

IN THE SUPREME COURT OF INDIA

RECORD OF PROCEEDINGS

CIVIL APPEAL NO. 936-938/2001@@

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Indicarb Ltd.

...Appellant (s)

Vs.

State of T.N. & Ors.

...Respondent (s)

(With appln. for impleading party and with O.R.)

WITH W.P(C)No.409/1997(S.X),C.A.No.939/2001(S.IIIA)
 (With Appl.(s) for impleading party and with Prayer for Interim
 Relief and Office Report),C.A.No.940/2001(S.IIIA)
 (With Prayer for Interim Relief and Office Report),
 C.A.No.941/2001(S.IIIA)(With Prayer for Interim Relief and Office
 Report),C.A.No.942/2001(S.IIIA),W.P(C)No.675/1997(S.X)
 C.A.No.943/2001(S.IIIA)(With Appl.(s) for impleading party and with
 Prayer for Interim Relief and Office
 Report),W.P(C)No.129/1998(S.X),W.P(C)No.150/1998(S.X)
 W.P(C)No.155/1998(S.X),W.P(C)No.157/1998(S.X)
 W.P(C)No.167/1998(S.X)(With Appl.(s) for stay),
 W.P(C)No.180/1998(S.X),W.P(C)No.199/1998(S.X)
 W.P(C)No.207/1998(S.X),W.P(C)No.206/1998(S.X)
 W.P(C)No.208/1998(S.X),C.A.No.944/2001(S.IIIA)
 (With Appl.(s) for impleading party and with Prayer for Interim
 Relief and Office Report),C.A.No.945/2001(S.IIIA)
 (With Prayer for Interim Relief and Office Report),
 C.A.No.946/2001(S.IIIA)(With Prayer for Interim Relief and Office
 Report),C.A.No.947/2001(S.IIIA),C.A.No.948/2001(S.IIIA)
 (With Prayer for Interim Relief and Office Report),
 C.A.No.949/2001(S.IIIA)(With Prayer for Interim Relief and O.R.)
 C.A.No.950/2001(S.IIIA)(With Prayer for Interim Relief and OR),
 W.P(C)No.249/1998(S.X),W.P(C)No.268/1998(S.X),W.P(C)No.273/1998
 W.P(C)No.274/1998(S.X),W.P(C)No.275/1998(S.X),W.P(C)No.359/1998
 W.P(C)No.223/1998(S.X),W.P(C)No.374/1998(S.X),W.P(C)No.472/1998
 W.P(C)No.503/1998(S.X)(With Office Report),W.P(C)No.504/1998
 (With Office Report),W.P(C)No.505/1998(S.X)(With Office Report),
 W.P(C)No.455/1998(S.X)(With Office Report),W.P(C)No.242/1998(S.X)
 W.P(C)No.454/1998(S.X)(With Office Report),W.P(C)No.565/1998(S.X)
 (With Office Report),W.P(C)No.567/1998(S.X)(With Office Report),
 W.P(C)No.602/1998(S.X)(With Office Report),W.P(C)No.607/1998(S.X)
 (With Office Report),W.P(C)No.608/1998(S.X)(With Office Report),
 W.P(C)No.609/1998(S.X)(With Office Report),W.P(C)No.610/1998(S.X)
 (With Office Report),W.P(C)No.611/1998(S.X)(With Office Report),
 W.P(C)No.615/1998(S.X)(With Office Report),W.P(C)No.654/1998(S.X)
 C.A.No.951/2001(S.IIIA)(With Prayer for Interim Relief and O.R.)
 C.A.No.952/2001(S.IIIA)(With Prayer for Interim Relief and O.R.)
 C.A.No.953/2001(S.IIIA)(With Prayer for Interim Relief and O.R.)
 C.A.No.954/2001(S.IIIA)(With Prayer for Interim Relief and O.R.)
 W.P(C)No.9/1999(S.X),W.P(C)No.30/1999(S.X),W.P(C)No.48/1999(S.X)
 C.A.No.955/2001(S.IIIA)(With Prayer for Interim Relief),
 C.A.No.956/2001(S.IIIA)(With Prayer for Interim Relief),
 W.P(C)No.92/1999(S.X),W.P(C)No.96/1999(S.X),W.P(C)No.107/1999
 W.P(C)No.112/1999(S.X),W.P(C)No.113/1999(S.X),W.P(C)No.119/1999

W.P(C)No.120/1999(S.X),W.P(C)No.136/1999(S.X),W.P(C)No.167/1999
C.A.No.957-964/2001(S.IIIA)(With Prayer for I.R.and O.R.)
W.P(C)No.80/1999(S.X)(With Appl.(s) for stay),W.P(C)No.217/1999
W.P(C)No.207/1999(S.X),W.P(C)No.219/1999(S.X),W.P(C)No.221/1999
(With Appl.(s) for exemption from filing O.T. and ex-Parte stay),
W.P(C)No.250/1999(S.X),W.P(C)No.252/1999(S.X),W.P(C)No.263/1999
,W.P(C)No.267/1999(S.X),W.P(C)No.268/1999(S.X),C.A.No.965/2001
(With Appl.(s) for impleading party and with Prayer for Interim
Relief and Office Report),
C.A.No.966/2001(S.IIIA)(With Appl.(s) for addtion/deletion of
parties and with Prayer for
Interim Relief and Office Report),C.A.No.967/2001(S.IIIA)
(With Appl.(s) for impleading party and with Prayer
for Interim Relief and Office Report),
W.P(C)No.5/1998(S.X),C.A.No.968/2001(S.IIIA),C.A.No.969/2001
(With Appl.(s) for impleading party and with Prayer for
Interim Relief and Office Report),
C.A.No.970/2001(S.IIIA)(With Appl.(s) for impleading party
and with Prayer for Interim Relief and Office Report),
C.A.No.971/2001(S.IIIA)(With Appl.(s) for impleading party and
with Prayer for Interim Relief),
C.A.No.972-973/2001(S.IIIA)(With Appl.(s) for c/delay in
filing SLP and with Prayer for Interim Relief and Office Report),
W.P(C)No.420/1999(S.X),W.P(C)No.423/1999(S.X),W.P(C)No.98/1999
W.P(C)No.125/1999(S.X),W.P(C)No.382/1999(S.X)(With Office Report),
W.P(C)No.392/1999(S.X)(With Office Report),
C.A.No.974/2001(S.IIIA),W.P(C)No.510/1999(S.X)
W.P(C)No.533/1999(S.X),W.P(C)No.543/1999(S.X),C.A.No.975/2001
(With Appl.(s) for impleading party and with Prayer for
Interim Relief and Office Report),
W.P(C)No.14/2000(S.X),W.P(C)No.69/2000(S.X)(With Appl.(s) for stay),
W.P(C)No.72/2000(S.X)(With Appl.(s) for stay),C.A.No.976-979/2001
(With Appl.(s) for taking additional document on record and
Appln. for Intervention/Impleadment and Raising additional grounds and
with Prayer for Interim Relif),
W.P(C)No.195/1999(S.X)(With Appl.(s) for directions),
C.A.No.980/2001(S.IIIA)(With Appl.(s) for impleading
party and with Prayer for Interim Relief and Office Report),
C.A.No.981/2001(S.IIIA)(With Prayer for Interim Relief and O.R.)
C.A.No.982/2001(S.IIIA)(With Prayer for Interim Relief and O.R.)
W.P(C)No.139/2000(S.X),W.P(C)No.141/2000(S.X),W.P(C)No.149/2000
W.P(C)No.150/2000(S.X),W.P(C)No.154/2000(S.X),W.P(C)No.248/2000
W.P(C)No.253/2000(S.X),W.P(C)No.279/2000(S.X),W.P(C)No.280/2000
W.P(C)No.282/2000(S.X),W.P(C)No.146/2000(S.X),W.P(C)No.278/2000
(With Appl.(s) for ex-Parte stay and with office report),
C.A.No.983/2001(S.IIIA)(With Prayer for Interim Relief and OR)
C.A.No.984/2001(S.IIIA)(With Prayer for Interim Relief and OR)
C.A.No.985/2001(S.IIIA)(With Prayer for Interim Relief and OR)
C.A.No.986/2001(S.IIIA)(With Prayer for Interim Relief and OR)
C.A.No.987/2001(S.IIIA)(With Prayer for Interim Relief and OR)
C.A.No.988/2001(S.IIIA)(With Prayer for Interim Relief and OR)
C.A.No.989/2001(S.IIIA)(With Prayer for Interim Relief and OR)
C.A.No.990/2001(S.IIIA)(With Prayer for Interim Relief and OR)
W.P(C)No.327/2000(S.X)(With Appl.(s) for stay),W.P(C)No.145/2000
C.A.No.991/2001(S.IIIA)(With Prayer for Interim Relief and OR)
W.P(C)No.399/2000(S.X),W.P(C)No.400/2000(S.X),W.P(C)No.418/2000
C.A.No.992/2001(S.IIIA)(With Prayer for Interim Relief and OR)
C.A.No.993-995/2001(S.IIIA)(With Prayer for Interim Relief&OR)
C.A.No.996/2001(S.IIIA)(With Prayer for Interim Relief and OR)
C.A.No.997/2001(S.IIIA)(With Prayer for Interim Relief and OR)
C.A.No.1649-1654/2001(S.IIIA)(With Appl.(s) for impleading party
and exemption from filing O.T. and with Prayer for Interim
Relief and Office Report),

W.P(C)No.110/2000(S.X)(With Appl.(s) for stay and with O.R.)
W.P(C)No.615/2000(S.X)(With Appl.(s) for stay),SLP(C)No.5579/01
(With Prayer for Interim Relief),W.P(C)No.187/2001(S.X)
(With Appl.(s) for stay),W.P(C)No.268/2001(S.X),SLP(C)No.13109/01
(With Prayer for Interim Relief),SLP(C)No.13190/2001(S.III)
(With Prayer for Interim Relief),SLP(C)No.16289/2001(S.III)
(With Prayer for Interim Relief),W.P(C)No.178/2001(S.X)
(With Appl.(s) for stay and with office report),SLP(C)No.18556/01
(With Prayer for Interim Relief and Office Report),
W.P(C)No.506/2001(S.X)(With Appl.(s) for stay),W.P(C)No.516/2001
(With Appl.(s) for stay),
W.P(C)No.547/2001(S.X),
[WITH APPLN.(S) FOR STAY AND PERMISSION TO FILE ADDL.
DOCUMENTS AS COMPILATION VOL. II]
W.P(C)No.540/2001(S.X)
(With Appl.(s) for ex-Parte stay),W.P(C)No.534/2001(S.X)
(With Appl.(s) for ex-Parte stay),W.P(C)No.570/2001(S.X)
(With Appl.(s) for stay),W.P(C)No.3/2002(S.X),C.A.No.81/2002
(With Office Report),W.P(C)No.13/2002(S.X)(With Appl.(s) for stay),
W.P(C)No.17/2002(S.X)(With Appl.(s) for ex-Parte stay),
W.P(C)No.44/2002(S.X)(With Appl.(s) for ex-Parte stay),
W.P(C)No.20/2002(S.X)(With Appl.(s) for stay),W.P(C)No.136/2002
(With Appl.(s) for stay),W.P(C)No.137/2002(S.X),W.P(C)No.157/02
(With Appl.(s) for ex-Parte stay),SLP(C)No.6110/2002(S.III)
(With Prayer for Interim Relief),SLP(C)No.6189/2002(S.III)
(With Prayer for Interim Relief),SLP(C)No.6251/2002(S.III)
(With Prayer for Interim Relief),SLP(C)No.6281/2002(S.III)
(With Prayer for Interim Relief),W.P(C)No.156/2002(S.X)
(With Appl.(s) for stay),W.P(C)No.207/2002(S.X),W.P(C)No.329/02
(With Appl.(s) for stay),SLP(C)No.12076/2002(S.III)
(With Appl.(s) for exemption from filing c/c of the impugned
Judgment and with Prayer for Interim Relief),
W.P(C)No.282/2002(S.X)(With Appl.(s) for ex-Parte stay),
W.P(C)No.303/2002(S.X)(With Appl.(s) for ex-Parte stay),
W.P(C)No.407/2002(S.X)(With Appl.(s) for ex-Parte stay),
W.P(C)No.304/2002(S.X)(With Appl.(s) for ex-Parte stay),
W.P(C)No.415/2002(S.X)(With Appl.(s) for ex-Parte stay),
W.P(C)No.426/2002(S.X)(With Appl.(s) for stay),W.P(C)No.432/02
(With Appl.(s) for stay),W.P(C)No.458/2002(S.X)

DATE: 23.10.2002 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.B. PATTANAIK
HON'BLE MRS. JUSTICE RUMA PAL
HON'BLE MR. JUSTICE BRIJESH KUMAR

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Ms.Nandini Gore,Ms.Meghna Mishra,
Mrs. Manik Karanjawala,Advs.

- 4 -

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M/s.A.K.Gupta,Farrukh Rasheed and

Mukesh Kumar, Advs.

M/s.R.V.Prasad & Praveen Kumar, Advs.

Mr. Joseph Vellapally, Sr. Adv.
Mr. Praveen Kumar, Adv.

M/s.R.L.Ramani, K.K.Mani, Advs.

Mr. Joseph Vellapally, Sr. Adv.
M/s.U.A.Rana, Rajesh Nair, Advs.
for M/s. Gagrat & Co.

For the respondent (s)

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Rajiv Nanda, Y.P.Mahajan, K.C.Kaushik &
Mr.B.V.Balram Das, Advs.

Mr. A.K.Ganguly, Sr. Adv.
Mrs. Revathy Raghavan, Adv.

M/s.Pragati Neekhra & B.S.Banthia, Advs.

M/s. S.G.K.Kumar, Mrs.Sripala G. and
Mr. S.R.Setia, Advs.

Mr. B.Sen, Sr. Adv.
M/s.D.Krishana, D.Sinha and
Mr. S. Mishra, Advs.for
M/s. Sinha & Das, Advs.

M/s. H.M.Singh, Anil Hooda and
R.S.Suri, Advs.

M/sJ.R.Das, G.Biswal & S.Mishra, Advs

Mr.R.Thomas, Mrs.B.Upadhyaya and
Ms. E.R.Sumathy, Advs.for
Mr. J.M.Rao, Adv.

Ms.A.Subhashini & Mr.B.A.Ranganadhan, Advs

Ms.Krishna Sarma, Asha G.Nair, V.K.
Sidatharan, Advs.for Cor.Law Group.

M/s.U.U.Lalit & V.N.Raghupathy, Advs.

M/s.Sakesh Kr & S.K.Agnihotri, Advs.

M/s.K.R.Sasi Prabhu, S.Sangeeta, Sushil
Tekhriwal, Advs.

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Mrs. Anil Katiyar, Adv.
Mr. Satish Vig, Adv.

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Mr. N.Ganpathy, Adv.
Mr.P.N.Ramalingam, Adv.
Mr.Ranjan Mukherjee, Adv.
Ms.H.Wahi, Adv.
Mr.A.Mariarputham, Adv.

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Mr. V.Krishna Murthy,Adv.
Mr. G.Prakash,Adv.
Mr.K.V.Vijayakumar,Adv.
Mr. G.B.Sathe,Adv.
Mr.A.K.Tandle,Adv.
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Mr.K.R.Nagaraja,Adv.
Mr.S.R.Hegde,Adv.
Mr. Prem Malhotra,Adv.
Mr.R.K.Sharma,Adv.
Mr. R.S. Jena,Adv.
Mr. K.Ram Kumar,Adv.
Mr.S.R.Setia,Adv.
Mr. V.Balachandran,Adv.
Mr. M.N.Shroff,Adv.
Mr. P.Parmeshwaran,Adv.
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Mr. R.C.Verma,Adv.
Mr. S.K.Jain,Adv.
Mr.P.H.Parekh,Adv.
Mrs. Rekha Palli,Adv.
Mr. A.K.Gupta,Adv.
Mr. B.K.Prasad,Adv.
Mr.Ramesh Babu M.R.,Adv.
Mr. T.C.Sharma,Adv.
Mr. N.K.Sharma,Adv.
Mr. B.B. Singh,Adv.
Ms. Kamini Jaiswal,Adv.
Mr. K.M.K.Nair,Adv.
Mr. R.P.Wadhvani,Adv.
Mr. P.R.Ramasesh,Adv.
Mr. P.P.Singh,Adv.
Mr. Anil Shrivastav,Adv.
Mr. H.Lal,Adv.

UPON hearing counsel, the Court made the following

O R D E R

.....L.....I.....T.....T.....T.....T.....T.....J.
.SP2

On the observations made by this Court in earlier orders, the Parliament has amended the Central Sales Tax Act called "The Central Sales Tax (Amendment) Act, 2001 No. 41 of 2001" , and that Act has also received the assent of the President of India. The object of having such Act is to provide a forum which could go into the question of dispute between two States of levying tax on the same transactions, both under the State Sales Tax Act as well as the Central Sales Tax Act. On the last occasion when the matter had been listed before us, it had been submitted that the Notification giving effect to the Act has not been come into force, and therefore some time be given, and we had adjourned the matter for four weeks. Today, the learned Additional Solicitor General places before us a letter from the Government of India, Ministry of Finance & Company Affairs, dated 22nd October, 2002 indicating the reasons as to why the Notification had not been issued, the reason being that there is no consensus among the States for enforcing the amendment by issuance of notification. We really fail to understand that for giving effect to an amendment made by the Parliament and in notifying the same, the assent of the States is required for the purpose, particularly when before making the amendment it was told to us that the States have been consulted. At any rate, the Parliament having amended the Act, and having received the Presidential assent, the executive Government is duty bound to notify the same for the

Act to be effective, and if any State is aggrieved by the same, it would be open for the State to challenge the legality of the same. It does not look well on the part of the executive Government to say that because the States are not assenting to issuance of Notification, the Parliamentary Act is not being given effect to. However, since the letter dated 22nd October, 2002 indicates that some time be given, we adjourn the matter for eight weeks, and if by the next date the Notification has not come into force, then the Court has to decide the matter irrespective of the amendment not coming into force.

Put up in January, 2003.

.SP1

(Y.P.Dhamija)

(Suneet Bala Sharma)@@

AA

Court Master

Asstt. Registrar@@

AAAAA