STATE OF RAJASTHAN & ANR. A

v.

J.K. SYNTHETICS LTD. & ANR.

(Civil Appeal No. 4927 of 2011)

JULY 4, 2011 B

[R.V. RAVEENDRAN, P. SATHASIVAM AND A.K. PATNAIK, JJ.]

Minerals Concession Rules, 1960 – Rule 64-A – Mines and Minerals (Development and Regulation) Act, 1957 – s.9 and Second Schedule – Royalty in respect of mining lease – Levy of interest on arrears of royalty – State Government issued notices demanding interest from respondents-lessees @ 24% p.a. – Respondents filed writ petitions – Single Judge of High Court upheld the demand for interest only to an extent of 12% p.a. – State Government filed intra-court appeals – Division Bench of High Court held that the order of the Single Judge was a consent order, being based on an admission/ concession by the Advocate General, and therefore, it was not open for the State Government to challenge the order of the Single Judge –Held: From the order of the Single Judge, it is clear that the only submission of the Advocate General before the Single Judge was that the State Government was entitled to interest @ 18% p.a. – The observation in the order that as per the trend of Supreme Court, the State Government should get interest at least @ 12% p.a. on delayed payments, as awarded in the Supreme Court decision in South Eastern Coalfields, was an observation of the Single Judge, and not a concession by the Advocate General – The order of the Single Judge was thus not based on consent or concession, but made on merits following the Supreme Court decision in South Eastern Coalfields – It was therefore open for the State Government to challenge the order of the Single Judge if it was of the view that it was entitled to get a higher rate of interest C D E F G

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A – Code of Civil Procedure, 1908 – Concession of Advocate/ party.

Minerals Concession Rules, 1960 – Rule 64-A – Royalty in respect of mining lease – Notification increasing the rate B of royalty – Respondents-lessees filed writ petition challenging the same – High Court issued interim orders directing the State Government not to take coercive steps to recover royalty at the increased rate – Writ petitions ultimately dismissed – State Government issued demand notices C calling upon respondents to pay interest on the difference in royalty which had been withheld on account of the interim orders and which were belatedly paid, after rejection of the writ petitions – Justification – Held: Whenever there is an interim order of stay in regard to any revision in rate or tariff, unless the order granting interim stay or the final order dismissing D the writ petition specifies otherwise, on the dismissal of the writ petition or vacation of the interim order, the beneficiary of the interim order shall have to pay interest on the amount withheld or not paid by virtue of the interim order – Where the statute or contract specifies the rate of interest, usually interest will E have to be paid at such rate – Even where there is no statutory or contractual provision for payment of interest, the court will have to direct the payment of interest at a reasonable rate, by way of restitution, while vacating the order of interim stay, or dismissing the writ petition, unless there are special F reasons for not doing so – Any other interpretation would encourage unscrupulous debtors to file writ petitions challenging the revision in tariffs/rates and make attempts to obtain interim orders of stay – If the obligation to make restitution by paying appropriate interest on the withheld G amount is not strictly enforced, the loser will end up with a financial benefit by resorting to unjust litigation and winner will end up as the loser financially for no fault of his – Code of Civil Procedure, 1908 – s.144 – Principle of restitution – Mines and Minerals (Development and Regulation) Act, 1957 – s.9 H and Second Schedule.

Minerals Concession Rules, 1960 – Rules 64-A, 31 and 27 – Royalty in respect of mining lease – Rule 64A providing for levy of interest on arrears of royalty – Word "may" in Rule 64A – Interpretation of – Whether Rule 64-A vests any discretion in the State Government to charge interest at a rate less than 24% p.a. in appropriate or deserving cases – Held: Word 'may' is used in Rule 64-A not in the context of giving discretion in regard to rate of interest to be charged, but to give an option or choice to the State Government as to whether it should determine the lease, or charge interest at 24% p.a., or do both – Therefore, where the lease is not determined as a consequence of the default, the State will have to charge interest at 24% p.a. on the outstanding amount – There is no discretion in the state government to charge interest at any lesser rate – The intention of Rule 64A is to discourage practices that may be detrimental to recovery of revenue, by providing for a higher rate of interest – If a lesser rate of interest is provided under the Rules, it may lead to unscrupulous lessees indulging in delaying tactics – Where the statute or contract prescribed a specific rate of interest, the court should normally adopt such rate while awarding interest, except where the court proposes to award a higher or lower rate of interest, for special and exceptional reasons – On facts, the respondents-lessees had filed writ petitions before the Single Judge of the High Court challenging the notification increasing the rate of royalty and in case of one of the respondents, there was a categorical direction of the writ court while granting interim stay that in the event of failure in the writ petition, it will have to pay interest @ 18% p.a. – That was a condition of interim order and though in the writ petitions of other respondents, there was no such condition regarding interest while granting the stay, but it is possible that the respondents thought, by reason of the fact that there was no condition for payment of interest while granting stay, they may not be required to pay the statutory rate of interest – More importantly, the Advocate General appearing for the State had made a submission before the Single Judge that state

A *government was entitled to interest only @ 18% p.a. – Though the respondent in the last case contended that the Lease Deed in its case provided that any royalty not paid within prescribed time shall be paid with simple interest @ 10% p.a. and therefore the interest on any arrears cannot be more than*
B *10% p.a. in its case, but it is clear that the lease was governed by the Minerals and Concessions Rules and any term in the lease deed prescribing a lesser rate of interest, shall have to yield to Rule 64-A as the rule will prevail over the terms of the lease – In the peculiar and special circumstances, from*
C *the date of the notification to the date of dismissal of the respective writ petitions, the rate of interest shall be 18% p.a. on the arrears of royalty etc. and from the date of dismissal of the writ petitions till date of payment, the rate of interest shall be 24% p.a. – Mines and Minerals (Development and*
D *Regulation) Act, 1957 – s.9 and Second Schedule.*

The first respondent in each of the instant appeals is or was the holder of a mining lease for limestone. Section 9 of the Mines and Minerals (Development and Regulation) Act, 1957 deals with Royalties in respect of
E **mining leases. Sub-section (2) thereof requires the holder of a mining lease to pay royalty in respect of any mineral removed or consumed by him from the leased area at the rate specified in the Second Schedule to the Act, in respect of that mineral. Sub-section (3) thereof empowers**
F **the Central Government, by notification published in the official gazette, to amend the Second Schedule so as to enhance the rates at which royalty shall be payable in respect of any mineral with effect from such date as may be specified in the notification. By notification, the Central**
G **Government had amended the Second Schedule to the Act and increased the royalty in respect of (limestone) from Rs.4.50 per tonne to Rs.10 per tonne. By a subsequent notification dated 17.2.1992, the Second Schedule to the Act was again amended and the rate or**
H **royalty for limestone was increased from Rs.10/- per**

tonne to Rs.25/- per tonne.

The respective first respondent in the instant appeals (the 'contesting respondents') filed writ petitions challenging the constitutional validity of section 9(3) of the Act and the notification dated 17.2.1992 increasing the rate of royalty from Rs.10 to Rs.25 per tonne. In all the cases (except in the case of J. K. Udaipur Udyog Ltd), the High Court issued interim orders directing the state government not to take coercive steps to recover royalty at the rate of Rs.25 per metric tonne in pursuance of notification dated 17.2.1992, subject to the writ petitioners paying royalty at the rate of Rs.10 per MT and furnishing bank guarantee for the difference of Rs.15 per MT. In the case of J. K. Udaipur Udyog Ltd, the High Court made an interim order as in the other cases, with an additional condition th*at in case the said writ petitioner ultimately failed in the writ petition, the difference amount due from the writ petitioner shall be recovered with interest at the rate of 18% per annum.*

Ultimately, the several writ petitions filed by the contesting respondents were dismissed. As a consequence of such dismissal, each of the contesting respondents claims to have paid the difference in royalty (that is at the rate of Rs.15/- per MT) in the years 1996-1997.

Rule 64-A of the Minerals Concession Rules, 1960 provides for levy of interest on arrears of royalty and other dues. The State of Rajasthan issued demand notices to the contesting respondents calling upon them to pay interest at the rate of 24% per annum under Rule 64-A of the Rules, on the difference in royalty which had been withheld on account of the interim orders obtained by them and which were belatedly paid, after rejection of their writ petitions.

A The contesting respondents at this stage again filed a second round of writ petitions challenging the notices demanding interest, contending that they were not liable to pay interest. They submitted before the Single Judge that the claim for interest at 24% per annum was harsh, B excessive and inequitable. The Single Judge upheld the demand for interest only to an extent of 12% per annum and set aside the demand for the interest at the higher rate of 24% per annum, with a condition that if interest at 12% per annum on the delayed payments was not paid within C three months, the respective writ petitioners shall be liable to pay interest at 24% per annum. The contesting respondents purportedly paid the interest at the rate of 12% per annum on the delayed payments, within three months period. The State government filed intra-court D appeals challenging the order of the Single Judge. A Division Bench of the High Court upheld the order of the Single Judge holding that it was based on an admission/ concession by the Advocate General and therefore, the order did not call for interference.

E In the instant appeals filed by the State Government, the following questions arose for consideration: (i) Whether the Advocate General appearing for the State had consented to award of interest at 12% per annum; (ii) Whether when the High Court grants an interim stay F of a demand for payment of money, in a writ petition challenging the levy which is ultimately dismissed, without any specific direction for payment of interest, the respondent can claim interest on the amount due for the period covered by the interim order; (iii) Whether Rule 64- G A vests any discretion in the state government to charge interest at a rate less than 24% per annum in appropriate or deserving cases and (iv) Whether the rate of interest awarded at 12% per annum requires to be increased.

Partly allowing the appeals, the Court

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HELD:

Re : Question (i)

1.1. From the order of the Single Judge, it is clear that the only submission of the Advocate General before the Single Judge was that the State Government was entitled to interest at the rate of 18% per annum. The further observation in the order that as per the trend of Supreme Court decision, the state government should get interest at least at the rate of 12% per annum on the delayed payments, as awarded in the decision in *South Eastern Coalfields*, was an observation of the Single Judge, and not a concession by the Advocate General. The subsequent para of the order of the Single Judge makes it clear beyond doubt that the order was not on consent or concession, but was made on merits following the decision of this Court in *South Eastern Coalfields*. Therefore, the assumption by the Division Bench of the High Court that the Advocate General had made a concession and the order of the Single Judge was a consent order and therefore, it was not open for the State Government to challenge the order of the Single Judge, was erroneous. The order of the Division Bench cannot therefore be sustained. [Para 12] [1011-E-H; 1012-A]

1.2. Even if it is assumed that the Advocate General had submitted that "looking to the present trend of the decision of Supreme Court", Government should at least get interest at the rate 12% per annum on the delayed payment of difference in royalty amount as had been awarded in *South Eastern Coalfields*, that would neither be an admission nor a concession that the state government is entitled to interest only at the rate of 12% per annum in regard to the rate of interest. It would be nothing more than a statement made with reference to the decision in *South Eastern Coalfields* and such a statement would not come in the way of order being challenged if the state

A government is of the view that it is entitled to get a higher rate of interest. [Para 13] [1012-B-D]

South Eastern Coalfields Ltd. vs. State of M.P. 2003 (8) SCC 648: 2003 (4) Suppl. SCR 651 – referred to.

B Re : Question (ii)

2. The question regarding liability to pay interest for the period of stay when the stay is ultimately vacated is no longer *res integra*. In view of the earlier decisions of C this Court, it is evident that whenever there is an interim order of stay in regard to any revision in rate or tariff, unless the order granting interim stay or the final order dismissing the writ petition specifies otherwise, on the dismissal of the writ petition or vacation of the interim D order, the beneficiary of the interim order shall have to pay interest on the amount withheld or not paid by virtue of the interim order. Where the statute or contract specifies the rate of interest, usually interest will have to be paid at such rate. Even where there is no statutory or contractual provision for payment of interest, the court E will have to direct the payment of interest at a reasonable rate, by way of restitution, while vacating the order of interim stay, or dismissing the writ petition, unless there are special reasons for not doing so. Any other interpretation would encourage unscrupulous debtors to F file writ petitions challenging the revision in tariffs/rates and make attempts to obtain interim orders of stay. If the obligation to make restitution by paying appropriate interest on the withheld amount is not strictly enforced, the loser will end up with a financial benefit by resorting G to unjust litigation and winner will end up as the loser financially for no fault of his. [Paras 14, 17] [1013-B; 1016-C-F]

Kanoria Chemicals and Industries Ltd. vs. UP State H *Electricity Board* 1997 (5) SCC 772: 1997 (2) SCR 844;

Rajasthan Housing Board vs. Krishna Kumari **2005 (13) SCC 151;** *Nav Bharat Ferro Allays Ltd vs. Transmission Corporation of Andhra Pradesh Ltd* **2011 (1) SCC 216: 2010 (14) SCR 900 and** *South Eastern Coalfields Ltd. vs. State of M.P.* **2003 (8) SCC 648: 2003 (4) Suppl. SCR 651 – relied on.**

Re : Question (iii)

3.1. The contesting respondents contended that Rule 64A provides that the state government "may" charge simple interest at the rate of 24% per annum; that this being an enabling provision, there is no 'mandate' or compulsion to charge interest at 24% per annum; and that therefore, the state government has the discretion to charge interest at a rate lesser than 24% in appropriate deserving cases. However, a careful reading of the Rules makes it clear that no such discretion is given to the state government in regard to rate of interest. This will be evident from a combined reading of Rules 31 and 27 and the terms of the statutory form of lease deed (Form K), with Rule 64A. Rule 31 provides that where, an order has been made for the grant of a mining lease, a lease deed in Form K (or in a form as near thereto as circumstances of each case may require), shall be executed. Rule 27 specifies that every mining lease shall be subject to the conditions mentioned therein. Clause (5) of Rule 27 refers to determination. The above provision is accordingly incorporated in clause (2) of Part IX of the standard form of lease (Form K). [Paras 18, 19] [1016-G-H; 1017-D-E; 1018-A-B]

3.2. The rate of interest at 24% was substituted in clause (3) of Part VI of the standard form of lease, by the very same amendment which substituted the said percentage in Rule 64A namely, GSR 129 (E) dated 20.2.1991. The words "may charge simple interest" in Rule 64A should be read in the context of the words

A "without prejudice to the provisions of the Act or any other Rule in these Rules". Rule 45(iv) requires the lease deed to contain a condition that if there is any default in the payment of royalty, the lessor without prejudice to any proceeding that may be taken against the lessee, B determine the lease. Therefore, the word "may" used with reference to the words "charge simple interest at the rate of 24% per annum" when read with the words "without prejudice to the provisions contained in the Act or any other Rule", occurring in Rule 64A, make it clear that C whenever rent/royalty/fee becomes due, the lessor has several options by way of remedy. The lessor may determine the lease, if the breach is not rectified, even after sixty days' notice to rectify the breach. Alternatively, instead of determining the lease, the rule gives the choice D to charge interest at 24% per annum on the amounts due. The third alternative for the state government is to determine the lease *and also* charge interest at 24% per annum on the outstanding dues. The word 'may' is used in Rule 64-A not in the context of giving discretion in regard to rate of interest to be charged, but to give an E option or choice to the State Government as to whether it should determine the lease, or charge interest at 24% per annum, or do both. Therefore, where the lease is not determined as a consequence of the default, the State will have to charge interest at 24% per annum on the F outstanding amount. If Rule 64A is to be interpreted as giving any discretion, that too unguided discretion, to the authorities to charge any rate of interest, as it would result in misuse and abuse. In this view of the matter, the contentions urged by the parties as to whether the word G "may" should be read as "must" or "shall", and, if so, in what circumstances, do not arise for consideration at all. [Para 20] [1018-C-H; 1019-A-B]

3.3. There is also other material in the Rules itself to H show that the rate of interest mentioned in Rule 64A was

not intended to be flexible and that the rate of interest mentioned therein has to be applied in all cases of non-payment/default. When Rule 64A was amended by notification dated 20.2.1991, increasing the rate of interest to 24% per annum, clause (3) of Part IV of the standard form of lease (Form K) was also amended increasing the rate of interest payable on all dues as 24% per annum. Clause (3) of Part VI of Form K makes it clear that the rate of interest should be 24% per annum and there is no discretion in the state government to charge interest at any lesser rate. [Para 21] [1019-B-F]

3.4. It is true that annual interest at 24% per annum appears to be marginally higher than the standard market lending rate of interest. But it is not penal in nature. Revenue from mining constitutes one of the major sources of non-tax revenue of the State Governments. Mining lessees are expected to pay the mining dues promptly and without default. If a lesser rate of interest is provided under the Rules, it may lead to unscrupulous lessees indulging in delaying tactics. The intention of Rule 64A is to discourage practices that may be detrimental to recovery of revenue, by providing for a higher rate of interest. Hence, once the State Government chooses not to take the path of determining the lease, charging of interest at 24% is mandatory and leaves no discretion in the State Government in regard to rate of interest. [Para 22] [1019-G-H; 1020-A-B]

Re : Question (iv)

4.1. Where the statute or contract prescribed a specific rate of interest, the court should normally adopt such rate while awarding interest, except where the court proposes to award a higher or lower rate of interest, for special and exceptional reasons. [Para 27] [1023-G]

4.2. In the instant case, in the case of one of the

A contesting respondents (*J. K. Udaipur Udyog Ltd.*), there was a categorical direction while granting interim stay that in the event of failure in the writ petition the writ petitioner will have to pay interest at the rate of 18% per annum. That was a condition of interim order and B therefore, it is possible that the parties *bona fide* proceeded on the basis that interest will be only 18% per annum. In the writ petitions of other contesting respondents, there was no such condition regarding interest while granting the stay. But it is possible that the C contesting respondents thought, by reason of the fact that there was no condition for payment of interest while granting stay, they may not be required to pay the statutory rate of interest. More importantly, the Advocate General appearing for the State had made a submission D before the Single Judge that state government was entitled to interest only at the rate of 18% per annum. In the peculiar and special circumstances of these cases, this Court is of the view that the appellants will be entitled to interest at 18% per annum in respect of royalty that became due between 17.2.1992 and the date of dismissal E of their respective writ petitions. For the period subsequent to the dismissal of the writ petitions, the contesting respondents will be liable to pay interest on the said amount, at the rate of 24% per annum till date of payment. [Para 28] [1024-A-E]

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4.3. As regards the contention of contesting respondent in the last case (Shree Cement) that clause VI(iii) of the Lease Deed in its case provided that any royalty which was not paid within the prescribed time G shall be paid with simple interest at the rate of 10% per annum and therefore the interest on any arrears cannot be more than 10% per annum in its case, it is clear that the lease is governed by the Minerals and Concessions Rules 1960 and execution of the lease deed was itself is H in compliance with one of the requirement of the rules,

namely Rule 31. Once Rule 64A was amended by notification dated 20.2.1991 increasing the rate of interest to 24% per annum, any term in the lease deed prescribing a lesser rate of interest, shall have to yield to Rule 64-A from that date as the rule will prevail over the terms of the lease. [Para 29] [1024-F-H; 1025-A-B]

South Eastern Coalfields Ltd. vs. State of M.P. **2003 (8) SCC 648: 2003 (4) Suppl. SCR 651 and** *Saurashtra Cement and Chemical Industries Ltd. vs. Union of India* **2001 (1) SCC 91: 2000 (4) Suppl. SCR 44 – distinguished.**

Kanoria Chemicals and Industries Ltd. vs. UP State Electricity Board **1997 (5) SCC 772: 1997 (2) SCR 844 – relied on.**

State of Madhya Pradesh vs. Mahalaxmi Fabric Mills Ltd. **1995 Supp (1) SCC 642 – referred to.**

Conclusion

5. The rate of interest is modified in each case as under: (i) from 17.2.1992 to the date of dismissal of the respective writ petition (challenging the notification dated 17.2.1992), the rate of interest shall be 18% per annum on the arrears of royalty etc.; and (ii) from the date of dismissal of the writ petition till date of payment, the rate of interest shall be 24% per annum. [Para 30] [1025-C-D]

Case Law Reference:

2003 (4) Suppl. SCR 651	Referred to.	Paras 12, 13
1997 (2) SCR 844	Relied on.	Paras 15, 27
2005 (13) SCC 151	Relied on.	Para 15
2010 (14) SCR 900	Relied on.	Para 15
2003 (4) Suppl. SCR 651	Relied on.	Para 16
2003 (4) Suppl. SCR 651	Distinguished.	Para 25
1995 Supp (1) SCC 642	Referred to.	Para 26

A **2000 (4) Suppl. SCR 44 Distinguished. Para 26**

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 4927 of 2011.

From the Judgment & Order dated 14.11.2006 of the High
B Court of Judicature for Rajasthan at Jodhpur in S.B. Civil Writ Petition No. 4267 of 1997.

WITH

C C.A. Nos. 4928, 4929, 4931, 4930 & 4932 of 2011.

Harish Salve, Soli J. Sorabjee, V. Shekhar, Dr. Manish Singhvi, AAG, D.K. Devesh, Sahil S. Chauhan, Milind Kumar, R. Gopalakrishnan, U.A. Rana, Devina Sehgal (for M/s Gagrat & Co.), Praveen Kumar, K.V. Mohan for the appearing parties.

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The Judgment of the Court was delivered by

R.V.RAVEENDRAN, J. 1. Leave granted.

2. In these appeals by special leave, the appellants
E challenge the orders of the Division Bench of the Rajasthan High Court, dismissing its appeals against a common order of the learned Single Judge, restricting the interest on arrears of royalty to 12% per annum, instead of 24% per annum demanded by the State of Rajasthan.

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3. The first respondent in each of these appeals is or was the holder of a mining lease for limestone. Section 9 of the Mines and Minerals (Development and Regulation) Act, 1957 ('Act' for short) deals with Royalties in respect of mining leases. Sub-section (2) thereof requires the holder of a mining lease
G to pay royalty in respect of any mineral removed or consumed by him from the leased area at the rate for the time being specified in the Second Schedule to the Act, in respect of that mineral. Sub-section (3) thereof empowers the Central Government, by notification published in the official gazette, to

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amend the Second Schedule so as to enhance the rates at which royalty shall be payable in respect of any mineral with effect from such date as may be specified in the notification.

4. By notification dated 5.5.1987, the Central Government had amended the Second Schedule to the Act and increased the royalty in respect of (limestone) from Rs.4.50 per tonne to Rs.10 per tonne. By a subsequent notification dated 17.2.1992, the Second Schedule to the Act was again amended and the rate or royalty for limestone was increased from Rs.10/- per tonne to Rs.25/- per tonne.

5. The respective first respondent in these appeals (together referred to the 'contesting respondents') filed writ petitions challenging the constitutional validity of section 9(3) of the Act and the notification dated 17.2.1992 increasing the rate of royalty from Rs.10 to Rs.25 per tonne. In all the cases (except in the case of J. K. Udaipur Udyog Ltd), the High Court issued interim orders directing the state government not to take coercive steps to recover royalty at the rate of Rs.25 per metric tonne in pursuance of notification dated 17.2.1992, subject to the writ petitioners paying royalty at the rate of Rs.10 per MT and furnishing bank guarantee for the difference of Rs.15 per MT. In the case of J. K. Udaipur Udyog Ltd, the High Court made an interim order as in the other cases, with an additional condition th*at in case the said writ petitioner ultimately failed in the writ petition, the difference amount due from the writ petitioner shall be recovered with interest at the rate of 18% per annum.*

6. Ultimately, the several writ petitions filed by the contesting respondents challenging the section 9(3) of the Act and the notification dated 17.2.1992 increasing the royalty, were dismissed in the year 1996 following the decision of this Court in *State of Madhya Pradesh vs. Mahalaxmi Fabric Mills Ltd.*,– 1995 Supp (1) SCC 642, wherein this Court had upheld the validity of section 9(3) of the Act and the notification revising the rate of royalty. As a consequence of such dismissal, each

A of the contesting respondents claims to have paid the difference in royalty (that is at the rate of Rs.15/- per MT) in the years 1996-1997.

7. Rule 64-A of the Minerals Concession Rules, 1960 ('Rules' for short) provides for levy of interest on arrears of royalty and other dues and the same is extracted below :

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"64-A. The State Government may, without prejudice to the provisions contained in the Act or any other rule in these rules, charge simple interest at the rate of 24% per annum on any rent, royalty or fee, other than the fee payable under sub-rule (1) of Rule 54, or other sum due to that government under the Act or these rules or under the terms and conditions of any prospecting licence or mining lease from the sixtieth day of the expiry of the date fixed by that government for payment of such royalty, rent, fee or other sum and until payment of such royalty, rent, fee or other sum is made."

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8. The State of Rajasthan issued the following demand notices to the contesting respondents calling upon them to pay interest at the rate of 24% per annum under Rule 64-A of the Rules, on the difference in royalty which had been withheld on account of the interim orders obtained by them and which were belatedly paid, after rejection of their writ petitions :

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S. No.	Name of Lessee	Writ Petition Number (where stay was obtained)	Interest Demanded (in Rupees)	Date of Demand
1.	J. K. Synthetic Ltd	WP No. 5721/1992.	6,98,54,031	6.11.1997
2.	Birla Corporation Ltd.	WP No. 6008/1992	5,99,81,784	24.7.1997
3.	J. K. Udaipur Udyog Ltd.	WP No. 3871/1993	1,12,76,364	12.3.1997
4.	J. K. Synthetic Ltd	WP No. 5300/1992.	20,04,474	24.7.1997
5.	J. K. Corporation Ltd	WP No. 5202/1992.	1,83,10,418	4.11.1996
6.	Shree Cement Ltd.	WP No. 5004/1992	2,91,89,622	21.1.1997

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9. The contesting respondents at this stage again filed a second round of writ petitions challenging the notices demanding interest, contending that they were not liable to pay interest. They also challenged the validity of Rule 64-A of the Rules. During the pendency of those petitions, this Court in *South Eastern Coalfields Ltd. vs. State of M.P.* – 2003 (8) SCC 648, upheld the validity of Rule 64A. On the peculiar facts of that case which were noticed in para 30 of the said judgment, this Court held that it will not interfere, in exercise of the jurisdiction under Article 136 of the Constitution of India, the discretion exercised by the High Court in reducing the rate of interest from 24% per annum to 12% per annum making it clear that the same shall not however be treated as precedent in any other case. After the said decision, what remained to be considered in the writ petitions filed by the contesting respondent was the rate of interest. The contesting respondents as writ petitioners submitted before the learned Single Judge that the claim for interest at 24% per annum was harsh, excessive and inequitable, and interest should not be charged at a rate higher than 9% per annum. They relied upon the decision of this court in *Saurashtra Cement and Chemical Industries Ltd., vs. Union of India* – 2001 (1) SCC 91, where this court had reduced the rate of interest on unpaid royalty imposed by the High Court (18% per annum) to 9% per annum. The learned Single Judge allowed the writ petitions of the six contesting respondents in part, by common order dated 11.8.2005. He noted that the Advocate General had submitted that the State Government was entitled to interest at 18% per annum. The learned Single Judge noted that the trend of directions by the Supreme Court showed that State should get interest at least at the rate of 12% per annum on the delayed payments. Consequently, he upheld the demand for interest only to an extent of 12% per annum and set aside the demand for the interest at the higher rate of 24% per annum, with a condition that if interest at 12% per annum on the delayed payments was not paid within three months, the respective writ

A petitioners shall be liable to pay interest at 24% per annum. It is stated by the contesting respondents that all of them have paid the interest at the rate of 12% per annum on the delayed payments, within three months period. Be that as it may.

B 10. The state government filed intra-court appeals challenging the order of the learned Single Judge. A Division Bench of the High Court has dismissed those appeals by the impugned orders dated 14.11.2009, 13.11.2006, 13.11.2006, 13.3.2007, 14.11.2006 and 4.11.2009, on the ground that the order of the learned Single Judge was based on an admission/ C concession by the learned Advocate General and therefore, the order did not call for interference. The said orders are challenged in these appeals by special leave by the state government.

D 11. On the contentions raised, the following questions arise for consideration :

(i) Whether the Advocate General appearing for the State had consented to award of interest at 12% per annum?

E (ii) When the High Court grants an interim stay of a demand for payment of money, in a writ petition challenging the levy which is ultimately dismissed, without any specific direction for payment of interest, whether the respondent can claim interest on the amount due for the period covered by the interim F order?

(iii) Whether Rule 64-A vests any discretion in the state government to charge interest at a rate less than 24% per annum in appropriate or deserving cases?

G (iv) Whether the rate of interest awarded at 12% per annum requires to be increased?

Re : Question (i)

H 12. The first question is whether the order of the learned

Single Judge is based on any consent and whether the learned Advocate General appearing for the state had conceded that the state government is entitled to interest at only 12% per annum. We extract below the relevant portion of the order of the learned Single Judge, where there is a reference to the submission made of the learned Advocate General :

> "On the other hand, the learned Advocate General submits that the state government is entitled for the rate of interest @ 18% per annum but even looking to the present trend of Hon'ble Supreme Court, Government must at least get interest @12% per annum on the delayed payment of the difference royalty amount as has been awarded by the Hon'ble Supreme Court in *South Easter Coalfields* case (supra).
>
> Having heard the learned (counsel) for the parties, I am of the view that in the facts and circumstances of the present case, the demand of interest @ 12% per annum would meet the ends of justice in the light of the Apex Court judgement in *South Eastern Coalfields* case (supra)."

The only submission of the Advocate General before the learned Single Judge was that the State Government was entitled to interest at the rate of 18% per annum. The further observation that as per the trend of Supreme Court decision, the state government should get interest at least at the rate of 12% per annum on the delayed payments, as awarded in the decision in *South Eastern Coalfields*, is an observation of the learned Single Judge, and not a concession by the learned Advocate General. Further, subsequent para of the order of the learned Single Judge makes it clear beyond doubt that the order was not on consent or concession, but is made on merits following the decision of this Court in *South Eastern Coalfields*. Therefore, the assumption by the Division Bench of the High Court that the learned Advocate General had made a concession and the order of the learned Single Judge was a

A consent order and therefore, it was not open for the State Government to challenge the order of the learned Single Judge, is obviously erroneous. The order of the Division Bench cannot therefore be sustained.

B 13. Even if it is assumed that the learned Advocate General had submitted that "looking to the present trend of the decision of Supreme Court", Government should at least get interest at the rate 12% per annum on the delayed payment of difference in royalty amount as had been awarded in *South Eastern Coalfields*, that would neither be an admission nor a C concession that the state government is entitled to interest only at the rate of 12% per annum in regard to the rate of interest. It would be nothing more than a statement made with reference to the decision in *South Eastern Coalfields* and such a statement would not come in the way of order being challenged D if the state government is of the view that it is entitled to get a higher rate of interest.

Re : Question (ii)

E 14. The contesting respondents filed the second round of writ petitions before the High Court challenging the demand for interest and the validity of Rule 64A, on two grounds : that Rule 64-A was invalid; that the rate of interest was excessive. The learned Single Judge negatived the first contention in view of the decision of this *South Eastern Coalfields*. He however F accepted the second contention and restricted the rate of interest to 12% per annum. The contesting respondents have not challenged the order of the High Court holding that they are liable to pay interest at 12% per annum. They have in fact paid the interest at such rate. Before us, one of the contentions urged G to resist the claim of the State for increase in the rate of interest, is with reference to the fundamental question about the liability itself. It was submitted that they were not liable to pay interest on the increase in royalty amount, in view of their challenge to the increase and order of interim stay of the High H Court. It was submitted by the contesting respondents, that even

if the writ petitions challenging the notification dated 17.2.1992 revising the royalty rate were ultimately dismissed, in the absence of any specific direction by the High Court to pay interest on the difference in royalty amount, they were not liable to pay any interest during the period of operation of stay. This question is no longer *res integra*. We may refer to the decisions of this Court that have categorically laid down about the liability to pay interest for the period of stay when the stay is ultimately vacated.

15. In *Kanoria Chemicals and Industries Ltd. vs. UP State Electricity Board* – 1997 (5) SCC 772, this Court held that grant of stay of a notification revising the electricity charges does not have the effect of relieving the consumer of its obligation to pay interest (or late payment surcharge) on the amount withheld by them by reason of the interim stay, if and when the writ petitions are dismissed ultimately. The said principle was based on the following reasoning :

> *"Holding otherwise would mean that even though the Electricity Board, which was the respondent in the writ petitions succeeded therein, is yet deprived of the late payment surcharge which is due to it under the tariff rules/ regulations. It would be a case where the Board suffers prejudice on account of the orders of the court and for no fault of its. It succeeds in the writ petition and yet loses. The consumer files the writ petition, obtains stay of operation of the Notification revising the rates and fails in his attack upon the validity of the Notification and yet he is relieved of the obligation to pay the late payment surcharge for the period of stay, which he is liable to pay according to the statutory terms and conditions of supply - which terms and conditions indeed form part of the contract of supply entered into by him with the Board. We do not think that any such unfair and inequitable proposition can be sustained in law.....*
>
> It is equally well settled that an order of stay granted

A pending disposal of a writ petition/suit or other proceeding comes to an end with the dismissal of the substantive proceeding and that it is the duty of the court in such a case to put the parties in the same position they would have been but for the interim orders of the court. Any other B view would result in the act or order of the court prejudicing a party (Board in this case) for no fault of its and would also mean rewarding a writ petitioner in spite of his failure. We do not think that any such unjust consequence can be countenanced by the courts. As a matter of fact, the C contention of the consumers herein, extended logically should mean that even the enhanced rates are also not payable for the period covered by the order of stay because the operation of the very notification revising/ enhancing the tariff rates was stayed. Mercifully, no such D argument was urged by the appellants. It is ununderstandable how the enhanced rates can be said to be payable but not the late payment surcharge thereon, when both the enhancement and the late payment surcharge are provided by the same Notification - the operation of which was stayed." E

(emphasis supplied)

The above principles have been followed and reiterated by this Court in *Rajasthan Housing Board vs. Krishna Kumari* – 2005 F (13) SCC 151 and *Nav Bharat Ferro Allays Ltd vs. Transmission Corporation of Andhra Pradesh Ltd* – 2011 (1) SCC 216.

16. The same question was considered by this Court, when examining the constitutional validity of Rule 64-A in *South* G *Eastern Coalfields*. This Court held that Rule 64-A providing for payment of interest at the rate of 24% per annum, was valid. In that case also, it was contended before this Court that non-payment of the increased amount of royalty was protected by the interim orders of the High Court and therefore, they should H not be held liable for payment of interest so long as the money

was withheld under the protective umbrella of the interim orders. It was further contended that merely because the writ petition was finally dismissed, it does not follow that the interim order becomes vitiated or erroneous, as it may still be a perfectly justified interim order. It was further argued that as they had shown their *bona fides* by paying the difference in royalty immediately after the validity of the notification dated 17.2.1992 was upheld, they could not be made liable to pay interest. All these contentions were rejected by this Court on the ground that the principle of restitution was a complete answer to the said submissions. This Court held :

> "The principle of restitution has been statutorily recognized in Section 144 of the Code of Civil Procedure, 1908. Section 144 of the CPC speaks not only of a decree being varied, reversed, set aside or modified but also includes an order on par with a decree. The scope of the provision is wide enough so as to include therein almost all the kinds of variation, reversal, setting aside or modification of a decree or order. The interim order passed by the Court merges into a final decision. The validity of an interim order, passed in favour of a party, stands reversed in the event of final decision going against the party successful at the interim stage. Unless otherwise ordered by the Court, the successful party at the end would be justified with all expediency in demanding compensation and being placed in the same situation in which it would have been if the interim order would not have been passed against it. The successful party can demand (a) the delivery of benefit earned by the opposite party under the interim order of the court, or (b) to make restitution for what it has lost; and it is the duty of the court to do so unless it feels that in the facts and on the circumstances of the case, the restitution would far from meeting the ends of justice, would rather defeat the same. Undoing the effect of an interim order by resorting to principles of restitution is an obligation of the party, who has gained by the interim order of the Court,

A so as to wipe out the effect of the interim order passed which, in view of the reasoning adopted by the court at the stage of final decision, the court earlier would not or ought not to have passed. There is nothing, wrong in an effort being made to restore the parties to the same position in
B which they would have been if the interim order would not have existed."

17. It is therefore evident that whenever there is an interim order of stay in regard to any revision in rate or tariff, unless the order granting interim stay or the final order dismissing the
C writ petition specifies otherwise, on the dismissal of the writ petition or vacation of the interim order, the beneficiary of the interim order shall have to pay interest on the amount withheld or not paid by virtue of the interim order. Where the statute or contract specifies the rate of interest, usually interest will have
D to be paid at such rate. Even where there is no statutory or contractual provision for payment of interest, the court will have to direct the payment of interest at a reasonable rate, by way of restitution, while vacating the order of interim stay, or dismissing the writ petition, unless there are special reasons
E for not doing so. Any other interpretation would encourage unscrupulous debtors to file writ petitions challenging the revision in tariffs/rates and make attempts to obtain interim orders of stay. If the obligation to make restitution by paying appropriate interest on the withheld amount is not strictly
F enforced, the loser will end up with a financial benefit by resorting to unjust litigation and winner will end up as the loser financially for no fault of his. Be that as it may.

Re : Question (iii)

G 18. The contesting respondents contended that Rule 64A provides that the state government "may" charge simple interest at the rate of 24% per annum; that this being an enabling provision, there is no 'mandate' or compulsion to charge interest at 24% per annum; and that therefore, the state
H government has the discretion to charge interest at a rate lesser

than 24% in appropriate deserving cases. It is submitted that if the legislative intent was to provide for interest at the rate of 24% per annum in all cases of delayed payment of royalty/rent/ fees without exception, the rule would have been differently worded, and read as follows : "wherever any rent, royalty or fee or other sum due to the government under the Act or the rules or under any prospecting licence or mining lease, is not paid by the due date, the lessee or licensee shall pay interest on the delayed payment at the rate of 24%. per annum". It is submitted by the respondents that the word "may" used in the Rule, should be read as vesting a discretion in the government to charge interest or not to charge interest, and if interest is to be charged, at any rate not exceeding 24% per annum.

19. A careful reading of the Rules makes it clear that no such discretion is given to the state government in regard to rate of interest. This will be evident from a combined reading of Rules 31 and 27 and the terms of the statutory form of lease deed (Form K), with Rule 64A. Rule 31 provides that where, an order has been made for the grant of a mining lease, a lease deed in Form K (or in a form as near thereto as circumstances of each case may require), shall be executed. Rule 27 specifies that every mining lease shall be subject to the conditions mentioned therein. Clause (5) of Rule 27 refers to determination :

> "(5). If the lessee makes any default in the payment of royalty as required under section 9 or payment of dead rent as required under section 9A or commits a breach of any of the conditions specified in sub-rules (1), (2) and (3), except the condition referred to in clause (f) of sub-rule (1), the state government shall give notice to the lessee requiring him to pay the royalty or dead rent or remedy the breach, as the case may be, within sixty days from the date of the receipt of the notice and if the royalty or dead rent is not paid or the breach is not remedied within the said period, the state government may, without prejudice to any

A other proceedings that may be taken against him, determine the lease and forfeit the whole or part of the security deposit."

The above provision is accordingly incorporated in clause (2) of Part IX of the standard form of lease (Form K).

B

20. The rate of interest at 24% was substituted in clause (3) of Part VI of the standard form of lease, by the very same amendment which substituted the said percentage in Rule 64A namely, GSR 129 (E) dated 20.2.1991. The words "may charge C simple interest" in Rule 64A should be read in the context of the words "without prejudice to the provisions of the Act or any other Rule in these Rules". As noticed above, Rule 45(iv) requires the lease deed to contain a condition that if there is any default in the payment of royalty, the lessor without prejudice D to any proceeding that may be taken against the lessee, determine the lease. Therefore, the word "may" used with reference to the words "charge simple interest at the rate of 24% per annum" when read with the words "without prejudice to the provisions contained in the Act or any other Rule", E occurring in Rule 64A, make it clear that whenever rent/royalty/ fee becomes due, the lessor has several options by way of remedy. The lessor may determine the lease, if the breach is not rectified, even after sixty days' notice to rectify the breach. Alternatively, instead of determining the lease, the rule gives F the choice to charge interest at 24% per annum on the amounts due. The third alternative for the state government is to determine the lease *and also* charge interest at 24% per annum on the outstanding dues. The word 'may' is used in Rule 64-A not in the context of giving discretion in regard to rate of interest to be charged, but to give an option or choice to the State G Government as to whether it should determine the lease, or charge interest at 24% per annum, or do both. Therefore, where the lease is not determined as a consequence of the default, the State will have to charge interest at 24% per annum on the outstanding amount. If Rule 64A is to be interpreted as giving

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any discretion, that too unguided discretion, to the authorities to charge any rate of interest, as it would result in misuse and abuse. In this view of the matter, the contentions urged by the parties as to whether the word "may" should be read as "must" or "shall", and, if so, in what circumstances, do not arise for consideration at all.

21. There is also other material in the Rules itself to show that the rate of interest mentioned in Rule 64A was not intended to be flexible and that the rate of interest mentioned therein has to be applied in all cases of non-payment/default. When Rule 64A was amended by notification dated 20.2.1991, increasing the rate of interest to 24% per annum, clause (3) of Part IV of the standard form of lease (Form K) was also amended increasing the rate of interest payable on all dues as 24% per annum. We extract below clause (3) of Part VI of Form K for ready reference :

> "3. Should any rent, royalty or other sums due to the State Government under the terms and conditions of these presents be not paid by the lessee/lessees within the prescribed time, the same, together with simple interest due thereon at the rate of twenty four per cent per annum may be recovered on a certificate of such officer as may be specified by the State Government by general or special order, in the same manner as an arrears of land revenue."

The said clause in Form K makes it clear that the rate of interest should be 24% per annum and there is no discretions in the state government to charge interest at any lesser rate.

22. It is true that annual interest at 24% per annum appears to be marginally higher than the standard market lending rate of interest. But it is not penal in nature. Revenue from mining constitutes one of the major sources of non-tax revenue of the State Governments. Mining lessees are expected to pay the mining dues promptly and without default. If a lesser rate of

A interest is provided under the Rules, it may lead to unscrupulous lessees indulging in delaying tactics. The intention of Rule 64A is to discourage practices that may be detrimental to recovery of revenue, by providing for a higher rate of interest. Hence, once the State Government chooses not to take the path of B determining the lease, charging of interest at 24% is mandatory and leaves no discretion in the State Government in regard to rate of interest.

Re : Question (iv)

C 23. This brings us to the last question as to what should be the rate of interest. We have seen that Rule 64-A categorically provides that where a mining lessee who is liable to pay rent or any other dues, fails to pay the same, the state government will be entitled to charge simple interest thereon D at 24% per annum. The validity of this rule has been upheld by this Court in *South Eastern Coalfields*. Therefore interest on all delayed payments should be 24% per annum.

24. The contesting respondents submitted that even if the rate of interest under Rule 64-A is 24% per annum, when the E liability (on account of increase in Royalty) is under challenge and the matter is pending in court and there is an interim stay of the increase, the liability to pay interest will be within the discretion of the court and court can award a lesser rate. They relied upon the decisions of this Court in *Saurashtra Cement* F *(supra)* and the decision in *South Eastern Coalfields*, that the interest should not be more than 9% or 12% per annum, for the period when the stay was in operation.

25. In *South Eastern Coalfields* which upheld the validity G of Rule 64-A, this Court did not interfere with the decision of the High Court awarding interest at 12% per annum, on the following reasoning :

"So far as the appeal filed by the State of Madhya Pradesh seeking substitution of rate of interest by 24% per annum

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in place of 12% per annum as awarded by the High Court is concerned, we are not inclined to grant that relief in exercise of our discretionary jurisdiction under Article 136 of the Constitution especially in view of the opinion formed by the High Court in the impugned decision. The litigation has lasted for a long period of time. Multiple commercial transactions have taken place and much time has been lost in between. The commercial rates of interest (including bank rates) have undergone substantial variations and for quite sometime the bank rate of interest has been below 12%. The High Court has, therefore, rightly (and reasonably) opined that upholding entitlement to payment of interest at the rate of 24% per annum would be excessive and it would meet the ends of justice if the rate of interest is reduced from 24% per annum to 12% per annum on the facts and in the circumstances of the case. We are not inclined to interfere with that view of the High Court *but make it clear that this concession is confined to the facts of this case and to the parties herein and shall not be construed as a precedent for overriding Rule 64A of the Mineral Concession Rules, 1960.* It is also clarified that the payment of dues should be cleared within six weeks from today (if not already cleared) to get the benefit of reduced rate of interest of 12%; failing the payment in six weeks from today the liability to pay interest @24% *per annum* shall stand."

(emphasis supplied)

Therefore, it is clear that the concession extended in that case by permitting interest only at 12% per annum was confined to the facts of that case and to the parties therein and is not be treated as a precedent, for nullifying or overriding Rule 64-A of the Rules.

26. In *Saurashtra Cement*, while dismissing the appeals challenging the validity of the increase in royalty following the decision in *Mahalaxmi Fabric Mills (Supra)*, this Court dealt

A with a case, where the High Court had granted interim stay of the notification regarding increase in royalty but however while vacating the interim order and discharging the rule, had directed the payment of interest at 18% per annum. Pattanaik J., (as he then was) in the last line of his order reduced the rate
B of interest to 9% per annum without assigning any specific reason, except observing that 18% was unreasonable. In his concurring judgment, Banerjee J., observed as under :

> "The imposition of 18% interest with yearly rests cannot in
C our view find support in the contextual facts since the *validity of the legislation itself is in question before this Court. The payment of interest being in the discretion of the court*, we, therefore, do not wish to interfere with the award of interest, as such though the rate at which it has been awarded needs some modification in the contextual
D facts and as such we direct that the rate of interest be 9% simple interest and not as directed by the High Court."
>
> (emphasis supplied)

E A careful reading of the said judgment shows that while deciding the issue of interest, this Court had overlooked Rule 64-A which is a statutory provision entitling the government to claim interest at 24% per annum. This Court apparently proceeded on the basis that there was no statutory or
F contractual provision for the payment of interest, and therefore, question of interest was wholly within the discretion of the court. Therefore, the said decision may not also be of any assistance.

27. We find that the decision in *Kanoria Chemicals (supra)* throws considerable light on the logic behind court's
G discretion in awarding interest in such cases. That case, as noticed earlier, dealt with increase in electricity charges. The relevant provision specifically provided that in regard to delayed payments of the bills, the consumer shall pay additional charge per day of seven paisa per hundred rupees on the unpaid
H amount of the bill, which works out to 25.55% per annum. This

Court reduced the same to 18% per annum on the following reasoning :

> "Sri Vaidyanathan then contended that the rate of "late payment surcharge" provided by clause 7(b) is really penal in nature inasmuch as it works out to 25.5 per cent per annum. The learned counsel also submitted that the petitioners understood the decision in Adoni Ginning as relieving them of their obligation to pay interest for the period covered by the interim order and that since they were acting bona fide they should not be mulcted with such high rate of interest. We cannot agree that the rate of late payment surcharge provided by clause 7(b) is penal, *but having regard to the particular facts and circumstances of this case and having regard to the fact that petitioners could possibly have understood the decision in Adoni Ginning as relieving them of their obligation to pay interest/late payment surcharge for the period of stay*, we reduce the rate of late payment surcharge payable under clause 7(b) to eighteen per cent. But this direction is confined only to the period covered by the stay orders in writ petitions filed challenging the notification dated 21.4.1990 and limited to 1.3.1993 the date on which those writ petitions were dismissed."
>
> (emphasis supplied)

Therefore, whenever there is a challenge to a levy or challenge to an increase in the tariff or rates, and an order of interim stay of recovery is made in the said writ proceedings and the writ petition is ultimately rejected, the court should invariably award interest by way of restitution. Where the statute or contract prescribed a specific rate of interest, the court should normally adopt such rate while awarding interest, except where the court proposes to award a higher or lower rate of interest, for special and exceptional reasons.

28. Let us consider whether there are any special or

A exceptional circumstances for reducing the statutory interest in this case. In the case of one of the contesting respondents (J. K. Udaipur Udyog Ltd.), there was a categorical direction while granting interim stay that in the event of failure in the writ petition the writ petitioner will have to pay interest at the rate of 18% B per annum. That was a condition of interim order and therefore, it is possible that the parties *bona fide* proceeded on the basis that interest will be only 18% per annum. In the writ petitions of other contesting respondents, there was no such condition regarding interest while granting the stay. But as pointed out C in *Kanoria Chemicals*, it is possible that the contesting respondents thought, by reason of the fact that there was no condition for payment of interest while granting stay, they may not be required to pay the statutory rate of interest. More importantly, the learned Advocate General appearing for the State had made a submission before the learned Single Judge D that state government was entitled to interest only at the rate of 18% per annum. In the peculiar and special circumstances of these cases, we are of the view that the appellants will be entitled to interest at 18% per annum in respect of royalty that became due between 17.2.1992 and the date of dismissal of E their respective writ petitions. For the period subsequent to the dismissal of the writ petitions, the contesting respondents will be liable to pay interest on the said amount, at the rate of 24% per annum till date of payment.

F 29. The contesting respondent in the last case (Shree Cement) raised an additional contention. It was submitted that clause VI(iii) of the Lease Deed in its case provided that any royalty which was not paid within the prescribed time shall be paid with simple interest at the rate of 10% per annum. It is G therefore contended that the interest on any arrears cannot be more than 10% per annum in its case. The lease is governed by the Minerals and Concessions Rules 1960 and execution of the lease deed is itself is in compliance with one of the requirement of the rules, namely Rule 31. Once Rule 64A was amended by notification dated 20.2.1991 increasing the rate H

of interest to 24% per annum, any term in the lease deed prescribing a lesser rate of interest, shall have to yield to Rule 64-A from that date as the rule will prevail over the terms of the lease. This position is evident from the decision in *South-Eastern Coalfields* also.

Conclusion

30. In view of the above, we allow these appeals in part and modify the rate of interest in each case as under :

(i) from 17.2.1992 to the date of dismissal of the respective writ petition (challenging the notification dated 17.2.1992), the rate of interest shall be 18% per annum on the arrears of royalty etc.; and

(ii) from the date of dismissal of the writ petition till date of payment, the rate of interest shall be 24% per annum.

B.B.B. Appeals partly allowed.