



LEVY OF GST ON MINING ROYALTY

DMFT & RSMET

July 8th, 2022



OVERVIEW

- ❖ Levy of GST upon payment of royalty, DMFT (District Mineral Foundation) & RSMET (Rajasthan State Mineral Exploration Trust) by mining lease holders has now been a subject matter of constant tussle between government and lease holders.
 - ❖ That this issue was before the Hon'ble Supreme Court while challenging the above-mentioned levy of GST, wherein, initially the Hon'ble Apex Court granted interim orders against recovery to the petitioners, however, thereafter petitioners were directed to approach the respective High Courts.
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WHY GST CANNOT BE MADE LIABLE UPON PAYMENT OF ROYALTY?



The petitions have been filed mainly on the following grounds: -

- ❖ Royalty charged by the State on mining leases is itself in a nature of Tax, and therefore Tax cannot be levied upon Tax.
 - ❖ The issue of Service Tax on royalty paid by mining lease holders is already pending adjudication before the Hon'ble SC.
 - ❖ The payment towards DMFT & RSMET, as made the lease holders is in the nature contribution in the said fund, and the same is not being paid for any kind of goods and service.
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LEVY OF GST ON DEADRENT

- ❖ The department while issuing demands by way of DRC-01A Forms, also erred while calculating the total amount of royalty, as it has been calculated in excess by them, as while calculating the said amount the Department also added the amount of dead rent in the amount of royalty as assessed by the Mining Department. Whereas, the amount of royalty which is being calculated by the Mining Department is inclusive of Dead Rent, hence act of the GST department in adding the said amount twice for the purpose of levy of GST is fallacious.
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CHALLENGE TO THE RECOVERY NOTICES (DRC-01A)



- ❖ That such levy was challenged by Eastern General Industries Ltd. a Mining lease holder before the Division Bench of Rajasthan High Court, wherein the bench comprising of Hon'ble Mr. Justice Sandeep Mehta and Hon'ble Mr. Justice Kuldeep Mathur, after hearing Mr. Vinay Kothari the counsel for the petitioner, vide its interim order dtd.8.7.2022 stayed the proposed recovery of GST on royalty qua the petitioners. However, the respondent department was given the liberty to continue with the proceedings which had been initiated under the impugned notices.
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OUR ORGANIZATION

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Dr. Justice Vineet Kothari (Former)
Adv Meena Kothari
Adv Vinay Kothari
Adv Devendra Singh Chouhan
Adv Mehul Kothari
Adv Pradeep Singh Khichi
Adv Adarsh Kothari
Adv Richa Kothari
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