

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

CONTEMPT PETITION (C) NO. 39 OF 2006 IN Civil Appeal 2127/1999

COMMERCIAL TAX OFFICER & ANR. Petitioner(s)

VERSUS

M/S.GODFREY PHILIPS (I) LTD. TH. IT. REP Respondent(s)

WITH CONMT.PET.(C) NO. 40 of 2006 IN C.A.NO.2126/1999

CONMT.PET.(C) NO. 41 of 2006 IN C.A.NO.2123/1999

(For final disposal)

Date: 09/11/2012 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE H.L. DATTU

HON'BLE MR. JUSTICE CHANDRAMAULI KR. PRASAD

For Petitioner(s) Mr.H.P.Raval, ASG
Ms. C.K. Sucharita,Adv.
Ms.Rumi Chanda, Adv.

For Respondent(s) Mr.Harish N.Salve, Sr.Adv.
Mr.Ravindra Narain, Adv.
Mr.Ajay Aggarwal, Adv.
Ms.Mallika Joshi, Adv
Mr.Amit Agarwal, Adv.
Ms.Shravani Shekhar, Adv.
Ms.Neha Malik, Adv.
Mr. Rajan Narain,Adv.

Mr.S.Ganesh, Sr.Adv.
Mr.Ravindra Narain, Adv.
Mr.Ajay Aggarwal, Adv.
Ms.Mallika Joshi, Adv
Ms.Nimita Kaul, Adv.
Mr.Avinash Mohapatra, Adv.
Mr. Rajan Narain,Adv.

Mr.Ravindra Narain, Adv.
Mr.Ajay Aggarwal, Adv.
Ms.Mallika Joshi, Adv
Ms.Amrita Chatterjee, Adv.
Mr.Pabal Mehrotra, Adv.
Mr. Rajan Narain,Adv.

UPON hearing counsel the Court made the following

O R D E R

1. The Constitution Bench of this Court on 20.01.2005, by its judgment and order in the case of Godfrey Philips India Ltd. Vs. State of U.P., (2005) 2 SCC 515, in paras 94 and 95, directed as under :

"94. It was stated on behalf of the State Governments that after obtaining interim orders from this Court against recovery of luxury tax, the appellants continued to charge such tax from consumers/customers. It is alleged that they did not pay such tax to the respective State Governments. It was, therefore, submitted that if the appellants are allowed to retain the amounts collected by them towards luxury tax from consumers, it would amount to 'unjust enrichment' by them.

95. In our opinion, the submission is well founded and deserves to be upheld. If the appellants have collected any amount towards luxury tax from consumers/customers after obtaining interim orders from this Court, they will pay the said amounts to the respective State Governments."

2. The State of Andhra Pradesh now alleges that the Respondent Companies, i.e. I.T.C.Ltd., G.P.I.Ltd. & V.S.T.Ltd. have collected amounts from their customers towards luxury tax after obtaining interim order from this Court on 01.04.1999 and have not paid over the aforesaid amounts to the State of Andhra Pradesh which they were required to do in terms of the aforesaid directions of the Constitution Bench.

3. The aforesaid allegation of State of Andhra Pradesh is strongly denied by all the aforesaid three Companies.

4. In order to verify the correctness of the above allegation of State of Andhra Pradesh, we hereby appoint the following Chartered Accountants, for each of the three Companies to undertake the task set out herein :

I) M/s.ITC Ltd. - M/s.Anandam and Co.,
II) M/s.G.P.I.Ltd. Chartered Accountants,

Sardar Patel Road, Secunderabad

III) M/s.VST Ind.Ltd. M/s.Laxminiwas Neeth & Co.,
Chartered Accountants,
Basheer Bagh, Hyderabad.

5. The aforesaid Chartered Accountants will complete the verification from the relevant records and submit their report before this Court within six months from the date of communication of this order. The report should clearly state -

(i) Whether any sum was collected by the respective Companies towards Luxury Tax from their Customers/Consumers, on and after 01.04.1999 until 20.01.2005, i.e. during the operation of the aforesaid stay order dated 01.04.1999.

(ii) If the answer to question (i) is in the affirmative; then

- a. The amount so collected, and
- b. The period during which it was so collected.

6. Each of the aforesaid companies shall facilitate the verification by the respective Chartered Accountants by making the necessary arrangements for this purpose.

7. Each of the Companies will deposit in this Court, a sum of Rs.10 lakhs towards fees to be paid to the Chartered Accountants. However, this will be subject to further orders as to costs.

8. The aforesaid Chartered Accountants will file a copy of their

respective reports in the Registry of this Court, within the aforesaid period of six months with a copy of the report to the respective companies and also to the counsel for the State of Andhra Pradesh.

9. The Registry is directed to send a copy of this order to each of the aforesaid Chartered Accountants forthwith at their respective addresses given herein before.

Call the matters after six months.

(G.V.Ramana)
Court Master

(Vinod Kulvi)
Court Master