



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT  
JODHPUR**

D.B. Civil Writ Petition No. 5678/2022

Shree Basant Bhandar Int Udyog

-----Petitioner

Versus

1. Union Of India, Through Secretary, Finance Department,  
New Delhi.

2. The State Of Rajasthan, Through Secretary Finance  
Department (Tax Division), Jaipur.

3. The State Of Rajasthan, Through Secretary Rajasthan  
Mining And Land Department, Jaipur.

4. Assistant Commissioner, Ward No. I State Tax,  
Raisinghnagar, District Sri Ganganagar.

-----Respondents

For Petitioner(s) : Mr. D.S. Solanki  
Mr. V.K. Aggarwal

For Respondent(s) :

**HON'BLE MR. JUSTICE VIJAY BISHNOI  
HON'BLE MR. JUSTICE MADAN GOPAL VYAS**

**Order**

**21/04/2022**

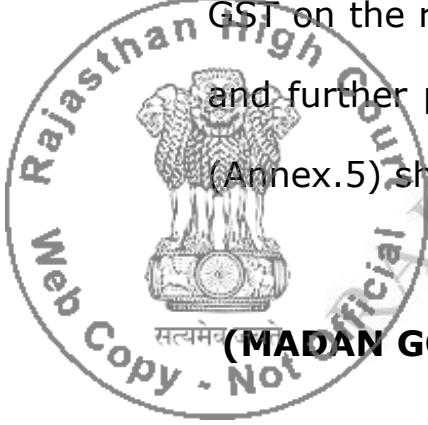
Learned counsel for the petitioner has submitted that as per the decision of the Hon'ble Supreme Court rendered in the case of **India Cement Ltd. Etc. Vs. State of Tamil Nadu Etc.**, reported in **AIR 1990 SC 85**, the royalty is separate and distinct from the land revenue and it is not related to the land as a unit, as such, no tax is to be paid upon the royalty. Learned counsel for the petitioner has further submitted that the Hon'ble Supreme Court in Special Leave to Appeal (C) No.37326/2017, arising out of



judgment of this Court rendered in the case of **Udaipur Chamber of Commerce and Industry Vs. Union of India** has already stayed payment of service tax for grant of mining lease/royalty.

Issue notice. Issue notice of stay application also, returnable on 5.7.2022.

Meanwhile, the respondents are restrained from recovery of GST on the royalty paid on account of excavation of sand for brick and further proceedings pursuant to the notice dated 15.02.2022 (Annex.5) shall remain stayed.



**(MADAN GOPAL VYAS),J**

**(VIJAY BISHNOI),J**

7-Hanuman/-

