

Insertion of S. 9D in the MMDR Act restricting States's power to tax Mineral Rights and Mineral Bearing Lands

Section 9D.

(1) No tax, cess or such other levy (by whatever name called) shall be imposed by the State Government on—

(a) mineral rights; or

(b) mineral bearing lands, either based on mineral quantity or mineral value or royalty payable or otherwise,

except in accordance with such conditions or restrictions as may be prescribed by the Central Government.

(2) Notwithstanding anything contained in any other law for the time being in force, or in any judgment, decree or order of any court, the imposition of any such tax, cess or other levy by the State Government on—

(a) mineral rights; or

(b) mineral bearing lands either based on mineral quantity or mineral value or royalty payable or otherwise,

which is not deposited with the State Government or recovered by it before the commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2026, shall be deemed to be invalid at all material times:

Provided that any such tax, cess or other levy on mineral rights or on mineral bearing lands, already deposited with the State Government or recovered by it before such commencement, shall not be liable to be refunded.

Dear Reader,

The Union Parliament has passed the **Mines and Minerals (Development and Regulation) Amendment Bill, 2026** ("**2026 Amendment**") inserting Section 9D into the Mines and Minerals (Development & Regulation) Act, 1957 ("**MMDR Act**"), restricting the power of States to impose taxes, cess or other levies on mineral rights or mineral-bearing lands based on mineral quantity, mineral value, royalty payable or otherwise, except in accordance with conditions or restrictions prescribed by the Centre.

The newly inserted Section 9D also invalidates such levies imposed by States before the commencement of the 2026 amendment, as had not been deposited or recovered. Taxes, cess or other levies already deposited or recovered by a State Government will not be refunded.

By the 2026 Amendment Act the Union Parliament has also amended the **declaration** contained in **Section 2** of the MMDR Act taking under its control not just regulation of mines and the development of minerals but also **mineral bearing lands**.

The **Statement of Objects and Reasons** of the 2026 Amendment reveals that one of the main objects of the amendment is to provide relief to industries from uneven imposition of taxes or other levies by the State Governments on mineral rights and mineral bearing lands and the need to ensure certainty, stability and predictability of the fiscal regime applicable to mining.

The states likely to be affected by the 2026 Amendment are mineral bearing states including **Jharkhand, Odisha, Chhattisgarh, West Bengal, Madhya Pradesh, Andhra Pradesh, Uttar Pradesh, Karnataka and Rajasthan** who have enacted or are in the process of enacting laws imposing cess on mineral bearing lands.

While the 2026 Amendment brings much respite to industries reeling under the heavy burden of taxes on minerals, it is vulnerable to challenge primarily on the ground of lack of legislative competence of the Parliament to restrict the States' power to make laws imposing taxes on **lands and buildings** under **Entry 49** of **List II** of the Seventh Schedule of the Constitution.

The States have exclusive power to impose taxes on **lands and buildings** and on **mineral rights** under **Entries 49 and 50** respectively, of **List II**. While Entry 50 expressly makes such power subject to limitations imposed by Parliament by law relating to mineral development, Entry 49 does not carry any such limitation.

It may be recalled that the majority decision of the 9 judges' bench of the Hon'ble Supreme Court in ***Mineral Area Development Authority & Anr. vs. Steel Authority of India Ltd. & Anr***¹ had held *inter-alia* as follows:

- (1) Although Parliament can limit the taxing field entrusted to States under List II Entry 50 through a law relating to mineral development, the limitation operates on the field of taxing mineral rights. Such a limitation cannot operate on List II Entry 49 because there is no specific stipulation under the Constitution to that effect.*
- (2) The measure of tax adopted by the legislature does not define nature of tax.*
- (3) Since the measure of levy is a matter of legislative policy and convenience, the reasonability of the nexus between the measure and tax has to be determined by courts on case to case basis.*
- (4) The yield of a mineral bearing land, either in terms of the quantity of the mineral produced or any other measure directly connected to the minerals produced can be used as a measure to quantify the tax.*
- (5) A measure that is relatable to another taxing entry in List I or List II can also be used as a measure to tax lands under List II Entry 49 provided there is a reasonable nexus between the measure and levy.*
- (6) The fact that the State Legislature uses mineral produce or royalty as a measure does not overlap with List II Entry 50.*

Thus, tested against the Constitution, newly inserted Section 9D of the MMDR Act, has a mixed prognosis. Whilst no challenge can succeed against exercise by the Parliament of its power to place restrictions on States's power to tax mineral rights, Courts may rule that the restriction placed by the Parliament on the States's power to tax mineral bearing lands is without legislative competence.

**Yours Truly,
Acara Law LLP**

¹ (2024) 10 SCC 1