**Supreme Court**

**State of Rajasthan & Ors. Vs. Hindustan Zinc Ltd. & ANR.**

**[Civil Appeal No. 1494 of 2008] [Civil Appeal No. 1526 of 2008]**

**Decided by J. R.M. LODHA &** **J. ANIL R.DAVE**

**Decided on March 11, 2013**

**Topic: Section 9 & 13 of Mines and Minerals (Development and Regulation) Act, 1957**

**Facts**

The appellant-State and the State Authorities have been aggrieved by the impugned order whereby the additional demand raised under notice dated 24th December, 2001 and subsequent notices issued by the State for recovery of royalty in respect of the lead and zinc extracted by the respondent-company had been quashed by the learned Single Judge of the Rajasthan High Court and the order of the learned Single Judge was confirmed by the Division Bench in the appeal filed before it.

**Contentions:**

The respondent-company had been leased land in the areas of District Bhilwara, Rajsam and Udaipur for the purpose of extracting lead and zinc there from under the provisions of Mines and Minerals (Development and Regulation) Act, 1957 (hereinafter referred to as 'the Act'). Section 9 of the Act is the charging section, which enables the State to recover royalty in respect of the minerals extracted by the holder of a mining lease. The Mineral Concession Rules, 1960 (hereinafter referred to as 'the Rules')have been framed in exercise of the powers conferred under Section 13 of the Act. Rules 64A, 64B, 64C & 64D of the Rules are relevant Rules, which pertain to calculation of the amount of royalty payable by the holder of the lease in respect of the minerals extracted from the land leased to the holder of the mining lease.

 From time to time, the Government had issued Notifications determining the rate at which royalty was to be paid by the holder of the lease in respect of the minerals extracted. In the instant case, it is concerned with two minerals: lead and zinc. Two Notifications are relevant for the purpose of determining the issue involved in these appeals.

 By virtue of the afore-stated Notification dated 12th September,2000, the manner in which the royalty was to be calculated had been changed.

 Formerly the royalty was to be charged on the basis of mineral concentrate produced but by virtue of the Notification dated 12thSeptember, 2000, royalty is now to be charged on ad valorem basis on the contents of metal found in the ore produced.

 According to the appellant-State, the respondent-lease holder was supposed to pay the royalty on the entire mineral extracted from the earth and accordingly the impugned notices were issued to the respondent for recovery of difference of royalty.

 On the other hand, the case of the respondent-company was that the royalty was chargeable only on the contents of lead and zinc metal in the ore produced because, by virtue of the Notification issued in 2000, the respondent-company was supposed to pay royalty only on the contents of lead or zinc, as the case may be, contained in the ore produced.

 As stated hereinabove, the demand made by the appellant-State under the impugned notices had been upheld by the revisional authority but the same had been quashed by the High Court when the order of the revisional authority was challenged before the learned Single Judge of the High Court and the view of the learned Single Judge had been upheld by virtue of the impugned order passed by the Division Bench.

**Held**

 For the afore-stated reasons, in our opinion, we need not refer to the submissions made in relation to the forms referred to in the Rules.

Upon carefully going through the impugned judgment and the judgment delivered by the learned Single Judge of the High Court, we find that the courts below did not commit any mistake in arriving at the conclusion that the holder of the lease was not liable to pay the amount demanded under the impugned notices because, by virtue of Notification dated 12th September,2000 read with the relevant Rules, the lease holder is supposed to pay royalty only on the contents of metal in ore produced and not on the metal contained in the tailings, rejects or slimes which had not been taken out of the leased area and which had been dumped into dumping ground of the leased area.

For the afore-stated reasons, we do not find any substance in the appeal and therefore, the appeal is dismissed with no order as to costs.

So far as the present appeal is concerned, it has been filed by Hindustan Zinc Limited as it has been aggrieved by the directions whereby the matter has been ordered to be remitted to the mining engineer for re-computing the royalty payable on lead and zinc contained in the ore produced.

The appellant-company is aggrieved by the afore-stated direction because it was never prayed by the State that the matter be remitted back to the mining engineer for re-computation of the royalty.

The submission on behalf of the appellant-company was to the effect that as the entire concentrate has been taken out of the leased area and as the quantity of concentrate of lead and zinc was very much known, it was not necessary to give such a direction because there is no question with regard to re-computation of royalty on the basis of metal contained in ore produced.

We find substance in what has been submitted because the metal concentrate which had been taken out from the leased area is known to the parties and therefore, it is not necessary to have any further details regarding the ore produced by the appellant- company.

 We, therefore, quash the afore-stated direction and the appeal filed by the appellant-company is allowed to the above effect with no order as to costs.