illegal mining stands compounded by the person authorised.

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15. The State Government in exercise of the powers conferred by Section 15 of the MMDR Act has framed the rules known as the Chhattisgarh Minor Mineral Rules, 2015 (for short, 'the Rules of 2015'), which shall apply to the grant and regulation of Quarry Leases and other mineral concessions in respect of Minor Minerals and for purposes connected therewith in the State of Chhattisgarh only. Rule 71 of the Rules of 2015 deals with penalty for unauthorized extraction and transportation, which states as under: -

"71. Penalty for unauthorized extraction and transportation.—(1) Whenever any person is found extracting or transporting minerals or on whose behalf such extraction or transportation is being made, otherwise than in accordance with these rules, shall be presumed to be a party to the illegal extraction of minerals and every such person shall be punishable with simple imprisonment for a term which may extend to one year or with fine which may extend to twenty five thousand rupees or with both.

(2) Whenever any person is found extracting or transporting mineral in contravention of the provisions of these rules, the Collector/Joint Director/Deputy Director/Mining Officer/Assistant Mining Officer/Mining Inspector or any Officer authorised by him or Zila Panchayat/Janpad Panchayat/Gram Panchayat, may seize the minerals and its products together with all tools, equipments and vehicles used in committing such offence.

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(3) The officer seizing such illegally extracted or transported mineral or its product, tools, equipments and vehicles shall give a receipt of the same to the person from whose possession such things were so seized and shall make report to the Magistrate having jurisdiction to try such offence.

(4) The property so seized under sub-rule (2) shall be released by the officer who seized such property on execution of a bond to the satisfaction of the officer by the persons from whose possession such property was seized. It shall be produced at such time and place when production is asked for by such officer :

Provided that where a report has been made to a Magistrate under sub-rule (3) then the seized property shall be released only under the orders of such Magistrate.

(5) The Collector/Joint Director/Deputy Director/Mining Officer or any officer authorised by Zila Panchayat/Janpad Panchayat/Gram Panchayats may, either before or after the institution of the prosecution, compound the offence so committed under sub-rule (1) on payment of market value of mineral so extracted or transported and such fine which may extend to double the market value of mineral so extracted or transported, but in no case it shall be less than five thousand rupees or ten times of royalty of minerals so extracted whichever is higher :

Provided that in case of continuing contravention, the Collector/Deputy Director/Mining Officer may, in addition to the fine imposed also recover an amount of one thousand rupees for each day till such contravention continues.

xxx xxx xxx

xxx xxx xxx"

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16. Rule 71 of the Rules of 2015 also provides penalty for unauthorized extraction and transportation and sub-rule (5) of Rule 71 states that the Collector/ Joint Director/Deputy Director/ Mining Officer or any officer authorised by Zila Panchayat/Janpad Panchayat/Gram Panchayats may, either before or after the institution of the prosecution, compound the offence so committed under sub-rule (1) on payment of market value of mineral so extracted or transported and such fine which may extend to double the market value of mineral so extracted or transported, but in no case it shall be less than five thousand rupees or ten times of royalty of minerals so extracted whichever is higher.

17. As such, by virtue of Section 23A of the MMDR Act read with Rule 71(5) of the Rules of 2015, the offence is compounded and effect of compounding is also contained in Section 23A(2) of the MMDR Act.

18. It is well settled position of law that fiscal statutes are strictly construed. Long back, in the matter of Cape Brandy Syndicate v. IRC¹, Justice Rowlatt explained the principles of strict construction of a taxing statutes in the following matter: -

1 (1921) 1 KB 64

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"In a taxing Act one has to look merely at what is clearly said. There is no room for any intendment. There is no equity about a tax. There is no presumption as to tax. Nothing is to be read in, nothing is to be implied. One can only look fairly at the language used."

19. Further, the Supreme Court in the matter of **CST v.**

Modi Sugar Mills Ltd.² has observed as under: -

"In interpreting a taxing statute, equitable consideration are entirely out of place. Nor can taxing statutes be interpreted on any presumptions or assumptions. The court must look squarely at the words of the statute and interpret them. It must interpret a taxing statute in the light of what is clearly expressed; it cannot imply anything which is not expressed; it cannot import provisions in the statutes so as to supply any assumed deficiency."

20. In the matter of **CIT v. Calcutta Knitweaves**³, the

Supreme Court has held that while interpreting fiscal statutes, the court must not add or substitute the word in the provision and their Lordships observed as under: -

"28. This Court in *Tata Consultancy Services v. State of A.P.* [(2005) 1 SCC 308] has ascribed plain meaning to the terms "computer" and "computer programme" in a fiscal statute and reiterating the proposition laid down in *IRC case [IRC v. Rossminster Ltd., (1980) 1 All ER 80 (HL)]*, observed that a court should not be

2 AIR 1961 SC 1047

3 (2014) 6 SCC 444

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overzealous in searching ambiguities or obscurities in words which are plain.

29. In *Prakash Nath Khanna v. CIT* [(2004) 9 SCC 686], this Court has explained that the language employed in a statute is the determinative factor of the legislative intent. The legislature is presumed to have made no mistake. The presumption is that it intended to say what it has said. Assuming there is a defect or an omission in the words used by the legislature, the Court cannot correct or make up the deficiency. Where the legislative intent is clear from the language, the Court should give effect to it. (*Delhi Financial Corpn. v. Rajiv Anand* [(2004) 11 SCC 625] and *State of A.P. v. Road Rollers Owners Welfare Assn.* [(2004) 6 SCC 210])

30. In *B. Premanand v. Mohan Koikal* [(2011) 4 SCC 266 : (2011) 1 SCC (L&S) 676] this Court has observed as follows: (SCC p. 273, para 24)

"24. The literal rule of interpretation really means that there should be no interpretation. In other words, we should read the statute as it is, without distorting or twisting its language. We may mention here that the literal rule of interpretation is not only followed by Judges and lawyers, but it is also followed by the layman in his ordinary life. To give an illustration, if a person says 'this is a pencil', then he means that it is a pencil; and it is not that when he says that the object is a pencil, he means that it is a horse, donkey or an elephant. In other words, the literal rule of interpretation simply means that we mean what we say and we say what we mean. If we do not follow the literal rule of interpretation, social life will become impossible, and we will

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not understand each other. If we say that a certain object is a book, then we mean it is a book. If we say it is a book, but we mean it is a horse, table or an elephant, then we will not be able to communicate with each other. Life will become impossible. Hence, the meaning of the literal rule of interpretation is simply that we mean what we say and we say what we mean."

31. Thus, the language of a taxing statute should ordinarily be read and understood in the sense in which it is harmonious with the object of the statute to effectuate the legislative animation. A taxing statute should be strictly construed; common sense approach, equity, logic, ethics and morality have no role to play. Nothing is to be read in, nothing is to be implied; one can only look fairly at the language used and nothing more and nothing less. (*J. Srinivasa Rao v. State of A.P.* [(2006) 12 SCC 607 : (2006) 13 Scale 27] and *Jagdambika Pratap Narain Singh v. CBDT* [(1975) 4 SCC 578 : 1975 SCC (Tax) 356 : (1975) 100 ITR 698].)"

21. Further, the Supreme Court in the matter of **CIT v. Vatika Township P. Ltd.**⁴ has quoted with approval the following observation of Lord Cairns in the matter of **Partington v. Attorney General**⁵:

"As I understand the principle of all fiscal legislation it is this : If the person sought to be taxed comes within the letter of the law he must be taxed, however, great the hardship may appear to the Judicial mind to be. On the other hand, if the Crown, seeking to recover the tax, cannot bring the subject within the letter of the law, the subject is

4 (2014) 367 ITR 466 (SC)

5 [1869] LR 4 HL 100

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free, however, apparently within the spirit of the law the case might otherwise appear to be."

22. Reverting to the facts of the present case in light of the aforesaid principles of law laid down by their Lordships of the Supreme Court the above-mentioned judgments (supra), the fact remains that Section 206C(1C) of the IT Act only obliges the assessee to collect tax at source from the person to whom such right has been conferred and by whom royalty is payable to the State Government through the District Mining Officer and obligation to collect tax under Section 206C(1C) cannot be extended to the person involved in illegal mining or transporting illegal minerals. Section 206C(1C) of the IT Act specifically obliges to collect tax by the assessee from the lease holder or license holder or with whom the assessee has entered into contract or otherwise transferred any right or interest either in whole or in part in any parking lot or toll plaza or mine or quarry. Similarly, there is no legislative mandate to collect tax at source from the person who is involved in illegal mining or illegal transportation of minerals and similarly, compounding fees/fine is collectable in

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terms of Section 23A of the MMDR Act read with Rule 71(5) of the Rules of 2015 and the effect of compounding would be that on being compounded under Section 23A(1), no proceeding or further proceeding shall be taken and the offender, if in custody, shall be released forthwith. Similar provision has been laid down in Section 320 of the Code of Criminal Procedure, 1973, which deals with compounding of offences and sub-section (8) of Section 320 clearly mandates that the compounding of an offence under Section 320 shall have the effect of an acquittal of the accused with whom the offence has been compounded. As such, compounding fee/fine cannot be subjected to proceeding under Section 206C(1C) of the IT Act, as there is no legislative mandate to collect tax at source (TCS) on compounding fee/fine collected under Section 23A of the MMDR Act read with Rule 71(5) of the Rules of 2015. As such, by virtue of the provisions contained in Section 206C(1C) of the IT Act, there is legislative command to collect TCS from the amount of royalty and simultaneously, there is no legislative command to recover TCS from the amount of compounding fee/fine under Section 23A of the MMDR Act read with Rule 71(5) of the Rules of 2015,

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as the royalty does not include the compounding fee/fine and the terms "royalty" and "compounding fee", both, are mutually exclusive. Therefore, the ITAT is completely unjustified in holding that compounding fee/fine (TCS) would be chargeable under Section 206C(1C) of the IT Act by relying upon the definition contained in Section 2(47) of the IT Act. Accordingly, we are unable to uphold the judgment & order passed by the ITAT relying on Section 2(47) of the IT Act.

23. In view of the above, the impugned judgment & order dated 21-7-2023 passed by the ITAT making demand and levying interest & penalty for non-compliance of Section 206C(1C) of the IT Act cannot be sustained and accordingly, it is set aside. The substantial question of law is answered in favour of the assessee and against the Revenue.

24. The impugned order in all the 28 appeals are hereby set side and all the 28 tax appeals are allowed to the extent indicated herein-above. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
JUDGE

Sd/-
(Deepak Kumar Tiwari)
JUDGE