

ITEM NO.102

COURT NO.15

SECTION IIIA

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

Civil Appeal No(s). 2348/2004

M/S. OCL INDIA LTD.

Appellant(s)

VERSUS

STATE OF ORISSA & ORS.

Respondent(s)

(with office report)

Date : 26/03/2015 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. SIKRI

HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN

For Appellant(s) Mr. A. K. Ganguli, Sr. Adv.
Mr. K. K. Lahiri, Adv.
Mr. Braj Kishore Mishra, Adv.
Ms. Aparna Jha, Adv.
Mr. Amardeep Sharma, Adv.
Mr. Abhishek Yadav, Adv.

For Respondent(s) Mr. Kanhaiya Priyadarshi, Adv.

Mr. Rakesh Dwivedi, Sr. Adv.
Mrs. Kirti Renu Mishra, Adv.
Ms. S. Pathak, Adv.
Ms. Apurva Upmanyu, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The appellant, M/s OCL India limited, is declared as industrial township under Section 4 of the Orissa Municipal Act, 1950. The question that arises for consideration is that once it is declared as industrial township whether it is liable to pay Entry Tax under Orissa Entry Tax Act, 1999. Section 2(f) of the Orissa Entry Tax Act, 1999, which defines "local area" includes within its sweep an industrial township as well that is constituted under Section 4 of the Orissa Municipal Act, 1950. The submission of the

appellant, however, is that the aforesaid definition contained in Section 2(f) of the Orissa Entry Tax Act, 1999 is in the teeth of the scope of "local area" in terms of Entry 52 of List II of the Seventh Schedule of the Constitution of India. It is argued that the expression "local area" appearing in the said Entry 52 came up for consideration before the Constitution Bench of this Court in '*Diamond Sugar Mills Limited and Another v. The State of Uttar Pradesh and Another*' [1961 (3) SCR 242]. The court answered the same by holding that the words "local area" in the said Entry would be the area which is administered by a local body like municipality, a district board, a local board, a union board, a Panchayat or the like and the factory premises therefore, would not be covered by the aforesaid expression.

Mr. Rakesh Dwivedi, learned senior counsel appearing for the respondent, on the other hand, submits that the said interpretation was given in an altogether different context, namely, whether "premises of a factory" would be local area within the meaning of the words used in Entry 52. In contrast, it was argued, we are concerned here with the "industrial township" and not only a "factory". It is also the submission of Mr. Dwivedi that there is change in law thereafter by virtue of Constitutional amendment with the incorporation of Article 243(Q) which relates to the constitution of municipal bodies.

Having regard to the aforesaid contentions raised by both the sides and in view of the fact that '*Diamond Sugar Mills Limited and Another v. The State of Uttar Pradesh and Another*' is a decision of the Constitution Bench, we feel that the matter needs to be considered by a larger Bench as it also raises substantial question of law pertaining to the interpretation that is to be given to Entry 52 of the List

II of the Seventh Schedule of the Constitution. The Registry is directed to place the matter before Hon'ble the Chief Justice for constitution of appropriate Bench.

(Nidhi Ahuja)
COURT MASTER

(Suman Jain)
COURT MASTER