Principal Commissioner of Income Tax-II, Jaipur v. M/s. Rajasthan State Mines and Minerals Ltd.

D.B. Income Tax Appeal No. 48/2019

2025:RJ-JP:14965-DB | D.B. Income Tax Appeal No. 48/2019 | 2025-04-03

Claim for amortization of mining land and leasehold land of Rs. 4,70,33,366 for AY 2015-16 raised during assessment without a revised return: ITAT erred in allowing depreciation under section 32 on an oral argument without any ground of appeal, leave under Rule 11 of the ITAT Rules, 1963, or opportunity to the Revenue.

Income-tax Act, 1961: sections 32, 35D(2), 254 and 260A; ITAT Rules, 1963: Rule 11

High Court of Judicature for Rajasthan | 2-judge bench (Division Bench) | Avneesh Jhingan, J. | Maneesh Sharma, J.

Assessment years: 2015-16

Additional grounds permitted, but safeguards not satisfied here

The Court accepts ITAT's power to consider additional grounds. It faults the absence of leave, relevant-year facts and Revenue's opportunity. Paragraph 7 gives the earlier judgment date as 31 December 2017; paragraphs 4 and 13 give 13 December 2017.

01 FACTS OF THE CASE

For AY 2015-16, the company sought Rs. 4,70,33,366 amortization of mining and leasehold land during assessment, without a claim in its return or a revised return. AO and CIT(A) refused it. ITAT's 12 November 2018 order left amortization undecided but allowed the same amount as section 32 depreciation on an argument made at hearing, without a pleaded additional ground.

Source: PDF pp. 1-4 and 5, paras 1-6 and 13-14

02 DISCUSSION BY THE HON'BLE COURT

The Court accepted that additional grounds can be raised, citing NTPC, Pruthvi Brokers and VMT Spinning. Rule 11 requires leave for a new ground and sufficient hearing for the affected party. No leave or Revenue opportunity appeared here, and relevant-year basic facts were absent. The earlier AY 2010-11 decision had denied amortization but recognised depreciation on a mining-use licence as an intangible asset.

Source: PDF pp. 3-7, paras 7-16

03 JUDICIAL DECISION

The Tribunal had accepted the alternative argument without testing the relevant facts and denied Revenue an opportunity to oppose admission and merits. Revenue's appeal was allowed and the substantial question answered in its favour. No express remand direction appears in the final paragraph.

Source: PDF pp. 6-7, paras 16 and 18

04 OUTCOME / IN WHOSE FAVOUR

Revenue succeeds against the procedure and unsupported substitution of depreciation for amortization in this appeal. The decision does not abolish ITAT's power to admit additional grounds or hold that mining-use licences can never qualify for depreciation.

Source: PDF pp. 4-7, paras 7-18

05 EXPERT COMMENTS

The power to admit a new ground survives — Paragraph 11 expressly accepts the additional-ground proposition. The defect was considering the oral claim without recorded leave, necessary facts and an opportunity for Revenue to object both to admission and on merits. A documented request identifying the new issue and supporting record addresses those concerns; the judgment does not prescribe a universal bar merely because a claim was absent from the return.

An earlier-year legal result is not this year's factual proof — Paragraph 7 records both rejection of amortization and recognition of a mining-use licence as an intangible asset eligible for depreciation in the earlier year. The current failure concerned the missing factual foundation and procedure for AY 2015-16. The earlier result could not justify mechanically treating the amortization amount as depreciation without examining this year's facts.

Separate the pleaded question from the decisive reasoning — Goetze and the absence of a revised return formed Revenue's argument and the earlier authorities' approach. The High Court's focused analysis concerned the Tribunal's new-ground procedure and NTPC's relevant-facts requirement. Its allowance of Revenue's appeal should not be enlarged into a ruling rejecting every alternative depreciation claim, nor into an unstated remand direction.

Source: Editorial analysis; source references in the structured comments

SOURCE & VERIFICATION

High Court of Judicature for Rajasthan official judgment PDF - AKHB Cloud Repository (20250403_RJHC020393762019.pdf)

7-page official High Court of Judicature for Rajasthan judgment PDF (20250403_RJHC020393762019.pdf).

All 7 original pages read and visually inspected; source hash verified. AI-assisted substantive correction.

Open cited source rendition

Source bytes and identity checked; see panel-specific references and disclosed source anomalies.

STATUTORY SCOPE

The admitted question mentions sections 32 and 35D(2); the reasoning turns on Rule 11, relevant facts and hearing opportunity, with section 254 quoted through NTPC. Section 139(5) is not expressly cited.

LATER TREATMENT

Source checked 2026-10-21. Subsequent treatment not independently verified.

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

PROFESSIONAL DISCLAIMER

General research information only; not legal or tax advice, a certified judgment or a substitute for the full order. Applicability depends on facts, assessment year, statutory version and jurisdiction. Subsequent treatment is unverified unless identified sources are expressly stated. Downloading does not create a professional engagement. Obtain case-specific advice before reliance.