2025:CGHC:49973-DB

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPT No. 263 of 2023

Shree Cement Limited Company Incorporated Under The Companies Act, 1956 Having Registered Office At Bangur Nagar, Beawar- 305901, District Ajmer, (Raj.)

And Having Unit- Shree Raipur Cement Plant At Village- Khaparadih, Tehsil, Simga, District Baloda Bazar- 493332 CG And Limestone Mines At Vill. Baharuwadih And Semaradih- Tehsil Baloda Bazar District- Baloda Bazar- 493332 CG

Through- Its Authorized Signatory Ashish Bharadia S/o Sh. Shree Gopal Bharadia, 40 Yrs., Senior Manager (Taxation), Shree Raipur Cement Plant (A Unit of Shree Cement Limited) At- Ps Khapradih Teh. Simga, Balodabazar-Bhathapara, Chhattisgarh

... Petitioner(s)

versus

1 - State Of Chhattisgarh Through The Secretary, Revenue And Disaster Management Department, Mahanadi Bhawan, Atal Nagar, Naya Raipur- 492101, Raipur, Chhattisgarh

2 - State Of Chhattisgarh Through The Secretary, Panchayat And Rural Development Department, Mantralaya, Naya Raipur 492101, Chhattisgarh

3 - Secretary Mineral Resources Department, Indravati Bhawan, Block 4, Second Floor, Atal Nagar, Naya Raipur- 492101, District : Raipur, Chhattisgarh

4 - District Collector (Mineral Branch), Collectorate, District Balodabazar-Bhathapara, 493332, Chhattisgarh

5 - Union Of India Through The Secretary, Ministry Of Mines, Shastri Bhawan, Dr. Rajendra Prasad Road, New Delhi, Delhi - 110001

... Respondent(s)

For Petitioner(s)	: Mr. Balbir Singh, Senior Advocate assisted by Mr. M.P.Devnath, Mr. Raja Sharma, Mr. Abhishek Anand and Ms. Aditi Parakh, Advocates.
For Respondents No. 1 to 4 / State	: Mr. Shashank Thakur, Deputy Advocate General

For Respondent No. 5 : None
Date of Hearing : 03/09/2025
Date of Judgment : 08/10/2025

Hon'ble Mr. Ramesh Sinha, Chief Justice
Hon'ble Mr. Bibhu Datta Guru, Judge

C.A.V. Judgment

***Per* Ramesh Sinha, Chief Justice**

1. Heard Mr. Balbir Singh, learned Senior Advocate assisted by Mr. M.P.Devnath, Mr. Raja Sharma, Mr. Abhishek Anand and Ms. Aditi Parakh, learned counsel for the petitioners as well as Mr. Shashank Thakur, learned Deputy Advocate General for the State/respondents No. 1 to 4.

2. By this petition under Article 226 of the Constitution of India, the petitioner seeks for the following relief(s):

> *"(a) to issue Writ of Certiorari and/or Writ in nature of Certiorari and/or any other similar/appropriate Writ, calling for entire records concerning the case from the possession of the Respondents for its kind perusal and declare & hold that in absence of levy & collection including payment of land revenue or rent under the Chhattisgarh Land Revenue Code, 1959, no Cess can be levied & collected from the Petitioner under of Section 3 & Section 4 of the CGUA, 2005 and/or;*
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> *(b) to issue Writ of Certiorari and/or Writ in nature of Certiorari and/or any other similar/appropriate Writ, calling for entire records concerning the case from the possession of the Respondents for its kind perusal and declare & hold that no levy and collection of Cesses, under of Section 3 & Section 4 of the CGUA, 2005, by auto debit or from advance deposits can be made & was required to be made from the Petitioner and/or;*
>
> *(c) to issue Writ of Certiorari and/or Writ in nature of Certiorari and/or any other similar/appropriate Writ, calling for entire records concerning the case from the possession of the Respondents for its kind perusal and declare & hold that levy and collection of*

Cesses, under of Section 3 & Section 4 of the CGUA, 2005, from the Petitioner by the Respondents, has been made without authority of law and/or,

(d) to issue Writ of Certiorari and/or Writ in nature of Certiorari and/or any other similar/appropriate Writ, calling for entire records concerning the case from the possession of the Respondents for its kind perusal and declare & hold that the Notification dated 27.12.2011 (at Annex. P/6) issued under Chhattisgarh Land under Mining Leases Quarry Leases Assessment Rules, 1987, for the entire period from 27.12.2011 to 31.1.2020, prior to its repeal by Notification of 31.1.2020, as invalid and non-est & thus not binding and/or,

(e) to issue Writ of Mandamus and/or Writ in nature of Mandamus and/or any other similar/appropriate Writ directing the Respondents to forthwith stop levy & collection of Cesses, under of Section 3 & Section 4 of the CGUA, 2005, in any manner or by any mode, from the Petitioner and/or;

(f) to issue Writ of Mandamus and/or Writ in nature of Mandamus and/or any other similar/appropriate Writ directing the Respondents to credit back or refund the entire amount of both cesses collected from 16.4.2015 onwards and till date as well any amount of cesses that may get further collected/auto debited while generating Ravannas on-line, till final disposal of present petition in the interim period and/or; (g) to issue Writ of Mandamus and/or Writ in nature of Mandamus and/or any other similar/appropriate Writ directing the Respondents to continue issuing Ravannas on-line without insisting on payment of Cesses levied & collected under Section 3 & 4 of the of the CGUA, 2005 and/or;

(h) to pass any other relief/reliefs, which this Hon'ble Court may think fit and proper in the facts and circumstances of the case, with cost of the petition, may also please be granted to the Petitioner."

3. The facts, in brief, as projected by the petitioner are that the petitioner is a Public Limited Company duly registered under the provisions of the Companies Act, 1956 under Registration No. 1935 of 1979-80 issued by

Registrar of Companies, Rajasthan, having its Registered Office at Bangur Nagar, Beawar-305 901, District Ajmer, Rajasthan. Shree Raipur Cement Plant of Petitioner company, is situated at Village Khaparadih, Tehsil Simga, District Baloda Bazar and has its own Limestone (Cement Grade) Mines for captive use in manufacture of cement situated at Bharuwadih and Semaradih villages, Tehsil Baloda Bazar, District Baloda Bazar.

4. The petitioner-Company is engaged in manufacture and sale of Grey Cement and generation of power. It has pan India presence with captive mines of Limestone (Cement Grade) with associated cement manufacturing units set up at Bangur Nagar, Beawar, District Ajmer and near village Ras, Tehsil Jaitaran, District Pali in Rajasthan State; near village Kodla, Sedam Taluka, District Kalaburagi in Karnataka and at Village Khaparadih, Tehsil Simga, District Baloda Bazar in Chhattisgarh. It has also set up Cement Grinding Units at various places including States of Rajasthan, Uttarakhand, Uttar Pradesh, Haryana, Bihar and Jharkhand.

5. The petitioner has been granted mining leases (*for short, the ML*) for extraction of mineral limestone from the lands of area of 531.126 Hectares situated at Bharuwadih and Semradih villages in Tehsil Baloda Bazar vide letter No. 2-32/2003/12(3) dated 12.7.2010 issued by the Under Secretary, Mineral Resources Department, Government of Chhattisgarh. Accordingly, ML, in prescribed Form-K as referred to in Rule 31 of *Mineral Concession Rules, 1960* (*for short, the Rules of 1960*), executed on 11.01.2011 between the State of Chhattisgarh and the petitioner for a period of 30 years. ML (Part V) clearly indicates that petitioner is required to pay (i) royalty and/or dead rent (ii) surface rent and water rate in manner and rate specified therein. The surface rent at

the rate specified therein is required to be paid for the area so occupied or used for mining operation. Also, in terms of Sr. No. 01 to Part VII of the ML/Form K, the petitioner is required to pay rents, royalties and taxes etc., except demand for land revenue. In other words, said ML has provided for all the payments that is required to be made to the State Government in relation to aforesaid captive mining operation. The period of ML has been extended till 10.01.2061 (in terms of provisions of the Mines and Minerals (Development and Regulations) Amendment Act, 2015) by executing amendment agreement between State of Chhattisgarh and the petitioner on 14.07.2016.

6. As per Section 258(1) of *Madhya Pradesh Land Revenue Code, 1959* {*for short, the MPLRC*} as adopted/ renamed as *Chhattisgarh Land Revenue Code, 1959* {*for short, the CGLRC*}, the State Government has powers to make rules in respect of matters listed in sub-section (2) of Section 258. While vide Clause (iii), rules can be framed for regulation of land revenue on diversion of land to other purposes and imposition of premium under Section 59, sub-clause (iv) provides for making rules relating assessment on un-assessed land under section 60. Vide Section 59(1)(e) of *CGLRC,* the assessment of land revenue on any land with reference to the use of land for purpose of mining under a mining lease within meaning of *Mines and Minerals (Regulation and Development) Act, 1957* (*for short, the MMDRA*) is provided, State of MP/CG made rules regarding alteration of assessment and imposition of premium for purpose of levy of premium under Section 59, *inter-alia,* for diversion from agricultural to non-agricultural purposes in urban as well non-urban areas. As per schedule giving rates, for Class-VI *i.e.* villages whose population is more than 2 thousand and land whether for residential and other purpose or for commercial and industrial purposes, the "Nil" rate is

provided thereby fully exempting same from levy of any "land revenue" or any kind of "premium" for use of land from agriculture purposes to non agriculture purposes. Further, the State of Madhya Pradesh, in year 1987 vide Notification No. F.37-1-VII-Sec.8-87 dated 04.12.1987, published in M.P Rajpatra (Ext.) dated 04.12.1987, framed Rules namely *Madhya Pradesh Land Under Mining Leases Quarry Leases Assessment Rules, 1987*, in exercise of the powers conferred by Sections 59, 60, 71 and 98 read with Clause (iii) of sub-section (2) of Section 258 of *MPLRC*. As per Rule 2 (c), the expression used in these Rules and defined in the Code or the *MMDRA,* shall have the meanings assigned to them in the said Act. Further, as per Table given in Rule 3, the rate of assessment of land revenue per hectare slab-wise was given, whereby while for area of 4 hectares and less was at Rs. 200/- progressively increasing and in respect of area more than 25 Hectares, it was fixed at Rs. 5,000/- per hectare. As per Rule 5, the assessment fixed according to Rule 3 shall be for the whole year payable in four equal installments. Since, all existing provisions continued on adoption of MPLRC by State of Chhattisgarh, these Rules also continued on statue book of State of Chhattisgarh.

7. The new Assessment Rules, 1987 made by the State Government *i.e*. State of Madhya Pradesh, namely the *Madhya Pradesh Land Under Mining Leases Quarry Leases Assessment Rules, 1987* and demand notice issued on basis of rates given in said Rules of 1987 were challenged by way of Misc. Petition No. 980 of 1988, titled ***Satna Stone and Lime Co. Ltd. and Ors. v. State of Madhya Pradesh & Ors*** *(AIR 1988 MP 286)*. A Division Bench of Madhya Pradesh High Court of vide decision dated 07.05.1988, while allowing the petition, although the MPLRC (Amendment) Act, 1987 (No. 25 of 1987) was declared to be within the legislative competence of the State Legislature, the *Madhya*

Pradesh Land under Mining Leases Quarry Leases Assessment Rules, 1987, were stuck down as unreasonable, invalid and violative of Article 14 of the Constitution. Accordingly, the various assessment orders made and demand notices issued against the petitioners in the various petitions, including those in the present petition, for payment of land revenue in respect of lands given to them under their respective MLs for mining purposes, were quashed. The validity of the *Madhya Pradesh Upkar Adhiniyam, 1981* as amended by *Madhya Pradesh (Sanshodan) Adhiniyam, 1987* imposing cess on land held in connection with mineral rights and as per Section 11 was levied on minerals produced in land held under ML was challenged. The Full Bench judgment of Hon'ble MP High Court decided on 05.05.1989 in lead case of Misc. Petition No. 3055 of 1987- ***M.P. Lime Manufacturers' Association, Katni and Ors. v. State of Madhya Pradesh & Ors***. {AIR 1989 MP 264} declared provisions of Section 11 of *M.P. Upkar Adhiniyam 1981* as amended by *M.P. Upkar Adhiniyam 1987*, imposing cess on mineral as *ultra vires* and the respondents were restrained from recovering any cess from petitioners therein. Even the SLP filed by State of Madhya Pradesh was dismissed by Hon'ble Supreme Court on 05.02.1990 and as such Full Bench's judgment attained finality.

8. The villages situated in Tehsil Baloda Bazar in which the petitioner is having mining lease for limestone, which were earlier part of State of Madhya Pradesh, on enactment of Madhya Pradesh Reorganization Act, 2000 (No. 28 of 2000) by the Parliament had became part of State of Chhattisgarh w.e.f. 01.11.2000. Vide Notification F-6-24/Revenue/2001 dated 23.11.2001 issued by State Government of Chhattisgarh, in exercise of powers under Section 79 of the *Madhya Pradesh Reorganization Act, 2000* by Adoption of Laws Order, 2000, made the

MPLRC (No. 20 of 1959), as was in force in the State of Madhya Pradesh, extended to and enforceable in the State of Chhattisgarh until repealed or amended from 01.11.2000, subject to modifications that in all the laws for word "Madhya Pradesh" wherever they occur the word "Chhattisgarh" shall be substituted. Since, all existing provisions continued on adoption of MPLRC by State of Chhattisgarh, these Rules namely "*Madhya Pradesh Land Under Mining Leases Quarry Leases Assessment Rules, 1987*" despite struck down by Full Bench of the Madhya Pradesh High Court, appears to have been continued on statue book of State of Chhattisgarh.

9. The State of Chhattisgarh enacted the *Chhattisgarh (Adhosanrachna Vikas Evam Paryavaran) Upkar Adhiniyam, 2005* (*for short, the Act of 2005*) with effect from its publication, which was done on 27.05.2005 in the Chhattisgarh State Gazette. The preamble to Act of 2005 reads as "a*n Act to provide for levy of Cess on land for raising funds to implement infrastructure development projects and environment improvement projects*" and extends to whole of State of Chhattisgarh. As per Section 2(1)(a), "cess" means the infrastructure development (*for short, the ID cess*) levied under Section 3 or the environment cess (*for short, the E cess*) levied under Section 4 of this Act. “Infrastructure development fund" means the fund established under section 3 of this Act and the "environment fund" means the fund established under Section 4 of the Act. In Section 2(1)(d), "mining lease" has been defined as a lease granted under the MMDR Act. The aforesaid Act i.e. Act of 2005 seeks to levy and collect ID cess as well as E cess. In terms of the provisions of Act of 2005 i.e. Section 3 and 4, respectively, the cesses have been sought to be levied on all lands on which land revenue or rent by whatever name called is levied. However, as per proviso to both Sections

3 and 4, it is provided that ID cess or E cess shall not be levied on land which for the time being is exempt from payment of land revenue or rent, as the case may be. As per sub-section (2) of both Sections 3 and 4, the rate of cess which is to be levied, has been specified in Schedule I and II, respectively. The schedules have provided for classification of land mainly based only under mining lease or otherwise. In the schedules, as notified along with Act of 2005, itself on 27.5.2005, while under Serial (1) for coal and iron ore mining leases rate has been made function of "tonne of annual dispatch of mineral" at rate of Rs. 5/- on each tonne of annual dispatch of minerals and for other mining leases at Serial (2), the rate has been made function of "royalty payable annually" at rate of 5% of amount of royalty payable annually. For land other than land covered above under Serial (1) or (2) i.e. other than mining leases, rate is function of "the amount of land revenue or rent payable annually" at the rate of 5% of the amount of land revenue or rent, as the case may be payable annually. Thus, as per Act of 2005, in respect of mineral limestone, as per Serial 2 of the Schedules I or II, as was enacted, both cesses were collected individually at 5% of royalty and in totality at 10% of royalty payable annually. These cesses were in addition to royalty and all other levies payable by concerned lessee/ holder of mining Lease. On 20.12.2005, the State Government, in exercise of the powers under sub-section (1) of Section 9 of the Act of 2005 made the rules namely *Chhattisgarh (Adhosanrachna Vikas Evam Paryavaran) Upkar Niyam, 2005* (*for short Rules of 2005*) which on its publication by the Revenue Department vide Notification No. 4-50/Seven/ Revenue/2005/4056 dated 20.12.2005 in Chhattisgarh Rajpatra (Extraordinary) came into force from 20.12.2005. Vide Rule 5, the manner of payment of tax is prescribed. In Rule 6, penalty for default of payment (not exceeding 3 times of tax payable)

under Act by the holder of any mineral bearing land is prescribed apart from other rules relating to assessment, submission of return, appeal, recovery of tax, establishment and administration of both funds with formats thereof are appended to the said Rules of 2005.

10. Mr. Balbir Singh, learned Senior Advocate assisted by Mr. M.P.Devnath Mr. Raja Sharma, Mr. Abhishek Anand and Ms. Aditi Parakh, learned counsel for the petitioner submits that despite the Hon'ble Madhya Pradesh High Court having quashed the the *M.P. Land under Mining Leases Quarry Leases Assessment Rules, 1987* in ***Satna Stone and Lime*** (supra) which the State of Chhattisgarh has only adopted and renamed as *Chhattisgarh Land under Mining Leases Quarry Leases Assessment Rules, 1987*, still the Revenue and Disaster Management Department, issued the Notification No. F-6-36/Seven-1/2011 dated 27.12.2011 as amendment to Table attached to Rule 3, enhancing rate of assessment of land revenue per hectare substantially. In case of total area leased out for any particular mine or quarry, the rate for more than 25 Hectares has been prescribed at Rs. 25,000/-per hectare. On 17.12.2012, the State Government amended the Cess Rules, 2005 and after Rule 10, added Rule 10A dealing with establishment of the Chhattisgarh Infrastructure Development and Environment Fund and manner of its disposal and in sub-rule (3) of Rule 10A, the activities in which fund is to be utilized is stated. On 22.8.2013 vide C*hhattisgarh (Adhosanrachana Vikas Evam Paryavaran) Upkar Adhiniyam (Sanshodhan) Adhiniyam, 2013*, the Amendment of Schedule -I and Schedule-II at Serial No. 1 of both against earlier "On land covered under coal and iron ore mining leases", was substituted by "On land under coal, iron ore, limestone, bauxite and dolomite mining leases". With this, on limestone as against 5% of amount of royalty payable annually, it was

made Rs.5 on each tonne of annual dispatch of mineral like coal or iron ore. On 27.3.2015, the *Mines and Minerals (Development and Regulation) Amendment Act, 2015* (No. 10 of 2015) as enacted by the Parliament and having received assent of the President, was published in the Gazette of India and as per Section 1(2), it was deemed to have come into force on the 12.01.2015, as it was in substitution of the MMDR Amendment Ordinance, 2015. Apart from many other provisions, including putting bauxite, iron ore, limestone and manganese ore was made "notified mineral" as defined in newly inserted clause (ea) in Section 3, in addition to those remaining in Second Schedule related to "major minerals". Further vide Section 8A by sub-clause (3), it was stipulated that all mining leases granted before commencement of the MMDR Amendment Act, 2015 shall be deemed to have been granted for a period of fifty years. The MMDR Amendment Act, 2015 also added Section 9B relating to District Mineral Foundation. On 16.6.2015, vide Notification No. F4-09/Seven-1/2015 dated 16.6.2015 published on same date, the State Government substituted Schedule I and Schedule II of the Act of 2005, increasing rate of both ID cess and E cess from existing rate of Rs. 5/- per tonne to Rs. 7.50 per tonne in respect of limestone at Entry-1. Thus total incidence of both cesses increased from Rs. 10/- to Rs. 15/- per tonne of limestone. For same effect on 8.9.2015, the State Government vide Amendment Notification of Act of 2005 bearing Notification No. F4-09/Seven-1/2015 substituted Schedule I and Schedule II under Rules of 2005, to give effect of increase of rate of both cesses i.e. ID cess and E cess from existing rate of Rs 5/- per tonne to Rs. 7.50 per tonne in respect of limestone at Entry-1 and schedules appended to Rules of 2005. Same was published on 18.9.2015.

11. On 16.9.2015, Ministry of Mines, Government of India vide Order No.

16/7/2015-M. VI (Part) dated 16.9.2015, in exercise of powers under Section 20A of MMDR Act, purported to be in national interest, directed concerned State Governments that Notification establishing District Mineral Foundations shall state that such District Mineral Foundations shall be deemed to have come into existence with effect from the 12th day of January, 2015. On same date, by an another Order bearing same Ref. i.e. No. 16/7/2015-M. VI (Part) dated 16.9.2015 was issued by Ministry of Mines, Government of India along with Annexure with title *Pradhan Mantri Khanij Kshetra Kalyan Yojana* (PMKKKY) to incorporate same in Rules framed by State Government in terms of Section 9B (3) of MMDR Act, 1957 for the District Mineral Foundations and to implement said scheme. The purposes for which contribution to DMF would be utilized is listed in the Annexure attached thereto, which purposes are similar to the purposes for which both cesses imposed under Act of 2005 was intended to be used. On 17.9.2015, vide Notification G.S.R. 715(E) bearing F.No.16/7/2015-M.VI published in Gazette of India dated 17.9.2015, the Ministry of Mines notified Rules called as the "Mines and Minerals (Contribution to District Mineral Foundation) Rules, 2015 and made those Rules as deemed to have come into force on the 12th day of January, 2015. By Rule 2(b), it was specified that every holder of a mining lease or a prospecting licence cum-mining lease shall, in addition to the royalty, pay to the District Mineral Foundation of the district in which mining operation are carried on, an amount at the rate of thirty percent of the royalty paid in terms of the second schedule to the said Act in respect of mining leases granted before 12.01.2015. This notification was issued in exercise of powers conferred by sub-section (5) and (6) of Section 9B of MMDR Act, 1957. On 22.12.2015, the State Government of Chhattisgarh, in exercise of powers by Section 9B, 15 (4) and 15A of

MMDR Act, 1957 made the Rules called as "Chhattisgarh District Mineral Foundation Trust Rules, 2015" (*for short, DMFT Rules*) and notified same vide Notification No. F7-19/2015/12 dated 22.12.2015, to extend it to the whole State of Chhattisgarh. As per above DMFT Rules, (which is applicable for Baloda Bazar-Bhatapara District), on 22.12.2015 vide Clause 22 thereof dealing with expenditure from the Trust Fund, it is provided that at least 60% of funds shall be utilized for high priority areas like drinking water supply, environment prevention and pollution control measures, health care, education in affected areas, skill development, sanitation etc while rest 40% of Trust Funds for purposes of creating Physical Infrastructure, irrigation, energy and watershed development and any other infrastructure work and also for funding of the various development and infrastructure projects of Govt or under PPP Mode etc. This list is exhaustive and enlarged and covers areas as stated also in the Clause 3 of the Notification dated 17.12.2012 (at Annex-P/7), wherein use of the both cesses was intended for activities like Infrastructure Works- Electricity, drinking water supply, construction and maintenance of community hall, approach road, campaigning for employment oriented education, environment development works and development of affected areas.

12. Mr. Singh further submits that considering the fact that in State of Chhattisgarh, relevant DMFT Rules of State were notified on 22.12.2015, the petitioner paid contribution for the month of December, 2015 from date of forming the Trust in Balada-Bazar i.e. from 22.12.2015 to 31.12.2015 in respect of petitioner's limestone mines at Baloda Bazar (ML No. 38/2007) amounting to Rs.7,23,816/- as communicated to ME, Baloda Bazar. In letter though actually submitted on 14.1.2016 but date is inadvertently stated as 14.1.2015 instead of correct date of 14.1.2016.

Though in Chhattisgarh, the DMFT Rules was notified in State Gazette on 22.12.2015, the petitioner in light of Hon'ble Supreme Court judgment dated 13.10.2017 and WP(Civil) No. 2225/2016, as filed by petitioner was pending before Hon'ble Delhi High Court, in terms of order dated 28.11.2017 deposited contribution to DMFT of Balodabazar for period 17.9.2015 to 21.12.2015 totaling to Rs.1,16,23,728/-, subject to outcome of pending litigation between parties before Hon'ble Delhi High Court and in that respect submitted aforesaid payment by four cheques all dated 26.12.2017 with its letter dated 27.12.2017, duly receipted on 28.12.2017 at end of respondent No. 4. With that, the petitioner had paid the contribution to the DMFT of Baloda-Bazar-Bhatapara from 17.9.2015 onwards and same is continuing since date. On 04.10.2018, the State Government, vide Amendment Notification to Rule 5 of the Rules of 2005, bearing Notification No. F4-09/Seven-1/2015 stated that payment of tax under Section 3 and 4 *i.e.* both cesses shall be made in advance based on dispatch of mineral. On 04.09.2019 vide Notification No. F4-09/2015/Seven-1, the State Government substituted Schedule 1 and Schedule II of the Act of 2005, increasing rate of both ID cess and E cess from existing rate of Rs.7.50 per tonne to Rs. 11.25 per tonne in respect of limestone at Entry-1. Thus total incidence of both cesses increased from Rs.15 to Rs. 22.50 per tonne. On 15.10.2019, in exercise of powers under Act of 2005, an amendment Notification No. F4-09/ Seven-1/2015 dated 15.10.2019 has been issued whereby the Schedule 1 and Schedule II as attached to Rules of 2005 under Rule 4 has been substituted in respect of both ID cess and E cess.

13. Mr. Singh further submits that the validity of Chhattishgarh Land Under Mining Leases Quarry Leases Assessment Rule, 1987 as well demand notices issued there-under, came to be challenged by Bharat Aluminium

Company Ltd. before this Hon'ble Court when they were faced with the demand notices from State Government to pay land revenue at rates notified vide Notification dated 27.12.2011 in respect of land under mining leases quarry leases held by them. This Hon'ble Court vide order passed in WPC No. 3216/2019 ***Bharat Aluminium Company Ltd Vs. State of Chhattisgarh & Ors***. on plea of petitioner about struck down of same rules as adopted from the M.P. which was existing in 1987 named and styled as Madhya Pradesh Land Under Mining Leases Quarry Leases Assessment Rules, 1987, by the Hon'ble M.P. High Court in case of ***Satna Stone and Lime Crusher Co. Ltd.*** (supra) and considering the issue involved and the earlier judgment, directed that no coercive steps shall be taken against petitioner pursuant to demand notice dated 24.6.2019 till the next date of hearing vide Order dated 16.9.2019. On 31.1.2020, the Revenue & Disaster Management Department, Chhattisgarh itself finding that Notification No. F-6-36/Seven-1/2011 dated 27.12.2011(at Annx-P/10) being in teeth of judgment dated 7.5.1988 of the Hon'ble High Court of M.P. in Misc. Petition No. 980 of 1988 in ***Satna Stone & Lime Co. Ltd*** (supra) as relevant Rules of 1987 were held invalid, though not specifically stated and merely stated as issued under exercise of powers under Section 258 (2) read with Section 59 (1) of Chhattisgarh Land Revenue Code, 1959 had repealed above stated Notification of 27.12.2011 itself by the Notification No.F-6-36/Seven-1/2011 dated 31.1.2020. It is further learnt that same had also been placed on record by respondents in pending WPC No. 3216 of 2019 filed by Bharat Aluminum Co Ltd. Consequently, no land revenue on land under mining leases is to be paid, is clearly intended by the State Government as was not required to be paid in terms of judgment dated 7.5.1988, nor was ever paid by petitioner as relevant

M.P. Rules of 1987 were already quashed and the State of Chhattisgarh just adopted same as it as by merely renaming as Chhattisarh Land under Mining Leases Quarry Leases Assessment Rules, 1987 while adopting M.P. Land Revenue Code, 1959.

14. After making the aforesaid submissions, Mr. Singh submits that from the above, what clearly emerges is that :

(a) The levy and collection of the said two types of cesses, under Section 3 or Section 4 of the Act of 2005, are function of dependent upon land revenue or rent. In other words, "charge" of cess is dependent upon land revenue or rent.

(b) There is no levy and collection of Land Revenue, so far as petitioner's land under mining lease is concerned, under the Chhattisgarh Land Revenue Code, 1959, more specifically under Chapter VI & XI.

(c) Thus, in absence of levy and collection including payment of land revenue or rent under the Chhattisgarh Land Revenue Code, 1959, in view of Section 3 or Section 4 of the Act of 2005 including their respective provisos, no levy and collection of cesses by auto debit or recovery from advance deposits can be made & was required to be made from the Petitioner. Therefore, entire levy and collection of the cesses has been made without authority of law against mandate of Article 265 including statutory scheme of the Act of 2005.

(d) Without prejudice, the petitioner was granted captive mining lease in relation to Limestone (cement grade), which is major mineral listed in Second Schedule of MMDR Act, 1957 and for which rate of Royalty is fixed by Central Govt. The Limestone is also included w.e.f. 12.1.2015 as a "notified mineral" as defined in Section 3(ea) of MMDR Act and find listed in Fourth Schedule. Thus Limestone (Cement

grade) apart from being "Major mineral" it is also "Notified Mineral" under MMDR Act.

(e) In terms with constitutional as well as statutory scheme, entire area of levy and collection of royalty and rents. environmental protection as well as development of area in relation to mining of limestone, in so far as present Petitioner is concerned, is exclusively within domain of central regulation & MMDR Act.

(f) Contribution to DMF is made by holder of mining lease to benefit of persons and areas affected by mining related operations and purpose of same is akin to impugned levy of cess by Act of 2005. The Petitioner had paid Cess since start from 16.4.2015 as well DMF Contribution from 17.9.2015 onwards and same is well known to the respondents.

15. Mr. Singh next submits that the petitioner since beginning of limestone production from the mining lease at Balodabazar on 16.4.2015 had paid infrastructure cess (under Section 3) and Environment Cess (under Section 4) of the Act of 2005, year wise till July 2022, as detailed in paragraph 8.32 of the petition which comes to Rs. 65,21,58,778/-. the petitioner, from 17.09.2015 onward has made contribution to District Mineral Fund Trust at 30% of royalty i.e. at Rs. 24/- per tonne under Section 9B of MMDR Amendment Act, 2015 to the respondent No. 4 and as upto 30.11.2020, he has paid total contribution of Rs. 58,22,30,016/-.

16. As both the cess(es) are to be paid in advance, along with royalty, DMF and other payments and without same, no Ravannas can be issued online without keeping the deposit and same is auto adjusted/debit in the system, the petitioner had no option but to continue to make further deposits till date. The petitioner made a humble request vide letter No. SCL/SRCP/2020-21/19073 dated 24.11.2020 to respondents Nos.1

and.3, along with copy of Notification dated 31.1.2020, the judgment dated 07.05.1988 and a copy of Act of 2005 to kindly refer the provisos under Section 3 and 4 of Cess Act of 2005, stipulating that these cess(es) are not leviable on land which for the time being is not levied/exempt from payment of land revenue or rent, as the case may be. It was requested to them for issuing directions for immediate stoppage of auto deduction of cess by requisite correction(s)/modification(s) in the online system of Department concerning petitioner's mining lease so that there is no further auto deduction of cess from advance payments towards royalty etc. at the time of online generation of Ravannas. It was also prayed for crediting the entire deductions made towards cess from beginning i.e. 16.4.2015 by Department and as interim relief, the credit in respect of deductions made from 01.02.2020 to till date, be given. Said letter had duly receipted by respondents. Though the respondents were required to consider the request of the petitioner as made vide letter dated 24.11.2020 and also at least issue the necessary directions for immediate stoppage of auto deduction of cess by requisite corrections/modifications in their online system so that petitioner Company can generate Ravanna, which is possible only by having adequate deposit amount as same is to be paid in advance not only for royalty, DMF, but also cess under both heads i.e. ID cess (under Section 3) at Rs. 11.25 per tonne and E cess (under Section 4) at the rate of Rs.11.25 per tonne, i.e. total amount of Rs. 22.50 per tonne. The respondent No. 1 vide its Reply letter dated 30.12.2020 to the petitioner's aforesaid letter dated 24.11.2020 with copy also marked to respondent No. 4 had assured and advised that needful action would be taken at their end, however no action was taken by any of the respondents. The petitioner had further sent a reminder letter dated 28.01.2021 to the

respondent No. 4 with copy marked to respondents No. 1 and 3 for taking action towards stoppage of auto adjustment/recovery of ID cess and E cess levied under Section 3 and Section 4 of the 2005 Act, respectively and for issuance of refund of the cesses so adjusted/ recovered from the petitioner till date. The aforesaid letter had duly been acknowledged and received by respondent No. 4 on 29.01.2021. The petitioner had again vide its reminder letter dated 04.08.2021 to respondent No. 4 with copy marked to respondent No. 1 and 3 requested to take action for stopping the auto adjustment/ recovery of ID cess and E cess and also expediting refund of cesses so adjusted/ recovered till date from the petitioner. Thereafter, vide letter dated 16.09.2021 sent from respondent No.1 addressed to respondent No. 3 with copy marked to the petitioner, request was placed for seeking directions towards stoppage of auto adjustment/recovery of ID cess and E cess being levied from petitioner. Vide this letter, information was sought from respondent No. 3 as to whether any regulations/orders have been circulated with regard to repeal of Notification of 27.12.2011 issued under Chhattisgarh Land under Mining Leases Quarry Leases Assessment Rules, 1987 by Notification No. F6-36/Seven-1/2011 dated 31.01.2020 issued by State Government. Further, it was specifically mentioned therein that in case of non-receipt of information as sought from respondent No. 3, action will be ensured as per the notification dated 31.01.2020 issued by Resp. No. 1. Vide letter dated 22.03.2022 sent by respondent No. 1 to respondent No. 4 with a copy marked to the petitioner, direction was issued to act in accordance with Amendment Notification No. F-09/2015/Seven-1 dated 04.09.2019 by virtue of which the rate of ID cess and E cess to be levied and collected from petitioner was effectively increased from Rs. 15 to Rs.22.50 per tonne. Thus, vide the above said letter, petitioner's request

representation was declined by the respondents and the levy of ID cess and E cess is being continuously recovered. A third reminder letter dated 12.08.2022 was also submitted before respondent authorities for issuing necessary direction for stoppage of auto deduction of cess and granting refund of cess already deposited.

17. In aforesaid facts and circumstances, Mr. Singh submits that the petitioner seeks to challenge (i) legality, validity and propriety of levy and collection of two types of cess from the Petitioner under Section 3 & 4 of the Act of 2005 read the Rules of 2005 as also various Notifications viz Notification No. F4-09/Seven-1/2015 dated 16.6.2015; the Notification No. F4-09/Seven-1/2015 dated 8.9.2015, Notification No F4-09/Seven-1/2015 dated 4.10.2018, Notification No. F4-09/ 2015/Seven-1 dated 4.9.2019 and Notification No. F4-09/Seven-1/2015 dated 15.10.2019 (in short "Amendment Notifications) issued thereunder and issued by/on behalf of respondent State of Chhattisgarh, in relation to mining lease of Limestone (Cement Grade), a "Major Mineral" and also "Notified mineral" under Mines & Minerals (Development & Regulation) Act, 1957 (MMDR 1957), granted for captive use of Limestone for cement manufacture to the petitioner at its Cement Plant situated in District Baloda Bazar in State of Chhattisgarh for want of "charge" and due to absence of "charge" upon the petitioner. It is trite law that a subject cannot be taxed unless the charging provision imposes the obligation (ii) the amendment Notification No. F6-36/Seven-1/2011, dated 27.12.2011 issued by respondent No. 1, prescribing enhanced rate of land revenue per hectare in respect of Chhattisgarh Land under Mining Leases Quarry Leases Assessment Rules, 1987 as well as said Rules of 1987 as adopted and framed under Section 59 vide Notification No F.37-1-VII-Sec-8-87 dated 4.12.1987, despite said Rules of 1987 were struck down by Division

Bench of Hon'ble M.P. High Court as invalid, unreasonable and violative of the Article 14 of Constitution, vide order dated 07.05.1988 in Misc. Petition No. 980 of 1988 titled – ***Satna Stone and Lime Co. Ltd.*** (supra) is relevant that the aforesaid Notification of 27.12.2011 had since been repealed by Notification No. F 6-36/Seven-1/2011 dated 31.1.2020 issued by State Government itself, and; (iii) the petitioner is also seeking, by way of present petition, orders & directions to the Respondents to stop further recovery of both type of cess by auto debit in system as well as for crediting back deductions made so far towards both type of cess under the said Act of 2005, Rules made under it and various amendment Notifications issued from beginning by the department, as same was and is not payable in terms of proviso to Section 3 and 4 of impugned Chhattisgarh (Adhosanrachna Vikas Evam Paryavaran) Upkar Adiniyam, 2005 The refund is being/has been delayed including auto debit has not been stopped despite Representation dated 24.11.2020 made by petitioner to respondent No. 1 to 3 with a copy to respondent No. 4 and the auto debit recovery of both the type of cess is still continuing.

18. In support of his contentions, he places reliance on the decisions of the Supreme Court in ***Mineral Area Development Authority v. SAIL {(2024) 10 SCC 1}, Union of India v. Mohit Mineral Pvt. Ltd.*** {(2019) 2 SCC 599}, ***CIT v. Ahmedabad Urban Development Authority*** {(2023) 4 SCC 561}, ***CIT v. McDowell & Co. Ltd.*** {(2009) 10 SCC 755}, ***Commr. (CGST) v. Delhi International Airport Ltd.*** {(2023) 9 SCC 360}, ***Peekay Re-Rolling Mills (P) Ltd. v. Asst. Commr.*** {(2007) 4 SCC 30}, ***Associated Cement Companies Ltd. v. State of Bihar*** {(2004) 7 SCC 642}, ***Kerala State Beverages Manufacturing & Marketing Corporation Ltd. v. Asst. Commissioner of Income Tax Circle 1(1),*** {(2022) 4 SCC 240}, ***Collector of Central Excise &***

Others v. Himalayan Cooperative Milk Product Union Ltd. & Others {(2000) 8 SCC 642}, ***Chief Commissioner of Central Goods & Service Tax & Others v. Safari Retreats Pvt. Ltd. & Others*** {(2025) 2 SCC 523}, ***J.K.Steel Ltd. v. Union of India & Others*** {(1968) SCC OnLine SC 55}, ***Commissioner of Customs (Import) Mumbai v. Dilip Kumar & Company and others*** {(2018) 9 SCC 1}, ***Commissioner of Central Excise & Customs, Kerala v. Larsen & Toubro Ltd.*** {(2016) 1 SCC 170}, ***Federation of Indian Mineral Industries & Others v. Union of India & Another*** {(2017) 16 SCC 186}, ***Mohinder Singh Gill & Another v. The Chief Election Commissioner, New Delhi & Others*** {(1978) 1 SCC 405}, a Division Bench judgment of the Bombay High Court in ***R.B.Wadkar, Assistant Commissioner of Income Tax & Others*** {(2004) 268 ITR 332 (Bom)}, a Division Bench judgment of the Delhi High Court in ***ATS Infrastructure Ltd. v. Assistant Commissioner of Income Tax & Others*** {(2025) 473 ITR 595 (Delhi)}, a Division Bench judgment of the Madhya Pradesh High Court ***Satna Stone & Lime Co. Ltd. v. State of Madhya Pradesh*** {1988 MPLJ 489}, a Single Bench decision of this High Court in ***Bharat Aluminium Company Ltd. v. State of Chhattisgarh & Others*** {WPC No. 3216/2019 and other connected matters, decided on 08.11.2021}, a Division Bench judgment in ***South Eastern Coalfields Ltd. v. State of Chhattisgarh & Another*** {2010 SCC OnLine Chh 402}.

19. On the other hand, Mr. Shashank Thakur, learned counsel for the State/respondents No. 1 to 4 would submits that the present petition as framed and filed by the petitioner is liable to be dismissed at the threshold for being not maintainable as the petitioner has evaded the efficacious statutory alternative remedy which is provided under Section

9 of the Act itself. The instant petition is also liable to be dismissed for being devoid of any merit and substance. The present petition is totally misconceived as the petitioner has built up the entire case on the pretext / misconception that the respondents/State are levying the cess upon the land revenue which is not leviable upon the petitioner company and since there is no provision existing as on today whereby the land revenue can be charged against the petitioner company. The contention of the petitioner company as above is misconceived for the reason that the provisions of the Act of 2005, even under Section 3 and 4 specifically provides for imposition of cess either upon the rent or land revenue as the case may be. True it is that the Rules of 1987 was not only struck down by the Hon'ble High Court of Madhya Pradesh, but, the same Rules being continued in the statute book of the State of Chhattisgarh, was also got repealed vide order dated 30.01.2020 by the State Government itself and therefore, the State of Chhattisgarh, despite having the competence under Section 58 and 59 to levy the land revenue, is not having any mechanism to levy such land revenue, but, the exemption as conferred upon the petitioner Company under the mining lease agreement is only in respect of the payment of land revenue. However, it is categorically submitted that the respondents are not charging any land revenue upon the petitioner Company, but, the petitioner Company is bound to pay the surface rent according to the terms and conditions of the mining lease which the petitioner Company is duly paying and by virtue of Section 3 and 4 of the Act of 2005, the ID cess and E cess are only being levied upon the surface rent paid by the petitioner. In other words, the petitioner Company is also liable to pay the ID cess and E cess. Therefore, the instant issue is beyond the purview of the repealed rules and is not even remotely connected with the application of the Rules, 2011. The

provisions of the CGLRC, 1959 are clear and unambiguous in so far it relates to imposition of rent upon land is concerned as also the CGLRC is complete Code in itself when it comes to realization of arrears of land revenue are concerned. However, in the instant case, since the collection of ID cess and E cess are being done on the auto debiting system online, the State is not required to invoke the provisions of recovery in accordance with the CGLRC. In so far as the rates of cess are concerned, those are being computed on the basis of extraction of mineral from the lands. However, it is only for the purpose of computation and as such it is not the taxation upon the mineral. In that view of the matter, the whole petition being misconceived and devoid of merit and substance, is liable to be dismissed at the threshold.

20. Mr. Thakur further submitted that the expression "rent" and the expression "land revenue" in the present context are different, although in general, both are treated to be the same. The rent which otherwise is derived after calculation made under the provisions of Section 59 of the CGLRC read with the Chhattisgarh Diversion Rules because surface rent is chargeable for the land used other than the agriculture purpose. In the instant case, it is admitted position that the land is used other than agriculture purpose, therefore, these lands are subject to payment of surface rent and not the land revenue. However, the collection is made under the major head namely ‘land revenue’ but the charge is made in accordance with Section 59 of the CGLRC read with the Chhattisgarh Diversion Rules. Thus, it is only the surface rent which is being chargeable not the land revenue for the petitioners which is chargeable under Section 58 of the CGLRC. Mr. Thakur submits that the rates are being specified periodically which in the current status is the Notification dated 04.02.2020 and according to the Notification, the surface rent

chargeable for the mining purposes is prescribed 0.60% of the prevailing guideline rates. It is also pertinent that the petitioner Company herein has not challenged the powers and authority as also the imposition of surface rent derived from such authority by the respondents / State which means that the petitioner Company is not aggrieved with the imposition of surface rent and since there is no grievance raised by the petitioner company upon the imposition of surface rent, the petitioner is denuded to raise the grievance against the imposition of cess because the imposition of cess has been done under the respective charging sections of the Act, 2005 and the petitioner Company has not challenged the vires of the Act, 2005 in the instant petition, therefore also, the instant petition is liable to be dismissed at the threshold.

21. It is submitted that the imposition of cess is made on the basis of the collection of surface rent from the petitioner which is well within the rights and authority of the State by virtue of the provisions of Section 3 and 4 of the Act of 2005. Since the authority is conferred under Section 3 and 4 of the Act of 2005 which is not assailed by the petitioner, therefore, the imposition is just, fair, proper and legal. Further, the fixation of quantum of cess is purely within the administrative domain of the State and is not amenable to review in a writ petition. The imposition of ID cess and E cess under the provision of Section 3 and 4 of the Act of 2004 are computed on the basis of the Schedule provided under the Act empowering the authority to collect the cess, not for the reason of imposition of land revenue upon the petitioners, but, for imposition of rent on the petitioner company. A bare perusal of Chapter V clause 4 would reflect that the petitioner is under obligation to pay the rent which in other word also called as surface rent and since the petitioner is liable to pay the rent / surface rent, the provision of Section 3 and 4 of the Act of 2005

gets attracted which in turn empowers the State Government to charge the ID cess and E cess from the petitioner Company. The expression "surface rent" is covered under the ambit of expression "rent" and the same has been observed by the Hon'ble Supreme Court in the case of ***D.K. Trivedi & Sons v. State of Gujarat and others*** {(1986) Supp. SCC 20}.

22. Insofar as the computation for collection of cess part is concerned, the same is provided in Schedule of the Act of 2005 and the cess are being collected on auto debit system as per the notification dated 04.10.2018. The petitioner cannot be absolved from liability of paying the cess as is required under the provisions of law and so far as the enactment of the Act of 2005 is concerned, the same is well within the legislative powers of the State Government and imposition of cess is also within the power of the State Government if the said cess are made leviable over and above the liability of rent / surface rent. In that view of the matter, it is submitted that the collection of the ID cess and E cess from the petitioner Company under the provisions of the Chhattisgarh (Adhosanrachna Vikas Evam Paryavaran) Upkar Adhiniyam, 2005 is strictly in accordance with law and the same is just, fair, proper and legal and does not suffer from any illegality or infirmity Hence, the present petition deserves to be dismissed at the threshold.

23. It is next contended by Mr. Thakur that the expression "rent" and the expression "land revenue" are different and both are treated to be the same and the rent which otherwise is derived after calculation made under the provisions of Section 59 of the CGLRC read with Chhattisgarh Diversion Rules because the surface rent is chargeable for the land used other than agriculture purpose. The cess is being charged under Section 3 and 4 on the land which is being used other than the agriculture

purposes by the petitioner company which is just, proper and legal and does not suffer from any illegality or infirmity. The imposition of cess is made on the basis of collection of surface rent from the petitioner which is well within the rights and authority of the State by virtue of the provisions of Section 3 and 4 of the Act of 2005 and the petitioner Company has not assailed the same, therefore, the imposition of the cess on the petitioner Company is just, fair, proper and legal. It is submitted that the surface rent is chargeable from the land used other than the agriculture purpose which the petitioner company is using and therefore, the petitioner company is liable for payment of rent / surface rent. The imposition of ID and E cess under the provision of Section 3 and 4 of the Act of 2004 are computed on the basis of the schedule provided under the Act empowering the authority to collect the cess, not for the reason of imposition of land revenue upon the petitioners, but, for imposition of rent on the petitioner company. A bare perusal of Chapter V clause 4 would reflect that the petitioner is under obligation to pay the rent which in other word also called as surface rent and since the petitioner is liable to pay the rent / surface rent, the provision of Section 3 and 4 of the Act of 2005 gets attracted which in turn empowers the State Govt to charge the infrastructure development and environment cess from the petitioner company It is notable that the expression "surface rent" is covered under the ambit of expression "rent" and the same has been observed by the Hon'ble Supreme Court in the case of ***D.K. Trivedi*** (supra). He further places reliance on a Division Bench judgment of this High Court in ***Nuvuco Vistas Corporation Ltd. v. State of Chhattisgarh & Others*** {WA No. 163/2020, decided on 14.02.2020} and ***Hindalco Industries Ltd. v. State of Chhattisgarh & Others*** {WP No. 2067/2006, decided on 25.07.2012}.

24. None appeared nor was there any representation on behalf of the respondent No. 5/Union of India.

25. This matter came to be filed before this Court on 30.09.2022 and was listed before learned Single Judge on various dates viz. 14.10.2022, 22.11.2022, 14.12.2022, 19.01.2023, 16.02.2023, 22.03.2023, 28.04.2023, 06.05.2023, 10.05.2023, 16.06.2023, 05.07.2023, 12.07.2023, 25.07.2023, 08.08.2023, 05.09.2023, 04.10.2023, 03.11.2023, 12.12.2023, 06.02.2023, 01.03.2024, 14.03.2024 and 25.04.2024. On 19.04.2025, a learned Single Judge observed that since the validity of an enactment was under challenge in this petition, this petition ought to have been heard by a Division Bench and the Registry was directed to examine/verify and to list the matter accordingly. As such, this matter was listed before a co-ordinate Division Bench on 28.02.2025, 21.03.2025, 21.08.2025, and the matter was heard finally on 03.09.2025 by this Bench.

26. According to the petitioner, the levy of ID cess and E cess as envisaged under Section 3 and 4 of the Act of 2005 arises only where land revenue or rent as the case may be, is levied or is otherwise not exempt. In the present case, the land revenue, or rent, which is the precondition to charge under Section 3 and 4 of the Act of 2005, it itself not levied and is also otherwise exempt triggering the effect to proviso to Section 3 and 4, no cess can be charged or collected from the petitioner under the Act of 2005.

27. For levying ID cess and E cess, levy of land revenue or rent is a precondition under the charging Sections 3 and 4 of the Act of 2005. For ready reference, the same is reproduced below:

> *“3(1) On and from the date of commencement of this Act, there shall be levied and collected an infrastructure development cess on all lands on which land revenue or*

rent, by whatever name called, is levied

Provided that infrastructure development cess shall not be levied on land which for the time being is exempt from payment of land revenue or rent, as the case may be.

4(1) On and from the commencement of this Act, there shall be levied and collected an environment cess on all lands on which land revenue or rent, by whatever name called,is levied.

Provided that environment cess shall not be levied on land which for the time being is exempt from payment of land revenue or rent, as the case may be."

28. The language employed in a statute is clear and determinative factor of the legislative intent.

29. The wordings of the provision relevant in the instant case is clear. The respondent/State, has tried to broadly justify the collection of the cess(s) based on surface rent payment made by the petitioner, while conceding in clear terms that no 'land revenue' is levied/collected by it. The contention of State that 'surface rent' is being levied under the CGLRC is misconceived as the expression "surface rent" has not been been used/defined in the 2005 Act or the Rules framed thereunder. Secondly, a perusal of the Section 58 of the CGLRC, which is the charging section of land revenue, states that land revenue is leviable on all land except on land exempted from land revenue by way of contract. The term "land revenue" is defined under section 58(2) of the CGLRC and this term includes "rent". Thus the expression "rent" put after land revenue, looking to the context of levy of cess, would mean land revenue and cannot mean "surface rent". According to the State/respondent, land revenue is not relevant for mining land and rent is nothing but "surface rent". However, to the contrary, the term 'rent' has been defined in Section 2(t) of the CGLRC which reads as under:

"*2(t) "rents' means whatever is paid or in payable in money or in kind -*

(i) by a lessee to his Bhumiswami on account of the use or occupation of land held by him from such Bhumiswami; or

(ii) by a Government lessee to the Government on account of the use or occupation of land leased out to him by the Government;"

30. Having granted exemption from "land revenue" in the ML deed, thus there is exemption from rent. Accordingly, the word "surface rent" cannot be juxtaposed with rent, particularly when no such meaning is defined either in the CGLRC or in the MMDR Act. It is an admitted position that the surface rent is being paid as per terms and conditions of ML deed which is in consonance with Rule 27 of the Rules of 1960 read with ML deed which requires to pay Rs.5 per hectare of land used/occupied). Further, proviso to both Section 3 and 4 of the Act of 2005, clearly state that cess (both ID and E cess) shall not be levied on land which for the time being is exempt from payment of land revenue or rent, as the case may be. Since the said proviso expressly uses the word "or" with regard to exemption, thereby expressly giving an exemption from land revenue which is also substantiated by way of ML deed executed by the petitioner.

31. The further contention of the State/respondents that surface rent (or land revenue) is chargeable on lands used for non-agriculture purpose in terms of Section 59 of CGLRC and as per Notification dated 04.02.2020 (Annexure R/1) surface rent is chargeable for mining purpose @ 0.60% of prevailing guidelines rates. The said averment made by the respondents appears to be erroneous and baseless as, according to the petitioner, the said Notification dated 04.02.2020 has broadly substituted clause 5 to 12 of earlier Notification dated 06.01.1960 which provides

"Rules regarding Alteration of Assessment and imposition of Premium". Thus, the said notification was specifically in context of imposing premium and not surface rent. Further, Rule 14 of Notification dated 06.01.1960 provides for levy of premium on agricultural land other than the land specified in the proviso to section 59(5) of CGLR Code which have been diverted to non agricultural land. The schedule appended of rule 14 therein clearly provides for "Nil" rate for Class VI areas falling outside the village area whose population is more than 2000. In the present case, the premium under section 59(5) of CGLRC is payable on use of land for other than agricultural purpose i.e. for mining purposes since commencement of mining operations in 2016. Accordingly, nil rate of premium is chargeable to petitioner even in terms of Notification dated 4.2.2020.

32. The judgment of ***D.K.Trivedi and sons*** (supra), relied upon by the respondent/State to substantiate that 'surface rent' is covered under the expression 'rent' is not applicable in the case of petitioner as it was neither rendered in context of major mineral nor pertain to 2005 Act. Limestone, being a major mineral, hence the said judgment is not applicable to the fact and circumstances of the present case. The Notification dated 04.02.2020 was issued in exercise of powers conferred under section 59(5) of the CGLRC. The said Section 59(5) provides for levy of premium on lands that are subject to assessment of land revenue. In the case at hand, as also admitted by the respondents, no land revenue is levied or assessed on the land under ML deed. Thus the notification dated 04.02.2020 has no applicability in the case at hand.

33. During the course of argument, it has been conceded by the learned State counsel that 'land revenue' was exempt on the petitioner under the ML. It has also been conceded by the respondent that *Madhya Pradesh*

Land under Mining Lease Quarry Leases Assessment Rules, 1987 were struck down by the Madhya Pradesh High Court and such Rules which were continued in the statute book of the State of Chhattisgarh were also repealed by Notification dated 31.01.2020 itself, and therefore, the State of Chhattisgarh despite having the competence under Section 58 and 59 of the CGLRC to levy the 'land revenue', is not having any mechanism to levy such 'land revenue. The entire defence of the State/respondent in its reply is that the petitioner was paying 'Surface Rent' according to the terms of the ML. Therefore, by virtue of section 3 and 4 of the Act of 2005, the ID cess and E cess were only being levied since 'surface rent' was being paid by the petitioner.

34. A 9 Judges Bench Bench of the Supreme Court in ***Mineral Area Development Authority*** (supra) has held that royalty collected under the MMDR Act is not in the nature of tax. It has also been held by the that dead rent/ surface rent are payments for mining rights. Thus, these are contractual payments. If it is assumed for the sake of argument that the word 'rent' and 'surface rent' are interchangeable terms; even then, the charge of the cesses under Sections 3 and 4 of the Act of 2005 do not arise in the present matter since 'surface rent' is not in the nature of tax whereas the cesses are an increment to an existing tax. In ***Mohit Mineral Pvt. Ltd.*** (supra), it has been held that 'cess' means a tax levied for some special purpose, which may be levied as an increment to an existing tax The same proposition has also been held by the Supreme Court in ***Ahmedabad Urban Development Authority*** (supra).

35. The words 'levied and collected' used in Sections 3 and 4 of the Act of 2005 itself denote that for the charge of cesses to apply there had to be a levy and collection of a tax. 'Surface rent' is a contractual payment and not a tax. Hence, the charges of the cesses under Sections 3 and 4 of the

Act of 2005 cannot arise in the present matter. Reliance may be placed on the judgment of the Supreme Court in ***Delhi International Airport Ltd***. (supra).

36. It is also important to note that proviso to Sections 3 and 4 of the Act of 2005 provide that the cesses shall not be levied on land which for the time being is exempt from payment of land revenue or rent, as the case may be. Thus, if there is an exemption from payment of land revenue or rent, then the cesses are not leviable. The Supreme Court in ***Peekay Re-Rolling Mills (P) Ltd.*** (supra) held that exemption can only operate when there has been a valid levy, for if there was no levy at all, there would be nothing to exempt. The Supreme Court in ***Associated Cement Companies Ltd*** (supra) held that exemption pre-supposes a liability to tax. The proviso to Sections 3 and 4 of the Act of 2005 further amplify the stand of the petitioner that 'land revenue' or 'rent' had to be existing taxes. Only if 'land revenue' or 'rent' were existing taxes, exemptions would apply thereon.

37. It is not in dispute that there was an exemption on land revenue. Since, the proviso mention an exemption on 'rent', it clearly establishes that the legislature in its wisdom was referring to 'rent' as a tax. As discussed above, 'surface rent" is not a tax. Consequently, charge of the cesses under Sections 3 and 4 of the Act of 2005 do not arise in the present matter. It is well settled law that taxing statutes are interpreted strictly, and nothing can be read into a taxing statute. The Act of 2005 does not use the term 'surface rent. Further, the CGLRC uses the word 'rents' Therefore, the word 'rent' given in the Act of 2005 cannot be substituted for the word 'surface rent' or 'rents'

38. The Bombay High Court, in ***Devidayal Electronics & Wires Ltd. & Another v. UOI*** {1984 (16) ELT 30 (Bom)} has held that when the

legislation uses different words, it is to be assumed that the words were intended to bear different meanings. This judgment of the Bombay High Court stands affirmed by the Supreme Court in ***CCE v. Himalayan Co-op. Milk Product Union Ltd.*** {2000 (122) ELT 327 (SC)}. Thus, contention of the State/respondent that the word 'surface rent can be interchanged with the word 'rent' mentioned in sections 3 and 4 of the Act of 2005 is completely misplaced

39. The petitioner was not paying any rent for land. On the contrary, the petitioner was paying 'surface rent for mining rights. Payment of 'surface rent' for mining rights cannot be equated with payment of rent for land for the reason that a 9 Judge Bench of the Supreme Court in ***Mineral Area Development Authority*** (supra) has held that Central Government prescribe the fiscal exaction (such as royalty, dead rent and surface rent) for the grant of creation of mineral rights. It was also held that there is required to be no severance between surface rights and mining rights. Thus, it follows that 'surface rent' has the same character as royalty or dead rent and is ultimately paid for 'mining rights'. Since, 'surface rent' is not paid for land as such; the charges under sections 3 and 4 of the Act of 2005 do not arise at all. As per the lease deed dated 11.01.2011 entered between the parties, the petitioner was given the rights in the mines bed/veins seams of limestone situated lying and being in or under the lands in consideration for the rents and royalties agreed between the parties in part V of the lease deed. Surface rent is governed by the Rules of 1960 and is a condition for a mining lease. The relevant part of Rule 27 of these Rules reads as follows:

> *"27. Conditions (1) Every mining lease shall be subject to the following conditions:*
>
> *....*

(d) the lessee shall also pay for the surface area used by him for the purpose of mining operations, surface rent, and water rate at such rate, not exceeding the land revenue, water and cesses assessable on the land as may be specified by the State Government in the lease."

40. In terms of the provisions of the Rules of 1960, the petitioner was granted right for the purpose of mining operations on land. Thus, there was no rent paid for the land as such. Surface rent was paid for mining operations. Rules 30 of the Rules of 1960 reads as follows:

"30. Rights of lessee Subject to the conditions mentioned in rule 27, the lessee with respect to the land leased to him shall have the right for the purpose of mining operations on that land-
(a) to work in the mines
(b) to sync pits and shafts and construct buildings and roads,
(c) to erect plant and machinery,
(d) to quarry and obtain building and road materials and make bricks,
(e) to use water and take timber
to use land for stacking purposes,
(g) to do any other things specified in the lease."

41. Surface rent is governed by the Rules of 1960 framed by the Central Government which clearly establishes that this was part of Entry 54 of List I (Union List) of the Seventh Schedule to the Constitution. As against this, land and land revenue are part of Entry 18 and Entry 45 respectively of List II (State List) of the Seventh Schedule to the Constitution which clearly establishes that 'surface rent' is distinct and different from the terms land revenue/ rent used in the Act of 2005. Consequently, the levy of the cesses did not arise under section 3(1) and section 4(1) of the Act of 2005. The Constitutional entries establish that the word 'rent' mentioned in Sections 3 and 4 of the Act of 2005 cannot be interchanged with 'surface rent'.

42. The CGLRC derives its nexus from Entry 18 read with Entry 45 of List II. The terms 'land revenue'/ 'rents' used in the CGLRC have nexus with Entry 45/Entry 18 of List II. The preamble to the Act of 2005 states that this Act relates to the levy of cess of land. The Act of 2005 also derives its nexus from Entry 18 read with Entry 45 and 49 of List II. It is this nexus that relates to "land revenue'/'rent" mentioned in Sections 3 and 4 of the Act of 2005. As against this, the MMRD Act derives its power from Entry 54 of List I. It is now settled law that 'surface rent mentioned in the MMRD Act is a consideration for mineral rights. Consequently, the word 'rent' mentioned in Sections 3 and 4 of the Act of 2005 cannot be interchanged with 'surface rent".

43. Section 2(2) of the Act of 2005 borrows the meaning given in the CGLRC and the MMDR Act in reference to the words and expressions not defined in the Act. The word 'rent' is not defined in the CGLRC but the word 'rents' is defined in the CGLRC. It is also important to note that the word 'surface rent' is not defined in the CGLRC. The relevant provisions of the CGLR Code read as follows:

> *"2. Definitions (1) - In this Code, unless there is anything repugnant to the subject or context,*
>
> *...*
>
> *(h) "Government lessee" means a person holding land from the State Government under section 181;*
>
> *...*
>
> *(k) "land" means a portion of the earth's surface, whether or not under water, and, where land is referred to in this Code, it shall be deemed to include all things attached to or permanently fastened into anything attached to such land*
>
> *...*
>
> *(t) "rents" mean, whatever is paid or in payable in money, or in kind-*
>
> *(i) by a lessee to his Bhumiswami, on account of the use or occupation of land held by him from such Bhumiswami, or*

(ii) by a Government lessee to the Government on account of the use or occupation of land leased out to him by the Government;

Section 181. Government lessee*-(1) Every person who holds land from the State Government or to whom right to occupy land is granted by the State Government or to Collector and who is not entitled to whole land as a Bhumiswami shall be called a Government lessee in respect of such land*

(2) Every person who at the coming into force of this Code-

(a)holds any land in the Madhya Bharat region as an ordinary tenant as defined in the Madhya Bharat Land Revenue and Tenancy Act. Samvat 2007 (66 of 1950); or

(b)holds any land in the Vindhya Pradesh region as a special tenant as defined in the Vindhya Pradesh Land Revenue and Tenancy Act, 1953 (111 of 1955), or as a gair haqdar tenant any grove or tank or land which has been acquired or which is required for Government or public purposes, or

(c)holds any land from the State Government in the Sironj region as a gair khatedar tenant as defined in the Rajasthan Tenancy Act. 1955 (3 of 1955)

shall be deemed to be a Government lessee in respect of such land

Section 185. Occupancy tenants.-(1) Every person who at the coming into force of this Code holds-

(i)in the Mahakoshal region -

(any land, which before the coming into force of the Madhya Pradesh Land Revenue Code. 1954 (II of 1955). was malik-makbuza and of which such person had been recorded as an absolute occupancy tenant, or

(b)any land as an occupancy tenant as defined in the Madhya Pradesh Land Revenue Code. 1954 (II of 1955), or

(c) any land as an ordinary tenant as defined in the Madhya Pradesh Land Revenue Code, 1954 (II of 1955); or

(ii) in the Madhya Bharat region-

(a) any Inam land as a tenant, or as a sub-tenant or as an ordinary tenant, or

Explanation- The expression "Inam Land" shall have the same meaning as assigned to it in the Madhya Bharat Muafi and Inam Tenants and Sub-Tenants Protection Act, 1954 (32 of 1954)

(b) any land as ryotwari sub-lessee as defined in the Madhya Bharat Ryotwari Sub-Lessees Protection Act, 1955 (29 of 1955), or

(c) any Jagir land as defined in the Madhya Bharat Abolition of Jagirs Act, 1951 (28 of 1951), as a sub-tenant or as a tenant of a sub-tenant, or

(d) any land of a proprietor as defined in the Madhya Bharat Zamindari Abolition Act, 1951 (13 of 1951), as a sub-tenant or as a tenant of a sub-tenant;

(iii)in the Vindhya Pradesh Region any land as a sub-tenant of a pachpan paintalis tenant, pattedar tenant.

grove holder or holder of a tank as defined in the Vindhya Pradesh Land Revenue and Tenancy Act, 1953 (III of 1955); or

(iv) in the Bhopal region-

(a)any land as a sub-tenant as defined in the Bhopal State Sub-tenants Protection Act, 1952 (VII of 1953). or

(b) any land as a shikmi from an occupant as defined in the Bhopal State Land Revenue Act, 1932 (IV of 1932), or

(v) in the Sironj region-

(a) any land as a sub-tenant of a khatedar tenant or grove holder as defined in the Rajasthan Tenancy Act. 1955 (3 of 1955), or

(b)any land as a sub-tenant or tenant of Khudkasht as defined in the Rajasthan Tenancy Act. 1955 (3 of 1955).

shall be called an occupancy tenant and shall have all the rights and be subject to all the liabilities conferred or imposed upon an occupancy tenant by or under this Code

(2) Where any land referred to in items (c) or (d) of clause

(ii) of sub-section (1) is at the time of coming into force of this Code, in actual possession of a tenant of a sub-tenant, then such tenant and not the sub-tenant shall be deemed to be the occupancy tenant of such land

(3) Nothing in sub-section (1) shall apply to a person who at the coming into force of this Code, holds the land from a bhumiswami who belongs to any one or more of the classes mentioned in sub-section (2) of Section 168

(4) Nothing in this section shall affect the rights of a sub-tenant of tenant of a sub-tenant belonging to any of the categories specified in items (e) and (d) of clause (l) of tub-section (1) to acquire the rights of a pakka tenant in accordance with the provisions of the Madlya Bharat Abolition of Jagirs Act 1951 (28 of 1951), or of the Madhya Bharat Zamindari Abolition Act, 1951 (13 of 1951), as the case may be

Section 186. Maximum rent. Notwithstanding any agreement of usage or any decree or order of a Court or any law to the contrary, the maximum rent payable by an occupancy tenant in respect of the land held by him shall not exceed

(a) in the case of any class of irrigated land-four times the land revenue assessed on such land.

(b) in case of bandh land in the Vindhya Pradesh region three times the land revenue assessed on such land, and

(c)in any other cave-two times the land revenue assessed:

Provided that where such land is exempt from payment of land revenue under Section 58-A. the maximum rent aforesaid shall be reduced by the amount of land revenue so exempted under the said section

Explanation. Where any land has not been assessed to land revenue, the multiples aforesaid shall be calculated on the basis of the land revenue assessable on such land.

Section 187. Commutation.-(1) Where an occupancy tenant pays his rent in kind, in terms of service, labour, crop share or a specified quantity of gram, he may apply to the Sub-Divisional Officer for commuting the same into cash

2) On receipt of an application under sub-section (1), the Sub-Divisional Officer shall after holding an enquiry commute by an order in writing such rent into cash, which shall not exceed the maximum rent laid down in Section 186.

Section 188. Rent.-(1) The rent payable by an occupancy tenant shall, as from the commencement of the agricultural year next following the date of the coming into force of this Code, be the maximum rent laid down in section 186 or in the rent agreed upon between the tenant and is Bhumiswami is less than the maximum rent, then such agreed rent.

Provided that where the agreed rent is payable in kind, the tenant shall be liable to pay, wntil such rent commuted into cash under section 187 the maximum rent laid down in section 186.

(2) Every occupancy tenant shall pay the rent to his Bhumiswami on or before such date as maybe prescribed in that behalf."

44. The petitioner is neither an occupancy tenant nor a lessee nor a Government lessee as understood in the CGLRC. The petitioner is not paying any rent as an occupancy tenant to a Bhumiswami according to Section 188 of the CGLRC on account of the use of occupation of land; as a lessee to a Bhumiswami on account of the use or occupation of land from a Bhumiswami; as a Government lessee to the Government on account of the use or occupation of land. Thus, the petitioner is not making payment of any rent as understood in the CGLRC. Even the respondent in its reply has failed to show payment of rent by the petitioner under the CGLRC. In the present case, the petitioner is already holding 452.04 hectare of the total land of 531.126 hectare land covered in the ML. Thus, neither any rent has been paid by the petitioner to the State nor the same is payable with respect to the land. Hence, Sections 3 and 4 of the Act of 2005 are inapplicable in the present matter. It is also relevant to note that the above-mentioned different types of rents were recognized under the CGLRC. It is for this reason that Sections 3 and 4 of the Act of 2005 use the term "land revenue or rent, by whatever name called". However, 'surface rent' is not recognized under the CGLRC. This

itself establishes that 'surface rent' is distinct from the word 'rent" as understood in Sections 3 and 4 of the Act of 2005. Further, the State/respondent has conceded that there was exemption on land revenue. Consequently, cesses under section 3 and 4 of the Act of 2005 do not arise. As discussed above, the cesses are leviable on all land on which land revenue or rent is levied. It is not in dispute that 'land revenue' was exempt in the facts and circumstances of the present case. 'Land revenue' was exempt in the present matter due to multiple reasons. Firstly, on account of the lease deed entered into between the parties. Secondly, a Division Bench of the Madhya Pradesh High Court in ***Satna Stone and Lime Co. Ltd***. (supra) vide order dated 7.5.1988 had struck down the *Madhya Pradesh Land and Mining Leases Quarry Leases Assessment Rules, 1987* as unreasonable and violative of article 14 of the Constitution, including various assessment orders and demand notices issued for payment of land revenue in respect of lands given under the respect of mining leases for mining purposes. The State of Chhattisgarh had adopted the MPLRC and given Rules. Consequently, no land revenue could have been levied by the State/respondents because this judgment is binding on the State of Chhattisgarh. Hence, the Notification dated 27.12.2011 (Annexure P/6) which prescribe a rate of assessment of land revenue for the State of Chhattisgarh is against the judgment given in the case of ***Satna Stone and Lime Co. Ltd***. (supra). Hence Notification dated 27.12.2011 for the period up to 30.01.2020 is invalid in law. It is important to note that this Notification came to be repealed on 31.01.2020 (Annexure P/20). Further, there is this no mechanism under the CGLRC, more specifically on the chapter VI and IX for levy of land revenue or rent insofar as land under mining lease is concerned. This law is only geared towards collection of land revenue

in respect of land within village limits. The State of Chhattisgarh itself repealed Notification dated 27.12.2011 by Notification dated 31.01.2020. Furthermore, the CAG Audit report for the year 31 March 2017 revealed that in the District of Balodabazar, the DDMA's/DMOs did not levy the land revenue on land covered in respect of major minerals and quarry leases during the period April 2012 to March 2017. Consequently, the levy of cesses could not arise given the proviso to section 3(1) and section 4(1) of the Act of 2005.

45. Even if it is assumed for the sake of argument that 'surface rent' and 'rent' are the same then also exemption from 'land revenue' is sufficient for non-levy of the cesses. The words 'land revenue' or 'rent' are not defined in the Act of 2005. Hence, the wordings of these terms are required to be understood as per CGLRC. As per the CGLR Code, 'rent" and 'land revenue' are not distinct from each other. Section 58 of the CGLR Code reads as follows:

> *"58. Liability of land to payment of land revenue-. (1) All land, to whatever purpose applied and wherever situate, is liable to the payment of revenue to the State Government, except such land as has been wholly exempted from such liability by special grant of or contract with the State Government or under the provisions of any law or rule for the time being in force.*
>
> *(2) Such revenue is called "land revenue" and that term includes all moneys payable to the State Government for land, notwithstanding that such moneys may be described as premium, rent lease money, quit-rent or in any other manner, in any enactment, rule, contract or deed.*"

46. The definition of 'land revenue is an inclusive definition. The definition of 'land revenue includes rent lease money in any enactment, rule, contract or deed. 'Surface rent' is a consideration for the mining lease and it forms part of 'land revenue' as per CGLR Code. Section 58 read with section

138 of the CGLR Code clearly establishes that rent paid for lease is 'land revenue'. In this regard, reliance can be placed on the judgments of this Court in ***South Eastern Coalfields Ltd.*** (supra).

47. The term 'land revenue or rent' given in the Act of 2005 is required to be understood and interpreted in terms of CGLR Code. Consequently, the word 'rent' used in the Act of 2005 cannot be understood as being distinct from 'land revenue' Hence, exemption from 'land revenue' is itself sufficient for proviso to sections 3(1) and 4(1) of the Act of 2005 to apply. Even if it is assumed that the words 'land revenue" / 'rent' used in the Act of 2005 are distinct from each other and even if it is assumed that 'surface rent' qualifies as 'rent' given in section 3 and 4 of the Act of 2005 then also the proviso's use the term 'or' between the words 'land revenue'/ 'rent' Hence, exemption given on 'land revenue' on a stand-alone basis is itself sufficient for the Petitioner to be out of the levy of ID cess or E cess. The reliance placed by the State/respondent on Section 59 of the CGLRC and Notification dated 04.02.2022 (Annexure R/1)for 'surface rent' are completely misplaced. Section 59 of the CGLRC does not mention 'surface rent at all. Further, Notification No. 04.02.2020 dealt with 'premium' and not 'surface rent'.

48. The Ministry of Mines, Government of India by Order dated 16.09 2015 directed the State Governments to establish District Mineral Foundations (DMF). In continence thereof, the State Government of Chhattisgarh formed the DMFT Rules, 2015. Rule 22 of these Rules specifies the expenditure from the trust fund for high priority areas like drinking water, supply, environment, prevention and pollution control measures, healthcare, education in affected areas, skilled development, sanitation, etc and other projects already stand covered. It is seen that this DMF fund is much broader and covers all the areas as part of the Act of 2005.

The petitioner has been contributing to the DMF from the very inception and therefore they will be no impact on the collections being made for the above development work in as much as the Central Government has ensured that the same gets fulfilled through the DMF.

49. In view of the above discussion, we are of the considered opinion that no cess can be levied or collected from the petitioner under Section 3 and 4 of the Act of 2005, and the Notification dated 27.12.2011 (Annexure P/6) issued under the Chhattisgarh Land under Mining Lease Quarry Leases Assessment Rules, 1987, for the entire period from 27.12.2011 to 31.01.2020 prior to its repeal by Notification dated 31.01.2020, also deserves to be quashed, so far it relates to the petitioner-Company. We are also of the opinion that the petitioner-Company is entitled to refund of the amount of ID cess and E cess so collected from the petitioner since 16.04.2015. It is ordered accordingly. The petitioner-Company is also entitled to all the consequential relief(s) flowing from this order.

50. Accordingly, this petition stands **allowed**. No order as to cost(s).

Sd/-
(Bibhu Datta Guru)
JUDGE

Sd/-
(Ramesh Sinha)
CHIEF JUSTICE

Amit

Head Note

A taxing statute must be interpreted strictly and in its literal sense. Nothing can be added or subtracted from the language employed by the Legislature so as to impose tax by implication or inference.