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2026:CGHC:9993-DB
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HIGH COURT OF CHHATTISGARH AT BILASPUR

TAXC No. 189 of 2025

1 - The Deputy Director (Geology And Mining) 1st Floor, Collectorate Parisar, Kutcheri Chowk, Raipur, C.G. 492001

--- Appellant

versus

1 - The Deputy Commissioner Of Income Tax (Tds) Raipur, C.G.

--- Respondent(s)

TAXC No. 203 of 2025

1 - The Deputy Director (Geology And Mining) 1st Floor, Collectorate Parisar, Kutcheri Chowk, Raipur Chhattisgarh 492001

---Appellant

Versus

1 - The Deputy Commissioner Of Income Tax (Tds) Raipur Chhattisgarh

--- Respondent(s)

TAXC No. 192 of 2025

1 - The Deputy Director (Geology And Mining) 1st Floor, Collectorate Parisar Kutcheri Chowk, Raipur (C.G.) 492001

--- Appellant

Versus

1 - The Deputy Commissioner Of Income Tax (Tds) Raipur (C.G.)

--- Respondent(s)

TAXC No. 191 of 2025

1 - The Deputy Director (Geology And Mining) 1st Floor, Collectorate
Parisar Kutcheri, Chowk Raipur (C.G.) 492001

---Appellant

Versus

1 - The Deputy Commissioner Of Income Tax (Tds) Raipur (C.G.)

--- Respondent(s)

TAXC No. 202 of 2025

1 - The Deputy Director (Geology And Mining) 1st Floor, Collectorate
Parisar, Kutcheri Chowk, Raipur (C.G.) 492001

---Appellant

Versus

1 - The Deputy Commissioner Of Income Tax (Tds) Raipur (C.G.)

--- Respondent(s)

TAXC No. 201 of 2025

1 - The Deputy Director (Geology And Mining) 1st Floor, Collectorate
Parisar, Kutcheri Chowk, Raipur, C.G. 492001

---Appellant

Versus

1 - The Deputy Commissioner Of Income Tax (Tds) Raipur, C.G.

--- Respondent(s)

(Cause-title is taken from Case Information System)

For Appellant	:	Mr. D. R. Minj, Dy. Advocate General
For Respondent	:	Mr. Amit Chaudhari, Advocate along with Mr. Vijay Chawla, Advocate

(Division Bench)

(Hon'ble Shri Justice Sanjay S. Agrawal

Hon'ble Shri Justice Amitendra Kishore Prasad)

Order On Board

26.02.2026

Per, Amitendra Kishore Prasad, Judge

1. Since identical questions of fact and law arise for consideration in all these tax cases and the substantial questions of law framed therein are common, all the matters were clubbed together, heard analogously with the consent of learned counsel appearing for the respective parties, and are being disposed of by this common judgment in order to maintain consistency and avoid conflicting findings.
2. At the outset, it is noticed that all these appeals were filed beyond the prescribed period of limitation. In certain cases, separate interlocutory applications have been filed seeking condonation of delay, which in all matters is of 667 days. Upon due consideration of the averments made in the applications and the reasons assigned for the delay, and being satisfied that sufficient cause has been shown preventing the appellants from preferring the appeals within time, the delay of 667 days in filing these appeals is hereby condoned. The interlocutory applications stand allowed accordingly.

3. In view of the identical nature of the controversy, Tax Case No. 189 of 2025 is treated as the lead case, and the facts are being referred to therefrom for the sake of convenience.
4. These appeals under Section 260A of the Income Tax Act, 1961 are directed against the common order dated 21.07.2023 passed by the Income Tax Appellate Tribunal, Raipur Bench, Raipur, in ITA No. 214/RPR/2022 and other connected appeals, whereby the learned Tribunal, while partly allowing the appeals of the assessee on certain aspects, upheld the action of the Department in treating the assessee as an “assessee in default” under Sections 206C(1C), 206C(6) and 206C(7) of the Income Tax Act, 1961 in respect of compounding fees received from persons involved in illegal mining and transportation of minor minerals.
5. The factual matrix reveals that a survey under Section 133A(2A) of the Income Tax Act, 1961 was conducted on 24.09.2018 at the office of the Deputy Director (Geology & Mining), situated at the 1st Floor, Collectorate Parisar, Kutcheri Chowk, Raipur (Chhattisgarh). In furtherance of the said proceedings, a summon was also issued on 17.01.2018 calling upon the concerned authority to produce relevant documents, books of accounts, and other records for verification. During the course of survey and subsequent proceedings, the department initiated verification of statutory records, registers, TDS/TCS-related documents, TDS returns, and details of expenditures liable to deduction or collection of tax for the financial years 2010-11 to 2018-19. It is

the case of the department that show cause notices dated 16.06.2018 and 17.07.2018 were issued requiring the assessee to furnish necessary evidence and explanations before passing any adverse or ex-parte order. In response, the assessee submitted written explanations on 02.05.2019 and 16.05.2019 along with supporting documents. Upon examination of the material produced, the department observed that the Mining Office, acting through its Principal Officer, had allegedly failed to collect and deposit Tax Collected at Source (TCS) on amounts received on account of illegal mining and transportation. It was further alleged that complete and accurate particulars were not furnished in the TCS returns filed for the relevant assessment years. The assessee, being the Principal Officer and Mining Officer, Bemetara, regularly filed quarterly TCS returns in Form No. 27EQ in accordance with the prescribed procedure under the Income Tax Act, 1961, and maintained books of account and statutory records as required under the Mining laws, in consonance with Section 44AA of the Income Tax Act. However, upon verification of records for the financial years 2011-12 to 2018-19, the department concluded that the Mining Office had not collected TCS on amounts payable on account of illegal mining and transportation activities. According to the department, such failure constituted a violation of the provisions of Section 206C(1C) as well as sub-sections (6) and (7) of the Act. Consequently, a notice under Section 206C(1C) read with sub-sections (6) and (7) of the

Income Tax Act, 1961 was issued and served for the assessment years 2011-12 to 2019-20, culminating in an order dated 30.11.2018 passed by the Deputy Commissioner of Income Tax (TDS), Raipur. Aggrieved by the said order, the assessee preferred an appeal before the Commissioner of Income Tax (Appeals). The Commissioner of Income Tax (Appeals), however, dismissed the appeal vide order dated 06.09.2022. Being dissatisfied with the appellate order, the assessee carried the matter further in appeal before the Income Tax Appellate Tribunal. The learned Tribunal, by its common order dated 21.07.2023 passed in as many as 38 appeals involving similar issues, partly allowed the appeals of the assessee. The Tribunal identified three principal issues common to all the cases, namely, whether TCS under Section 206C was required to be collected on (i) compounding fees received by the District Mining Officer from offenders involved in illegal mining and transportation, and (ii) contributions made by leaseholders towards the District Mineral Foundation (DMF) and the National Mineral Exploration Trust (NMET). In its findings, the Tribunal dismissed the first ground of the assessee and held that the compounding fees collected by the District Mining Officer in cases of illegal mining and transportation were in the nature of royalty and, therefore, attracted the provisions of Section 206C(1C) of the Act. However, with regard to the issue of TCS on contributions received towards DMF and NMET, the Tribunal decided the matter in favour of the assessee

subject to certain conditions and remanded the issue to the Deputy Commissioner of Income Tax for verification, particularly to examine whether such contributions were in fact received by the District Mining Office in the case of Bemetara and similarly placed offices. The controversy in the present case is also intertwined with the statutory framework governing mining activities. Section 4 of the Mines and Minerals (Development and Regulation) Act, 1957 prohibits any person from undertaking reconnaissance, prospecting, or mining operations except under and in accordance with a valid licence or lease granted under the Act and the rules framed thereunder. Further, Rule 71(5) of the Chhattisgarh Minor Mineral Rules, 2015 provides for penalty and compounding of offences in cases of unauthorized extraction, transportation, or storage of minerals. The said rule authorizes the competent authority to compound such offences upon payment of the market value of the mineral and a prescribed fine, which may extend to double the market value, subject to a minimum threshold. It is in the context of such statutory compounding provisions that the department treated the compounding fees as akin to royalty and consequently subjected them to TCS under Section 206C(1C) of the Income Tax Act, 1961. Thus, the dispute essentially revolves around the characterization of amounts received by the Mining Department in cases of illegal mining and transportation, and whether such receipts attract the obligation to collect TCS under Section 206C(1C) read with sub-sections (6)

and (7) of the Income Tax Act, 1961, along with the consequential liabilities arising therefrom.

6. Learned counsel for the appellant assailed the order dated 21.07.2023 passed by the Income Tax Appellate Tribunal as being wholly unsustainable in law and contrary to the facts and circumstances of the case. It was contended that the impugned order suffers from perversity, misinterpretation of statutory provisions, and erroneous appreciation of the nature of receipts in question. According to the learned counsel, the Tribunal failed to correctly construe the scope and applicability of Section 206C(1C) of the Income Tax Act, 1961, and wrongly equated compounding fees with royalty. It was emphatically submitted that the appellant has neither granted any lease nor issued any licence, nor entered into any contract, nor otherwise transferred any right or interest in a mine or quarry to persons engaged in illegal mining, illegal transportation, or illegal storage of minerals. The very foundation for invoking Section 206C(1C) is the existence of a lease, licence, contract, or transfer of rights in respect of a mine or quarry. In the present case, the offenders from whom compounding fees were received were neither licensees nor lessees, and no legal relationship of grant or transfer ever came into existence between the appellant and such offenders. Therefore, the essential pre-condition for collection of TCS under Section 206C(1C) was completely absent. Learned counsel further argued that the Tribunal failed to appreciate that the provisions of Section

206C(1C) do not apply in cases of illegal mining or illegal transportation where penalty or compounding fees are recovered. In cases of illegal extraction or transportation, no account is maintained in the name of the offender as a lessee or licensee, nor is any amount debited as payable by such offender towards any lease or contractual obligation. The compounding fee is not an amount arising out of any contractual or commercial arrangement, but is a penal levy imposed upon detection of an offence. It was further submitted that the appellant does not collect royalty from illegal miners or transporters. Royalty is collected only from lawful lessees or licensees operating under valid mining leases granted in accordance with statutory provisions. In contrast, compounding fees are levied strictly under Rule 71(5) of the Chhattisgarh Minor Mineral Rules, 2015 and Section 21 of the Mines and Minerals (Development and Regulation) Act, 1957, as a consequence of an offence. These provisions deal with penal consequences for unauthorized extraction, transportation, or storage of minerals, and provide a mechanism for compounding such offences upon payment of prescribed amounts. Such payment does not validate or regularize the illegal act, nor does it create any legal right in favour of the offender. Learned counsel elaborated upon the procedure followed in cases of illegal mining. Upon detection of an offence, a panchnama is prepared in respect of the seized vehicle, equipment, and mineral. The seized property is kept in

custody of the concerned police station. An inspection report is prepared detailing the nature of the offence, date, name of the offender, vehicle number, and other relevant particulars. Statements of the driver, transporter, and other concerned persons are recorded, and a seizure memo is prepared. Thereafter, if the offender submits an application for compounding, the compounding fee is calculated in accordance with Rule 71(5). Upon payment of the prescribed compounding amount, the offence is compounded and instructions are issued to release the seized vehicle and mineral. This entire process, it was argued, clearly demonstrates that the payment is penal in nature and not consideration for any transfer of rights. It was further contended that Section 206C(1C) specifically mandates collection of TCS by a person who grants a lease or licence or enters into a contract or otherwise transfers any right or interest in a mine or quarry. The definition of “lessee” under Clause 2(1)(x) of the Chhattisgarh Minor Mineral Rules, 2015 makes it clear that a lessee is a person granted a prospecting licence, mining lease, quarry lease, or permit under the Rules. An offender engaged in illegal mining without any lease or licence does not fall within this definition. Therefore, placing such offenders at par with lawful lessees for the purpose of TCS is legally untenable.

7. Learned counsel also submitted that the Tribunal erred in relying upon the definition of “transfer” under Section 2(47) of the Income Tax Act, which pertains to transfer of capital assets for the

purpose of charging capital gains. The said definition, it was argued, has no application to the facts of the present case, which concern penal compounding of offences. The Tribunal wrongly expanded the scope of “transfer” to treat receipt of compounding fees as a transfer of right or interest in a mine or quarry, even though no such right was ever granted or recognized in favour of the offender. It was further submitted that the Tribunal was misguided in relying upon the methodology for computation of compounding fees under Rule 71(5), which refers to market value of illegally extracted minerals and multiples of royalty. The mere fact that royalty forms one of the components in determining the quantum of compounding fine does not convert the compounding fee into royalty. The reference to “ten times of royalty” or “double the market value” is only a measure or yardstick for calculating penalty. The nature of the levy remains penal and cannot be equated with royalty payable under a lawful mining lease. Learned counsel also pointed out that Rule 71(1) provides for punishment including imprisonment up to one year or fine up to Rs. 25,000/- for illegal mining. Compounding is merely a statutory concession granted to offenders to avoid criminal prosecution. The voluntary payment of compounding fees to escape criminal proceedings cannot be construed as payment of consideration for transfer of mining rights. Therefore, treating compounding fees as royalty and subjecting them to TCS under Section 206C(1C) is legally erroneous. On the aforesaid grounds, learned counsel

submitted that substantial questions of law arise for consideration, including whether compounding fees under Rule 71(5) can be equated with royalty; whether Section 206C(1C) applies to offenders who have neither lease nor licence; whether receipt of compounding fees amounts to transfer of right or interest in a mine or quarry; and whether the Tribunal was justified in invoking the definition of “transfer” under Section 2(47) in the present context. It was thus prayed that the impugned order dated 21.07.2023 be set aside and the appeal under Section 260A of the Act be allowed.

8. Learned counsel for the respondent submits that the issue is squarely covered by the earlier judgment of the Division Bench of this Court rendered in Tax Case No. 81 of 2025 and 27 other connected matters, wherein an identical substantial question of law was framed, namely, whether Section 206C(1C) of the Income Tax Act, 1961 is applicable for collecting TCS from offenders engaged in illegal mining or transportation without lease or licence and from whom compounding fine is collected under Rule 71(5) of the Chhattisgarh Minor Mineral Rules, 2015.
9. We have considered the rival submissions and perused the record. The controversy involved in the present batch of appeals is identical to the one decided by the Division Bench in the aforesaid case. The substantial questions of law raised herein are squarely covered by the ratio laid down therein.

10. After an elaborate consideration of the statutory scheme, including Section 206C(1C) of the Income Tax Act, Section 23A of the Mines and Minerals (Development and Regulation) Act, 1957, and Rule 71(5) of the Rules of 2015, the Division Bench held that the obligation to collect TCS under Section 206C(1C) arises only where a person grants a lease or licence or enters into a contract or otherwise transfers any right or interest in a mine or quarry. It was categorically observed that persons engaged in illegal mining without any valid lease or licence do not fall within the ambit of lease holders or licence holders contemplated under Section 206C(1C). The compounding fee recovered from such offenders is penal in character, being a consequence of an offence, and is fundamentally distinct from royalty payable by a lawful lessee.
11. The Division Bench further held that there is no legislative mandate to collect TCS on compounding fee/fine collected under Section 23A of the MMDR Act read with Rule 71(5) of the Rules of 2015, and that royalty and compounding fee are mutually exclusive concepts. Accordingly, the impugned orders of the Tribunal in that batch were set aside and the substantial questions of law were answered in favour of the assessee and against the Revenue.
12. It has also been brought to our notice that the Revenue challenged the aforesaid judgment of the Division Bench by filing Special Leave Petition (Civil) Diary No. 2792 of 2026 before the Hon'ble Supreme Court. The said Special Leave Petition came to

be dismissed, thereby affirming the judgment dated 16.06.2025 rendered by the Division Bench of this Court in Tax Case No. 81 of 2025 and connected matters.

13. The controversy involved in the present appeals is identical in all material particulars to that which fell for consideration before the Division Bench in the aforesaid batch of cases. The statutory provisions are the same, the nature of receipts is identical, and the substantial questions of law framed herein are substantially similar. In such circumstances, the principle of judicial discipline and consistency requires that we follow the decision of the Coordinate Bench, particularly when the same has attained finality upon dismissal of the Special Leave Petition by the Hon'ble Supreme Court.
14. In view of the authoritative pronouncement rendered in Tax Case No. 81 of 2025 and 27 other connected matters, as affirmed by the Hon'ble Supreme Court, we hold that compounding fee/fine collected under Section 23A of the Mines and Minerals (Development and Regulation) Act, 1957 read with Rule 71(5) of the Chhattisgarh Minor Mineral Rules, 2015 cannot be equated with royalty and does not attract the provisions of Section 206C(1C) of the Income Tax Act, 1961. The learned Tribunal was, therefore, not justified in treating the assessee as liable to collect TCS on such compounding fees and in sustaining the consequential demand, interest and penalty.

15. Accordingly, the common order dated 21.07.2023 passed by the Income Tax Appellate Tribunal, Raipur Bench, Raipur, to the extent it upholds the levy of TCS, interest and consequential liability on compounding fees, is set aside. The substantial questions of law are answered in favour of the assessee and against the Revenue.
16. All these tax appeals are **allowed** in terms of the judgment rendered in Tax Case No. 81 of 2025 and connected matters.

There shall be no order as to costs.

Sd/-

(Sanjay S. Agrawal)
Judge

Sd/-

(Amitendra Kishore Prasad)
Judge

Shayna