

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 11176-78/2017  
(Arising out of SLP(C) Nos. 9693-9695/2013)

UNION OF INDIA

APPELLANT (S)

VERSUS

THE STATE OF BIHAR & ORS.

RESPONDENT (S)

O R D E R

Leave granted.

On perusal of the appeal, we find that one of the arguments raised by the Union of India is that by virtue of Article 285 of the Constitution of the India, the properties of the Union of India are exempted from the indirect tax. The question involved is payment of indirect tax, this Court has held in the case of "Karya Palak Engineer, CPWD, Bikaner vs. Rajasthan Taxation Board, Ajmer & Ors." [2004(7) SCC 195] that Union of India is not exempted from levy of indirect tax under Article 285 of the Constitution of India. Therefore, this contention is liable to be rejected.

Mr Rakesh Dwivedi, learned senior counsel appearing on behalf of respondent/State has produced a copy of the order dated 21.04.2017 passed in Civil Appeal No. 5474 of 2017 arising out of SLP(C) No. 12739 of 2009. After going through the said order, we

find that the subject matter of the present appeals is covered by the said order dated 21.04.2017 passed in Civil Appeal No. 5474 of 2017. In terms thereof, consequential order may be passed by the concerned authorities.

The appeals stand disposed of accordingly.

.....J.  
[A.K. SIKRI]

.....J.  
[ASHOK BHUSHAN]

NEW DELHI;  
AUGUST 29, 2017.



Ms. Ambika Gutam, Adv.

Mr. Ravinder Narain, Adv.

Mr. Ajay Aggarwal, Adv.

Ms. Mallika Joshi, Adv.

Mr. Rajan Narain, Adv.

Mr. Ashok Kumar Panda, Sr. Adv.

Mr. R.K. Rathore, Adv.

Mr. Vikas Bansal, Adv.

Mr. Raj Bahadur, Adv.

Mr. B.K. Prasad, Adv.

Mr. Ajit Kumar Sinha, Sr. Adv.

Mr. Jayash Gaurav, Adv.

Mr. Gopal Prasad, Adv.

Mr. G. Prakash, Adv.

Mr. Jishnu M.L., Adv.

Ms. Priyanka Prakash, Adv.

Ms. Beena Prakash, Adv.

Mr. Praveen Kumar, Adv.

Ms. Babita Sant, Adv.

Mr. Devakshish Bharuka, Adv.

Mr. Ravi Bharuka, Adv.

Mr. Shreekant N. Terdal, AOR

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Mr. P. S. Sudheer, AOR

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M/s. Arputham Aruna And Co, AOR

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Mr. K. V. Vijayakumar, AOR

Mr. S. Udaya Kumar Sagar, AOR

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Mr.. M. P. Vinod, AOR  
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Mr. M. T. George, AOR  
Mr. Sunil Kumar Jain, AOR  
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Mr. M. Shoeb Alam, AOR  
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Mr. Dharmendra Kumar Sinha, AOR  
Mr. R. V. Kameshwaran, AOR  
Mr. Deba Prasad Mukherjee, AOR  
Ms. Prabha Swami, AOR  
Mr. B. S. Banthia, AOR  
Mr. Aniruddha P. Mayee, AOR  
Mr. M. K. Dua, AOR  
Mr. Parijat Sinha, AOR

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

C.A. No. 9505/2017

The civil appeal is already dismissed vide order dated  
19.07.2017.

SLP(C) No. 26543/2008, SLP(C) No. 11646/2009 & SLP(C) No. 7356/2010

Heard learned counsel for the parties.

Arguments concluded.

Judgment reserved.

SLP(C) No. 1101/2007

The levy of entry tax under the Jharkhand Entry Tax Act has been struck down by the High Court vide impugned judgment holding it to be non-compensatory in nature and the previous sanction of the President of India was not taken resulting into violation of Article 304(b) of the Constitution of India. These issues stand concluded by a Nine Judge Bench judgment of this Court in the case of Jindal Stainless Steel vs. State of Haryana reported in 2016 (11) SCALE 1 in favour of the State. In view thereof, as far as these issues are concerned, the impugned judgment is set aside.

Mr. Ajay Agarwal appearing on behalf of the respondent has, however, pointed out that on merits, issue raised was that coal used as a fuel by the respondent/assessee in manufacturing of the steel is used as raw material and vide Notification No. SO 105 dated 1st November, 2002, raw material was exempted from levy of entry tax. However, in the impugned judgment the High Court has decided this aspect against the respondent/assessee. The submission of Mr. Agarwal

is that since the final outcome of the writ petition was in favour of the assessee as the levy was struck down as unconstitutional, there was no occasion for the respondent/assessee to challenge the aforesaid finding and for this reason no special leave petition was preferred by the respondent/assessee.

We need not comment upon this argument. Suffice is to state that insofar as the impugned judgment which is rested on the compensatory theory stands set aside, if any rights accrue in favour of the respondent/assessee or the respondent has any right to challenge the levy on the aforesaid ground which was taken before the High Court it would be open to the respondent/assessee to pursue the same.

The respondent/assessee had also raised the contention that coal was imported on which no entry tax was paid. On this aspect, we have heard the arguments and the judgment is reserved.

SLP(C) No. 4387/2010

Nobody appears even on second call.

The Special Leave Petition is dismissed.

Pending application(s), if any, stands disposed of accordingly.

SLP(C) Nos. 9693-9695/2013, SLP(C) No. 5407/2008 & SLP(C) No.

13806/2007

Leave granted in SLP(C) Nos. SLP(C) No. 9693-9695/2013, SLP(C) No. 5407/2008 & SLP(C) No. 13806/2007

The appeals stand disposed of in terms of the signed order.

Pending application(s), if any, stands disposed of accordingly.

T.C.(C) No. 13/2004

The transfer case is disposed of in terms of the signed order.

Pending application(s), if any, stands disposed of accordingly.

SLP(C) No. 10694/2007

Leave granted.

The appeal is allowed in terms of the signed order.

Pending application(s), if any, stands disposed of accordingly.

SLP(C) No. 12959/2007,

Leave granted.

The appeal is dismissed in terms of the signed order.

Pending application(s), if any, stands disposed of accordingly.

SLP(C) No. 746/2008, SLP(C) No. 747/2008, SLP(C) No. 742/2008 & C.A. No. 5041-5042/2008,

Leave granted in SLP(C) No. 746/2008, SLP(C) No. 747/2008, SLP(C) No. 742/2008

The appeals are allowed in terms of the signed order.

Pending application(s), if any, stands disposed of accordingly.

(ASHWANI KUMAR)  
COURT MASTER

(MADHU NARULA)  
COURT MASTER

(Signed orders are placed on the file)

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 11176-78/2017  
(Arising out of SLP(C) Nos. 9693-9695/2013)

UNION OF INDIA

APPELLANT (S)

VERSUS

THE STATE OF BIHAR & ORS.

RESPONDENT (S)

O R D E R

Leave granted.

Nobody has appeared on behalf of the appellant.

On perusal of the appeal, we find that one of the arguments raised by the Union of India is that by virtue of Article 285 of the Constitution of the India, the properties of the Union of India are exempted from the indirect tax. The question involved is payment of indirect tax, this Court has held in the case of "Karya Palak Engineer, CPWD, Bikaner vs. Rajasthan Taxation Board, Ajmer & Ors." [2004(7) SCC 195] that Union of India is not exempted from levy of indirect tax under Article 285 of the Constitution of India. Therefore, this contention is liable to be rejected.

Mr Rakesh Dwivedi, learned senior counsel appearing on behalf of respondent/State has produced a copy of the order dated 21.04.2017 passed in Civil Appeal No. 5474 of 2017 arising out of

SLP(C) No. 12739 of 2009. After going through the said order, we find that the subject matter of the present appeals is covered by the said order dated 21.04.2017 passed in Civil Appeal No. 5474 of 2017. In terms thereof, consequential order may be passed by the concerned authorities.

The appeals stand disposed of accordingly.

.....J.  
[A.K. SIKRI]

.....J.  
[ASHOK BHUSHAN]

NEW DELHI;  
AUGUST 29, 2017.

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S) . 9505/2017

UNION OF INDIA

APPELLANT (S)

VERSUS

THE STATE OF BIHAR & ORS.

RESPONDENT (S)

WITH

CIVIL APPEAL NO(S) . 11176-78/2017  
(Arising out of SLP(C) Nos. 9693-9695/2013)

UNION OF INDIA

APPELLANT (S)

VERSUS

THE STATE OF BIHAR & ORS.

RESPONDENT (S)

O R D E R

Leave granted in SLP(C) Nos. 9693-9695 of 2013.

Nobody has appeared on behalf of the appellant.

On perusal of the appeal, we find that one of the arguments raised by the Union of India is that by virtue of Article 285 of the Constitution of the India, the properties of the Union of India are exempted from the indirect tax. The question involved is payment of indirect tax, this Court has held in the case of "Karya Palak Engineer, CPWD, Bikaner vs. Rajasthan Taxation Board, Ajmer & Ors." [2004(7) SCC 195] that Union of India is not exempted from

levy of indirect tax under Article 285 of the Constitution of India. Therefore, this contention is liable to be rejected.

Mr Rakesh Dwivedi, learned senior counsel appearing on behalf of respondent/State has produced a copy of the order dated 21.04.2017 passed in Civil Appeal No. 5474 of 2017 arising out of SLP(C) No. 12739 of 2009. After going through the said order, we find that the subject matter of the present appeals is covered by the said order dated 21.04.2017 passed in Civil Appeal No. 5474 of 2017. In terms thereof, consequential order may be passed by the concerned authorities.

The appeals stand disposed of accordingly.

.....J.  
[A.K. SIKRI]

.....J.  
[ASHOK BHUSHAN]

NEW DELHI;

AUGUST 29, 2017.

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 11170/2017  
(Arising out of SLP(C) Nos. 13806/2007)

M/S. INDIAN OIL CORPORATION LTD.

APPELLANT(S)

VERSUS

THE STATE OF BIHAR & ORS.

RESPONDENT(S)

WITH

CIVIL APPEAL NO(S).11171/2017  
(Arising out of SLP(C) No. 5407/2008)

THE STATE OF BIHAR & ORS.

APPELLANT(S)

VERSUS

M/S. INDIAN OIL CORPORATION LTD. & ANR.

RESPONDENT(S)

WITH

TRANSFER CASE (c) NO. 13 OF 2004

INDIAN OIL CORPORATION LTD.

PETITIONER(S)

VERSUS

STATE OF BIHAR & ORS.

RESPONDENT(S)

O R D E R

CIVIL APPEAL NO(S). \_\_\_\_\_ /2017, (Arising out of SLP(C) No(s). 13806/2007) & CIVIL APPEAL NO(S). \_\_\_\_\_ /2017 (Arising out of SLP(C) No. 5407/2008)

Leave granted.

A perusal of the writ petition filed by the Indian Oil

Corporation before the High Court reveals that many issues were raised by the Indian Oil Corporation in the said writ petition. Insofar as the issues pertaining to compensatory tax and previous sanction of the President of India are concerned, these issues stand concluded by a Nine Judge Bench judgment of this Court in the case of Jindal Stainless Steel vs. State of Haryana reported in 2016 (11) SCALE 1 in favour of the State. As far as the issue as to whether import of oil is subject matter of entry tax or not is concerned, this Court has already heard the arguments on that aspect in other cases of Indian Oil Corporation and the judgment is reserved.

The only other issue which is left pertains as to whether the provisions of the Bihar Entry Tax Act are discriminatory and violative of Article 304(a) of the Constitution of India. On this issue, the matter is remitted to the High Court for determination in the light of the judgment of a Nine Judge Bench of this Court in the case of Jindal Stainless Steel vs. State of Haryana reported in 2016 (11) SCALE 1, as in the impugned judgment this issue was left untouched.

The appeals are disposed of in the aforesaid terms.

TRANSFER CASE (C) NO. 13 OF 2004

The writ petition filed in the High Court is sought to be transferred to this Court and by means of this petition same issues which are taken note of in the aforesaid appeals are raised. Therefore, this transfer case is disposed of and as far as writ

petition is concerned, the High Court shall decide the issue of discrimination only which is left for decision.

.....J.  
[A.K. SIKRI]

.....J.  
[ASHOK BHUSHAN]

NEW DELHI;

AUGUST 29, 2017.

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 11179 /2017  
(Arising out of SLP(C) No. 10694/2007)

STATE OF BIHAR

APPELLANT(S)

VERSUS

THE FOOD CORPORATION OF INDIA

RESPONDENT(S)

O R D E R

Leave granted.

A perusal of the judgment of the High Court indicates that it has allowed the writ petition of the respondent/assessee herein on two grounds, which are as under:

- 1) the tax was non-discriminatory in nature and violative of the provisions of Article 304(b) of the Constitution of India inasmuch as previous sanction of the President of India was not taken; and
- 2) vide Notification No. SO 34 dated 01.04.2006, paddy, rice, wheat, pulses, flour, atta, maida, suji and besan were added at Serial No. 25 of the Schedule and on the same date vide another Notification bearing No. SO 32, in exercise of the power under Section 3(1) of the Bihar Entry Tax the rate of entry tax on paddy, rice, wheat was fixed at 4% of their value. As on that date sales tax on paddy, rice, wheat was 1%.

On that basis, the High Court held that the aforesaid SO 32

is discriminatory in nature.

Insofar as the finding of the High Court that the Act is violative of provisions of Article 304(b) of the Constitution is concerned, the same stands overruled by a Nine Judge Bench judgment of this Court in the case of Jindal Stainless Steel vs. State of Haryana reported in 2016 (11) SCALE 1. To this extent the judgment of the High Court is set aside.

Insofar as the second issue holding SO 32 dated 01.04.2006 in respect of paddy, rice and wheat for the period 01.04.2006 to 30.06.2006 as discriminatory is concerned, we do not find any error. The findings on issue no. 2 are accordingly upheld. The appeal is accordingly allowed.

.....J.  
[A.K. SIKRI]

.....J.  
[ASHOK BHUSHAN]

NEW DELHI;  
AUGUST 29, 2017.

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S) .11175/2017  
(Arising out of SLP(C) No. 12959/2007)

DISHNET WIRELESS LIMITED

APPELLANT (S)

VERSUS

THE STATE OF BIHAR & ORS.

RESPONDENT (S)

O R D E R

Leave granted.

This appeal is covered by a Nine Judge Bench judgment of this Court in the case of Jindal Stainless Steel vs. State of Haryana reported in 2016 (11) SCALE 1 in which the issues involved in the present appeal are held against the appellant/assessee. This appeal is accordingly dismissed.

.....J.  
[A.K. SIKRI]

.....J.  
[ASHOK BHUSHAN]

NEW DELHI;  
AUGUST 29, 2017.

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S) .11172/2017  
(Arising out of SLP(C) No. 746/2008)

THE STATE OF BIHAR & ORS.

APPELLANT (S)

VERSUS

Mc DOWELL & CO. LTD.

RESPONDENT (S)

WITH

CIVIL APPEAL NO(S) .11173/2017  
(Arising out of SLP(C) No. 747/2008)

THE STATE OF BIHAR & ORS.

APPELLANT (S)

VERSUS

M/S. LUMBINI BEVERAGES PVT. LTD.

RESPONDENT (S)

WITH

CIVIL APPEAL NO(S) .11174/2017  
(Arising out of SLP(C) No. 742/2008)

THE STATE OF BIHAR & ORS.

APPELLANT (S)

VERSUS

M/S. LUMBINI BEVERAGES PVT. LTD.

RESPONDENT (S)

WITH

CIVIL APPEAL NO(S) .5041-5042/2008

THE STATE OF BIHAR & ORS.

APPELLANT (S)

VERSUS

UNITED SPIRITS LTD.

RESPONDENT(S)

O R D E R

Leave granted in SLP(C) No. 746 of 2008, SLP(C) No. 747 of 2008 & SLP(C) No. 742 of 2008.

These appeals are covered by a Nine Judge Bench judgment of this Court in the case of Jindal Stainless Steel vs. State of Haryana reported in 2016 (11) SCALE 1 in which the issues involved in the present appeals are held in favour of the appellant(s)/State. The impugned judgment is set aside and the appeals are accordingly allowed.

.....J.  
[A.K. SIKRI]

.....J.  
[ASHOK BHUSHAN]

NEW DELHI;  
AUGUST 29, 2017.

ITEM NO.8

COURT NO.6

SECTION XI -A

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). 3381-3400/1998

STATE OF KERALA AND OTHERS

Appellant(s)

VERSUS

FR.WILLIAM FERNANDEZ ETC ETC

Respondent(s)

(MAIN MATTER I.E. C.A.NO.3381-3400/1998 IS NOT LISTED ON 29.08.2017 AS THE SAME IS CAV AND ONLY TAGGED MATTERS MAY BE TREATED AS LISTED)

WITH

SLP(C) No. 9693-9695/2013 (XVI)

SLP(C) No. 5407/2008 (XVI)

SLP(C) No. 11646/2009 (XVI)

SLP(C) No. 7356/2010 (XVI)

SLP(C) No. 10694/2007 (XVI)

SLP(C) No. 12959/2007 (XVI)

SLP(C) No. 13806/2007 (XVI)

C.A. No. 9505/2017 (XVI)

C.A. No. 5041-5042/2008 (XVI)

SLP(C) No. 746/2008 (XVI)

SLP(C) No. 1101/2007 (XVII)

SLP(C) No. 26543/2008 (XVI)

SLP(C) No. 747/2008 (XVI)

SLP(C) No. 742/2008 (XVI)

SLP(C) No. 4387/2010 (XVI)

T.C. (C) No. 13/2004 (XVI -A)

Date : 29-08-2017 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE A.K. SIKRI  
HON'BLE MR. JUSTICE ASHOK BHUSHAN

For Appellant(s)      Mr. Rakesh Dwivedi, Sr. Adv.  
                                 Mr. Gopal Singh, Adv.  
                                 Ms. Vimla Sinha, Adv.  
                                 Mr. Rituraj Biswas, Adv.  
                                 Mr. Manish Kumar, Adv.  
                                 Mr. Pranab Prakash, Adv.  
                                 Mr. Shivam Singh, Adv.  
                                 Mr. Aditya Raina, Adv.  
                                 Mr. Shreyas Jain, Adv.  
                                 Mr. Kumar Milind, Adv.  
                                 Ms. Ambika Gutam, Adv.

Mr. Ravinder Narain, Adv.  
Mr. Ajay Aggarwal, Adv.  
Ms. Mallika Joshi, Adv.  
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Mr. Ashok Kumar Panda, Sr. Adv.  
Mr. R.K. Rathore, Adv.  
Mr. Vikas Bansal, Adv.  
Mr. Raj Bahadur, Adv.  
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Mr. Jishnu M.L., Adv.  
Ms. Priyanka Prakash, Adv.  
Ms. Beena Prakash, Adv.

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Mr. B. S. Banthia, AOR  
Mr. Aniruddha P. Mayee, AOR  
Mr. M. K. Dua, AOR  
Mr. Parijat Sinha, AOR

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

SLP(C) No. 26543/2008, SLP(C) No. 11646/2009 & SLP(C) No. 7356/2010  
& SLP(C) No. 1101/2007

Heard learned counsel for the parties.

Arguments concluded.

Judgment reserved.

SLP(C) No. 4387/2010

Nobody appears even on second call.

The Special Leave Petition is dismissed.

Pending application(s), if any, stands disposed of accordingly.

SLP(C) Nos. 9693-9695/2013, SLP(C) No. 5407/2008 & SLP(C) No. 13806/2007

Leave granted in SLP(C) Nos. SLP(C) No. 9693-9695/2013, SLP(C) No. 5407/2008 & SLP(C) No. 13806/2007

The appeals stand disposed of in terms of the signed order.

Pending application(s), if any, stands disposed of accordingly.

T.C.(C) No. 13/2004

The transfer case is disposed of in terms of the signed order.

Pending application(s), if any, stands disposed of accordingly.

SLP(C) No. 10694/2007

Leave granted.

The appeal is allowed in terms of the signed order.

Pending application(s), if any, stands disposed of accordingly.

SLP(C) No. 12959/2007,

Leave granted.

The appeal is dismissed in terms of the signed order.

Pending application(s), if any, stands disposed of accordingly.

SLP(C) No. 746/2008, SLP(C) No. 747/2008, SLP(C) No. 742/2008 & C.A. No. 5041-5042/2008,

Leave granted in SLP(C) No. 746/2008, SLP(C) No. 747/2008, SLP(C) No. 742/2008

The appeals are allowed in terms of the signed order.

Pending application(s), if any, stands disposed of accordingly.

(ASHWANI KUMAR)  
COURT MASTER

(MADHU NARULA)  
COURT MASTER

(Signed orders are placed on the file)