

07.11.2023 Present: Mr. Sahil Singla, Mr. Sachit Singla and Mr. Arvind Sharma, Advocates, for the petitioner.

Mr. Balram Sharma, Deputy Solicitor General of India, for respondents no.1, 3 and 4.

Mr. Rakesh Dhaulta & Mr. Pranay Pratap Singh, Additional Advocates General with Mr. Arsh Rattan & Mr. Sidharth Jalta, Deputy Advocates General and Mr. Rakesh Sharma, Assisting Counsel, for respondent no.2-State.

Notice. Mr. Balram Sharma, learned Deputy Solicitor General of India and Mr. Rakesh Sharma, learned Assisting Counsel, accept service of notice on behalf of respondents no.1,3 & 4 and respondent no.2, respectively.

2. Reply be filed before the next date of hearing.

3. List on **27.02.2024**.

4. The question which arises for consideration in this Writ petition is whether there can be levy of GST on royalty paid by a Mineral Concession Holder for any mining concession granted by the State.

5. A Seven Judge Bench of Hon'ble Supreme Court in *India Cement Ltd. and others Vs. State of Tamil Nadu and others, (1990)1 Supreme Court Cases 12*, has declared that royalty itself is a tax. This declaration of law is binding on the respondents as well as on this Court prima-facie. Therefore, any demand for GST on royalty by the respondents would prima-facie amount to levying a

tax on tax, which should be beyond the legislative competence of the respondents.

6. Therefore, there shall be an interim stay of all further proceedings emanating from notices (Annexure P-17) dt. 15.12.2022 17), (Annexure P-19) dt. 22.06.2023, (Annexure P-20) dt. 12.10.2023 & (Annexure P-27) dt. 30.10.2023 and summons (Annexure P-26) dt. 23.10.2023, until further orders.

(M.S. Ramachandra Rao)
Chief Justice

November 07, 2023
R. Atal

(Jyotsna Rewal Dua)
Judge