



SC Upholds States' Taxation Power on Mineral Rights

For Prelims: [Supreme Court of India](#), Union List, Royalty and Tax, [Critical minerals](#), [Foreign direct investment](#), [Net-zero emissions](#)

For Mains: Mining sector, Significance of India's mining sector, Governance and Policy, Industrial Growth

[Source: IE](#)

Why in News?

The [Supreme Court of India](#) has recently addressed a crucial issue regarding the **taxation of mineral rights**, overturning its 1989 verdict and **reaffirming the power of states in this context**.

- This decision, delivered by a nine-judge Bench, clarifies the extent of authority both Parliament and states hold over mineral royalties.

What did the Supreme Court Decide?

- **Background of the Case:**
 - In 1989, a seven-judge Bench ruled that the **Centre has primary authority over mining regulation** under the [Mines and Minerals \(Development and Regulation\) Act, 1957](#), and **Entry 54 of the Union List**.
 - States were permitted only to **collect royalties** and not impose additional taxes. The court classified royalties as taxes, making any cess on them **beyond state authority**.
 - The 2004 five-judge Bench had later suggested a typographical error in the 1989 ruling, **indicating that royalties were not a tax**. This led to the current nine-judge review.
- **Overturing 1989 Verdict:** The Supreme Court's nine-judge Bench ruled that the 1989 verdict, which classified **royalties on minerals as a tax under the MMDRA, 1957 was incorrect**.
- **State vs. Central Authority:** The Court emphasised that the power to impose taxes on mineral rights resides solely with the states, while Parliament may only impose limitations to prevent hindrances to mineral development.
 - The ruling clarifies that **Parliament does not possess the power to tax mineral rights** under **Entry 50 of the List II of the Constitution**, which governs **state powers** and is limited to imposing restrictions, not taxes.
 - Parliament can set constraints on how states levy taxes on mineral rights, **but it cannot impose taxes directly**. This is to ensure that mineral development is not obstructed.
- **Dissenting Opinion:** Warned that **allowing states to levy taxes on mineral rights may also attempt to impose taxes on lands and buildings under Entry 49 of List II, leading to a breakdown of the federal system** and lead to a breakdown in uniformity in mineral pricing and development.
 - Consequently, **states will start levying taxes on minerals again, leading to legal**

uncertainty and adverse economic consequences, including on metal development in India.

- **Parliament** will need to intervene to ensure uniformity in mineral pricing and development interests, and to **prevent states from imposing taxes on mineral rights**.

What is the Difference Between Royalty and Tax?

- Earlier in 2021, the Supreme Court of India had delineated the distinction between '**royalty**' and '**tax**.'
- **Royalty**: It originates from an **agreement between parties**. It is a compensation paid for the rights and privileges enjoyed by the grantee.
 - The royalty payment has a **direct relationship with the benefit or privilege conferred** upon the grantee.
 - It is specific to the agreement and is often linked to the exploitation of resources or usage of a privilege granted by the grantor.
 - **Precedents**: The Court referenced several cases, including ***Hingir-Rampur Coal Co. Ltd. vs. State of Orissa (1961)*, *State of West Bengal vs. Kesoram Industries Ltd. (2004)*, and others**, to establish that royalties are contractual obligations with direct benefits.
- **Tax**: It is imposed under a statutory power without reference to any special benefit conferred on the payer. It is enforced by law and does not require the taxpayer's consent.
 - Taxes are imposed for public purposes without any specific benefit to the payer. They are part of the common burden borne by all citizens.
 - Unlike royalties, taxes do not involve a **quid pro quo arrangement**. The payment is mandatory and not linked to any specific privilege or benefit.
 - **Precedents**: The Court referred to several cases, including ***the State of Himachal Pradesh vs. Gujarat Ambuja Cement Ltd. (2005)* and *Jindal Stainless Ltd. vs. the State of Haryana (2017)***, to highlight the characteristics of taxes.

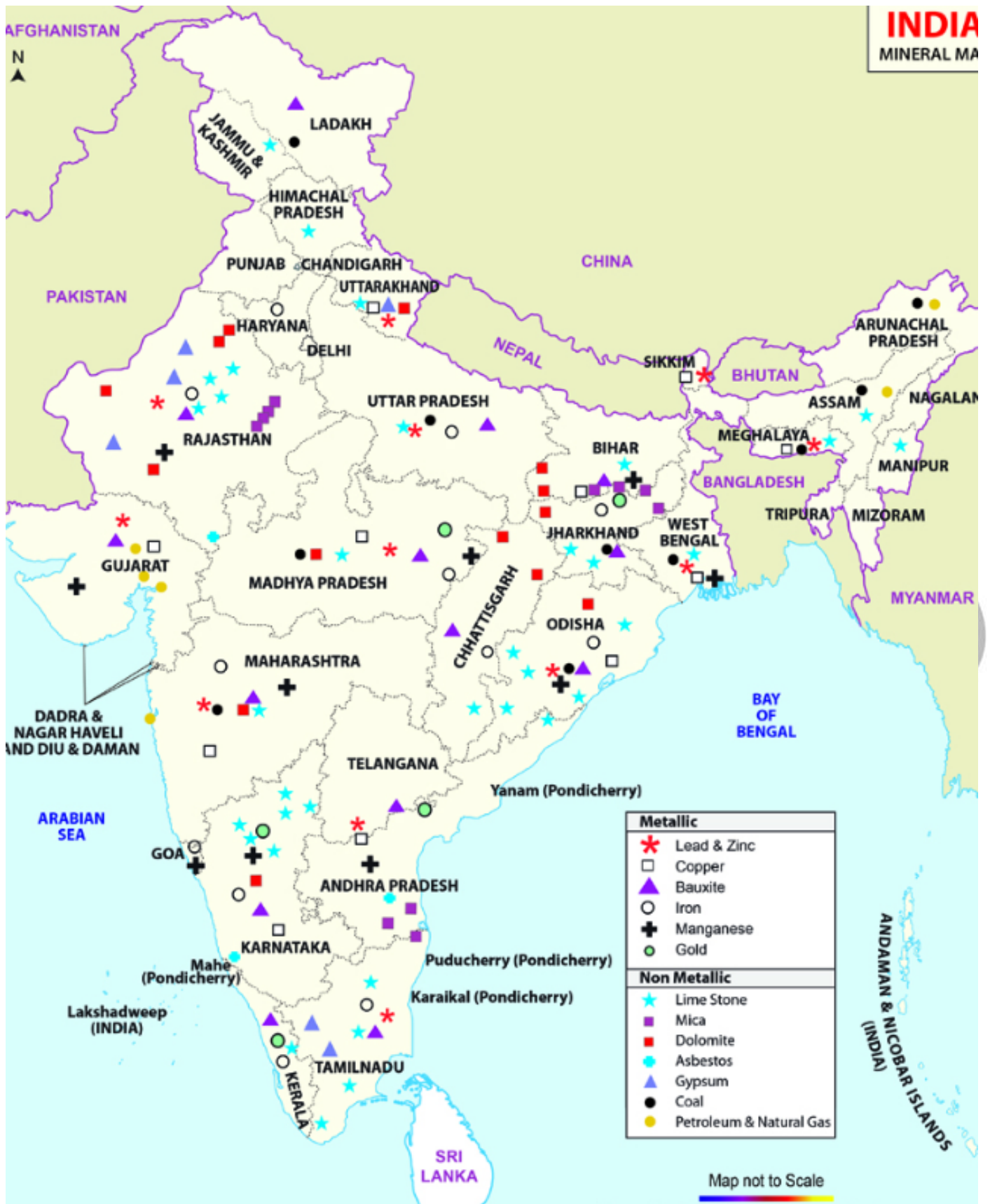
What is the Mines and Minerals (Development and Regulation) Act, 1957?

- It is a pivotal legislation in India governing the mining sector. This Act has undergone multiple amendments to address emerging needs and challenges in the mineral sector, ensuring its alignment with national economic and security interests.
- The primary objectives were to develop the mining industry, ensure mineral conservation, and bring transparency and efficiency to mineral exploitation.
- **2015 Amendment**: This comprehensive amendment introduced several key reforms.
 - **Auction Method**: Mandated auctioning of mineral concessions to enhance transparency in allocation.
 - **District Mineral Foundation (DMF)**: Established DMF to benefit areas and people affected by mining.
 - **National Mineral Exploration Trust (NMET)**: Created NMET to boost mineral exploration activities.
 - **Penalties for Illegal Mining**: Implemented stringent penalties to curb illegal mining activities.
- **2016 and 2020 Amendments**: Addressed minor issues in the sector to ensure its smooth functioning.
- **2021 Amendment**:
 - Removed the distinction between Captive and Merchant Mines.
 - **Captive mines** are operated by companies to produce minerals exclusively for their own use. The **minerals extracted from captive mines may sell up to 50% of their annual mineral production in the open market after meeting the entire needs** of the end-use plant for which the mineral block was originally allocated by the government.
 - **Merchant Mines** are **operated to produce minerals for sale in the open market**. The extracted minerals are sold to various buyers, including industries that do not own their own mines.

- **Auction-Only Concessions:** Ensured that all private-sector mineral concessions were granted through auctions.
- **2023 Amendment:**
 - The Mines and Minerals (Development and Regulation) Amendment Act, 2023 aims to strengthen the exploration and extraction of **critical minerals essential for India's economic development** and national security.
 - Key amendments include removing **6 minerals from the list of 12 atomic minerals** limited to exploration by State agencies, empowering the government to exclusively auction mineral concessions for critical minerals.
 - Introduced exploration licences to attract **foreign direct investment** and engage junior mining companies in exploring deep-seated and critical minerals.
 - The focus is on reducing dependence on imports and encouraging private sector involvement to expedite exploration and mining of these critical minerals.
 - Recognised the importance of minerals like lithium, graphite, cobalt, titanium, and rare earth elements for future technologies and **India's commitment to energy transition and net-zero emissions by 2070.**

Scenario of the Mining Sector in India

- **India's steel sector** has experienced significant growth, making it the **2nd largest producer of steel in the world.** The country's crude steel production was 144.04 million tonnes, finished steel production was 138.83 million tonnes, and finished steel consumption was 136.65 million tonnes in FY 2023-24.
 - Finished steel **production increased by over 12.68%** compared to the previous year, while **consumption grew by 13.9%**
- India has a total coal reserve of 344.02 billion tonnes and is the **second largest producer of coal in the world.**
 - In the **coal sector,** production during Jun 2024 was 84.63 million tonnes, showing a **growth of 14.49% compared to Jun 2023.**
 - Cumulative coal production increased by 11.65% over the previous year.
- **Manganese Ore (India) Limited** achieved its **highest production of 17.56 lakh tonnes of Manganese Ore** in FY 2023-24, marking a 35% growth over the previous year. India's mineral production also saw a cumulative growth of 8.2% for the period Apr-Feb, 2023-24.
- The country's **FDI policy allows 100% FDI through automatic routes in the steel and mining sectors, as well as for coal and lignite.**
- The mineral production index (base 2011-12) for 2021-22 is **113.3**, showing a growth of 12.17% compared to 2020-21.
 - The total value of mineral production (excluding atomic and fuel minerals) for 2021-22 is estimated at approximately Rs. 220000 crore, with metallic minerals contributing approximately Rs. 120000 crore.
- The **Indian mining industry** has a large number of small operational mines. In 2021-22, there were 1319 reporting mines in India, with the highest number located in Madhya Pradesh (263), followed by Gujarat (147), Karnataka (132), Odisha (128), Chhattisgarh (114), Andhra Pradesh (108), Rajasthan (90), Tamil Nadu (88), Maharashtra (73), Jharkhand (45), and Telangana (39).
 - These **11 states together accounted for 93% of the total number of mines** in the country in 2021-22.



Read more: [Industrial Alcohol Regulation](#)

Drishti Mains Question:

Q. Examine the division of powers between the Centre and states regarding mineral rights and royalties as clarified by the Supreme Court judgement.

UPSC Civil Services Examination, Previous Year Questions (PYQs)

Prelims:

Q. With reference to the management of minor minerals in India, consider the following statements: (2019)

1. Sand is a 'minor mineral' according to the prevailing law in the country
2. State Governments have the power to grant mining leases of minor minerals, but the powers regarding the formation of rules related to the grant of minor minerals lie with the Central Government.
3. State Governments have the power to frame rules to prevent illegal mining of minor minerals.

Which of the statements given above is/are correct?

- (a) 1 and 3 only
- (b) 2 and 3 only
- (c) 3 only
- (d) 1, 2 and 3

Ans: (a)

Q. What is/are the purpose/purposes of 'District Mineral Foundations' in India? (2016)

1. Promoting mineral exploration activities in mineral-rich districts
2. Protecting the interests of the persons affected by mining operations
3. Authorizing State Governments to issue licences for mineral exploration

Select the correct answer using the code given below:

- (a) 1 and 2 only
- (b) 2 only
- (c) 1 and 3 only
- (d) 1, 2 and 3

Ans: (b)

Mains:

Q. Despite India being one of the countries of Gondwanaland, its mining industry contributes much less to its Gross Domestic Product (GDP) in percentage. Discuss. **(2021)**