



2026:CGHC:14468-DB

AFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****WPC No. 3580 of 2022**

M/s Kedia Trading Registered Address Near Durga Fuels, Ring Road No.2, Gondwara, Raipur, District Raipur, Chhattisgarh Pin Code - 492001. Through Its Proprietor - Pravin Kumar Kedia, S/o Shri Madan Prasad Kedia, Aged About 58 Years, R/o Flat No.15 Gf, Janta Flats, Pocket-1, Sector- A-5, Narela, North West Delhi, Delhi, Pin Code- 110040.

--- Petitioner(s)**versus**

1 - State Of Chhattisgarh Through Special Secretary, Department Of Commercial Tax (Excise), Government Of Chhattisgarh Mantralaya, Mahanadi Bhawan, New Raipur, Atal Nagar, Raipur, District Raipur, Chhattisgarh, Pin Code- 492002.

2 - Union Of India Through Secretary, Ministry Of Finance, Government Of India, North Block, New Delhi, Pin Code- 110001.

--- Respondent(s)**WPC No. 64 of 2023**

Agrawal Gudakhu Factory A Registered Partnership Firm Through Its Partner Namely Shri Sanjay Kumar Agrawal, S/o. Shri Ramchandra Agrawal, Aged About 51 Years, R/o Ram Kunj, Sultaniya Gali, Vinoba Nagar, Bilaspur, District: Bilaspur, Chhattisgarh

---Petitioner(s)**Versus**

1 - State Of Chhattisgarh Through Special Secretary, Department Of Commercial Tax (Excise), Government Of Chhattisgarh Mantralaya, Mahanadi Bhawan, New Raipur, Atal Nagar, Raipur, District : Raipur, Chhattisgarh

2 - Union Of India Through Secretary, Ministry Of Finance, Government Of India, North Block , New Delhi, Pin Code 110001

--- Respondent(s)

**WPC No. 98 of 2023**

1 - Suraj Gudakhu Karkhana, A Proprietorship Firm Through Its Sole Proprietor Manoj Kumar Sharma, S/o. Kailashchand Sharma, Aged About 63 Years, R/o. Suraj Gudakhu Karkhana, Industrial Estate Bhanpuri, Raipur, District Raipur Chhattisgarh.

2 - Sharma Industries Sader Bazar, A Proprietorship Firm, Through Its Sole Proprietor Sanjay Kumar Sharma, S/o. Kailashchand Sharma, Aged About 61 Years, R/o. Sharma Industries Sadar Bazar Raipur District Raipur Chhattisgarh.

3 - Sharma Industries Dumartarai, A Proprietorship Firm, Through Its Sole Proprietor Rajendra Kumar Sharma, S/o. Late Shri Laxmikant Sharma, Aged About 66 Years, R/o. Sharma Industries Dumartarai, Raipur, District Raipur Chhattisgarh.

4 - Sharma Industries Uparwara, A Proprietorship Firm, Through Its Sole Proprietor Mahesh Kumar Sharma, S/o. Late Shri Brijmohan Sharma, Aged About 58 Years, R/o. Sharma Industries Uparwara, Abhanpur, Raipur, District Raipur Chhattisgarh.

---**Petitioner(s)**

Versus

1 - State Of Chhattisgarh Through Special Secretary, Department Of Commercial Tax (Excise), Government Of Chhattisgarh Mantralaya, Mahanadi Bhawan, New Raipur, Atal Nagar, Raipur District Raipur Chhattisgarh Pin Code -492002.

2 - Union Of India, Through Secretary, Ministry Of Finance, Government Of India, North Block, New Delhi. Pin Code -110001.

--- **Respondent(s)**

WPC No. 152 of 2023

Ajanta Gudakhu Udyog A Registered Partnership Firm Reistered Under The Relevant Provisions Of The Indian Partnership Act, 1986 Having Its Head Office At Main Road, Koni Bilaspur, Through Its Partner Namely Ashish Kumar Agrawal, S/o Shri Brijmohan Agrawal, Aged About 41 Years R/o Flat No. 26, Block B, 3rd Floor, Kachna Road, Khamhardih, Shankar Nagar, Raipur District Raipur Chhattisgarh

---**Petitioner(s)**

Versus



1 - State Of Chhattisgarh Through Secretary, Ministry Of Finance, Government Of India, North Block, New Delhi Pin Code 110001

2 - Union Of India Through Secretary, Ministry Of Finance, Government Of India, North Block, New Delhi Pin Code 110001

--- Respondent(s)

WPC No. 211 of 2023

M/s Raman Agro Exports Pvt. Ltd. Through - General Power Of Attorney Holder, Rahul Singh, S/o Ghanshyam Singh, R/o Radhe Storage Sarangarh Road Chhatamuda Raigarh, Chhattisgarh

---Petitioner(s)

Versus

1 - State Of Chhattisgarh Through Secretary Ministry Of Finance, Government Of India, North Block, New Delhi.

2 - Special Secretary, Commercial Tax (Excise Department) State Government Of Chhattisgarh, Mantralaya, Mahanadi Bhawan, New Raipur. Chhattisgarh

3 - Union Of India, Through Secretary Ministry Of Finance, Government Of India, North Block, New Delhi.

--- Respondent(s)

WPC No. 218 of 2023

M/s Single Point Solutions, Proprietor, Ankur Sharma, S/o Shri Gopal Sharma, Aged About 26 Years R/o 416 Lifestyle, Empressa, Kota Road, Raipur District Raipur Chhattisgarh

---Petitioner(s)

Versus

1 - State Of Chhattisgarh Through Secretary, Excise Department, Mahanadi Bhawan, New Raipur District Raipur Chhattisgarh

2 - Special Secretary Commercial Tax (Excise Department), State Govt. Of Chhattisgarh, Mantralaya, Mahanadi Bhawan, New Raipur District Raipur Chhattisgarh

3 - Union Of India Through Secretary, Ministry Of Finannce, Government Of India, North Blocik, New Delhi

--- Respondent(s)

WPC No. 380 of 2023

Siddhi Deal Trade Pvt. Ltd., A Company Registered Under The Relevant Provisions Of Companies Act, 1956 Through Its Director namely Gopal



Sharma, S/o Shri Mahadev Prasad Sharma, Aged About 59 Years, R/o. Flat No. 307, Sarla Villa, Chakradhar Nagar, Raigarh, District Raigarh Chhattisgarh

---Petitioner(s)

Versus

1 - State Of Chhattisgarh Through - Special Secretary, Department Of Commercial Tax (Excise), Government Of Chhattisgarh Mantralaya, Mahanadi Bhawan, New Raipur, Atal Nagar, Raipur, District - Raipur Chhattisgarh Pin code 492002

2 - Union Of India, Through Secretary, Ministry Of Finance, Government Of India, North Block, New Delhi. Pin Code 110001

--- Respondent(s)

WPC No. 498 of 2023

Sun And Sun Cattle Feed Pvt. Ltd. A Company Registered Under The Relevant Provisions Of Companies Act, 1956 Through Its Director Shyam Sunder Sharma, S/o. Shri Brijmohan Sharma, Aged About 51 Years, R/o. 11/146, Near Chikni Mandir, Malviya Road, Raipur, District Raipur (C.G.)

---Petitioner(s)

Versus

1 - State Of Chhattisgarh Through Special Secretary, Department Of Commercial Tax (Excise), Government Of Chhattisgarh Mantralaya, Mahanadi Bhawan, New Raipur, Atal Nagar, Raipur, District Raipur (C.G.) Pin code 492002

2 - Union Of India Through Secretary, Ministry Of Finance, Government Of India, North Block, New Delhi Pin Code 110001

--- Respondent(s)

WPC No. 614 of 2023

M/s Shriaman Agrovvet Pvt. Ltd. Through Managing Director, Gopal Agrawal S/o Shri Parmeshwari Das Agrawal, Aged About 54 Years, Address Mayapur, Chandani Chowk, Ambikapur, District - Sarguja (C.G.)

---Petitioner(s)

Versus

1 - State Of Chhattisgarh Through Secretary Excise Department, Mahanadi Bhawan New Raipur (C.G.)

2 - Special Secretary Commercial Tax (Excise Department) State Govt. Of Chhattisgarh, Mantralaya, Mahanadi Bhawan, New Raipur,(C.G.)



3 - Union Of India Through Secretary Ministry Of Finance, Government Of India, North Block, New Delhi.

--- Respondent(s)

WPC No. 813 of 2023

Annapurna Gudakhu Karkhana, A Registered Partnership Firm Registered Under The Relevant Provisions Of The Indian Partnership Act, 1986 Having Its Head Office M.W. No.12, Main Road, Saraipali, Mahasamund Through Its Partner Namely Vishwajeet Gupta, S/o Shri Jai Narayan Gupta, Aged About 58 Years, R/o Annapurna Karkhana, Main Road, Saraipali, District Mahasamund Chhattisgarh

---Petitioner(s)

Versus

1 - State Of Chhattisgarh Through Secretary, Ministry Of Finance, Government Of India, North Block, New Delhi, Pin Code 110001

2 - Union Of India Through Secretary, Ministry Of Finance, Government Of India, North Block, New Delhi, Pin Code 110001

--- Respondent(s)

WPC No. 817 of 2023

Aryan Feeds Pvt. Ltd. A Company Registered Under The Relevant Provisions Of Companies Act, 1956 Through Its Director Shri Sashikant Jain, S/o Shri Premchand Jain, Age About 48 Years, R/o C-17, Near Shankracharya, Garden, Samta Colony, District Raipur Chhattisgarh

---Petitioner(s)

Versus

1 - State Of Chhattisgarh Through Secretary, Ministry Of Finance, Government Of India, North Block, New Delhi, Pin Code 110001

2 - Union Of India Through Secretary, Ministry Of Finance, Government Of India, North Block, New Delhi, Pin Code 110001

--- Respondent(s)

WPC No. 1106 of 2023

Agrawal Gudakhu Factory A Partnership Firm, Registered Under The Relevant Provisions Of The Partnership Act Through Its Partner Namely Anand Kumar Agrawal, S/o Late Gajanand Agrawal, Aged About 59 Years, R/o Gajanand Puram Colony, Kharsia, District : Raigarh, Chhattisgarh

---Petitioner(s)

**Versus**

1 - State Of Chhattisgarh Through Special Secretary, Department Of Commercial Tax (Excise), Government Of Chhattisgarh Mantralaya, Mahanadi Bhawan, New Raipur, Atal Nagar, Raipur, District Raipur, Chhattisgarh Pin Code 492002

2 - Union Of India Through Secretary, Ministry Of Finance, Government Of India, North Block, New Delhi Pin Code 110001

--- **Respondent(s)**

WPC No. 1376 of 2023

Rashtriya Gudakhu Factory A Registered Proprietorship Firm Through Its Proprietor Namely Shri Bajinath Agrawal, S/o Laxmi Narayan Agrawal, Aged About 75 Years R/o Lal Tanki Road, Raigarh, District - Raigarh Chhattisgarh.

---**Petitioner(s)**

Versus

1 - State Of Chhattisgarh Through Special Secretary, Department Of Commercial Tax (Excise), Government Of Chhattisgarh Mantralaya, Mahanadi Bhawan, New Raipur, Atal Nagar, Raipur District - Raipur Chhattisgarh. Pin Code 492002

2 - Union Of India Through Secretary, Ministry Of Finance, Government Of India, North Block, New Delhi. Pin Code 110001

--- **Respondent(s)**

WPC No. 1713 of 2023

Vardhaman Trading A Proprietorship Firm Through Its Proprietor Namely Smt. Mamta Jain, W/o Manoj Jain, Aged About 50 Years, R/o House No. C E-11, Kundala Vashundhara City, Ambikapur, District Sarguja Chhattisgarh.

---**Petitioner(s)**

Versus

1 - State Of Chhattisgarh Through Special Secretary, Department Of Commercial Tax (Excise), Government Of Chhattisgarh Mantralaya, Mahanadi Bhawan, New Raipur, Atal Nagar, Raipur District Raipur Chhattisgarh Pin code 492002

2 - Union Of India Through Secretary, Ministry Of Finance, Government Of India, North Block, New Delhi, Pin Code 110001

--- **Respondent(s)**

**WPC No. 1943 of 2023**

Rameshwar Cattle Feed Industries Through Its Proprieter- Shri Bhuneshwar Patel S/o Shri Shiv Charan Patel Aged About 53 Years, R/o Kalgamuda, Urdana Sai Temple, Gharghoda Road Raigarh, District : Raigarh, Chhattisgarh

---**Petitioner(s)**

Versus

1 - State Of Chhattisgarh Through Special Secretary, Department Of Commercial Tax (Excise), Government Of Chhattisgarh Mantralaya, Mahanadi Bhawan, New Raipur Atal Nagar, Raipur Pin Code 492002, District : Raipur, Chhattisgarh

2 - Union Of India Through Secretary, Ministry Of Finance Government Of India, North Block, New Delhi. Pin Code-110001, District : New Delhi, Delhi

--- **Respondent(s)**

WPC No. 2099 of 2023

Tirumala Balaji Alloys Ltd. A Registered Company Under Company Law Through Its Authorised Representative Namely Shri Jaynarayan Pradhan, S/o Shri Makhanlal Pradhan, Aged About 55 Years, Registered Address-O.P. Jindal Industrial Park, Sector-B, Punjipathra, Tahsil Gharghoda, District : Raigarh, Chhattisgarh

---**Petitioner(s)**

Versus

1 - State Of Chhattisgarh Through Special Secretary, Department Of Commercial Tax (Excise), Government Of Chhattisgarh Mantralaya, Mahanadi Bhawan, New Raipur, Atal Nagar, Raipur,, District : Raipur, Chhattisgarh

2 - Union Of India Through Secretary, Ministry Of Finance, Government Of India, North Block New Delhi., District : New Delhi, Delhi

--- **Respondent(s)**

WPC No. 2480 of 2023

M/s. Shubham Trading Company A Proprietorship Firm Registered Address - D - 94, Badi Parking, Zone -2, Vyapar Vihaar, Bilaspur, District - Bilaspur Chhattisgarh Pin Code - 495001. Through Its Proprietor Gajanand Agrawal, S/o Shri Kedar Nath Agrawal, Aged About 49 Years, R/o - Hansa Vihaar, Shrikant Verma Road, Bilaspur, District - Bilaspur Chhattisgarh Pin Code - 495001.

---**Petitioner(s)**

**Versus**

1 - State Of Chhattisgarh Through - Special Secretary, Department Of Commercial Tax (Excise), Government Of Chhattisgarh Mantralaya, Mahanadi Bhawan, New Raipur, Atal Nagar, Raipur, District - Raipur Chhattisgarh Pin Code - 492002

2 - Union Of India Through Secretary, Ministry Of Finance, Government Of India, North Block, New Delhi. Pin Code - 110001

--- Respondent(s)

WPC No. 2481 of 2023

M/s Arihant Feeds A Proprietorship Firm Through Its Sole Proprietor Namely, Mehul Prakash, S/o Ashok Parakh, Aged About 33 Years, R/o House No. 24, South Avenue, Choubey Colony, Raipur, District Raipur Chhattisgarh

---Petitioner(s)

Versus

1 - State Of Chhattisgarh Through Special Secretary, Department Of Commercial Tax (Excise), Government Of Chhattisgarh Mantralaya, Mahanadi Bhawan, New Raipur, Atal Nagar, Raipur District Raipur Chhattisgarh Pin code 492002

2 - Union Of India Through Secretary, Ministry Of Finance, Government Of India, North Block, New Delhi Pin Code 110001

--- Respondent(s)

WPC No. 2519 of 2023

M/s Swastik Cattle Feed Industries, Through Its Power Of Attorney Holder-Shri Nilesh Sharma, S/o Shri Kishan Sharma, Aged About 35 Years R/o Mission Road, Near Shyam Baba Temple, Korba District - Korba Chhattisgarh.

---Petitioner(s)

Versus

1 - State Of Chhattisgarh Through Special Secretary, Department Of Commercial Tax (Excise), Government Of Chhattisgarh Mantralaya, Mahanadi Bhawan, New Raipur, Atal Nagar, Raipur, District Raipur Chhattisgarh. Pin Code 492002

2 - Union Of India, Through Secretary, Ministry Of Finance, Government Of India, North Block, New Delhi, Pin Code 110001

--- Respondent(s)

**WPC No. 2533 of 2023**

M/s Sadashiv Cattle Feed Industries Through Its Partnership Firm Authorized - Shri Shyam Sunder Agrawal S/o Shri Mahabir Prasad Agrawal, Aged About 65 Years, R/o Mission Road, Near Shyam Baba Temple, Korba, District : Korba, Chhattisgarh

---Petitioner(s)

Versus

1 - State Of Chhattisgarh Through Special Secretary, Department Of Commercial Tax (Excise), Government Of Chhattisgarh Mantralaya, Mahanadi Bhawan, New Raipur, Atal Nagar, Raipur, District - Raipur, Chhattisgarh. Pin Code 492002.

2 - Union Of India Through Secretary, Ministry Of Finance, Government Of India, North Block, New Delhi, Pin Code 110001.

--- Respondent(s)

WPC No. 4430 of 2023

M/s Maruti Feeds A Proprietorship Firm Through Its Sole Proprietor Namely Smt. Anju Bansal, W/o. Shri Mukesh Bansal, Aged About 49 Years, R/o. Kachna Raipur, District - Raipur, Chhattisgarh.

---Petitioner(s)

Versus

1 - State Of Chhattisgarh Through Special Secretary, Department Of Commercial Tax (Excise), Government Of Chhattisgarh Mantralaya, Mahanadi Bhawan, New Raipur, Atal Nagar, Raipur, District - Raipur, Chhattisgarh. Pin Code 492002

2 - The Union Of India Through Secretary, Ministry Of Finance, Government Of India, North Block, New Delhi, Pin Code -110001.

--- Respondent(s)

WPC No. 1032 of 2024

M/s Sholey Coke And Briquettes Registered Address - Block No.58, Light Industrial Area, Bhilai, District - Durg, Chhattisgarh. Through Its Proprietor Manish Agrawal, Son Of Shri Darshan Lal Agrawal, Shop No.N-712, C-Market, Sector -6, Civil Center, Bhilai, District - Durg, Chhattisgarh.

---Petitioner(s)

Versus



1 - State Of Chhattisgarh Through - The Special Secretary, Department Of Commercial Tax (Excise), Mananadi Bhawan, Atal Nagar, Nawa Raipur, District - Raipur, Chhattisgarh.

2 - Union Of India Through Its Secretary Ministry Of Finance, Govt. Of India, North Block, New Delhi.

--- Respondent(s)

WPC No. 2748 of 2024

M/s Shri Surya Feeds Pvt. Ltd. Through Its Director Shri S/o Shri Mohit Mittal, Aged About 46 Years, R/o M/s Shri Surya Feeds Pvt. Ltd. Street No. 6b, New Shanti Nagar, Geetanjali Clony, Shanker Nagar, Raipur, District- Raipur, Chhattisgarh.

---Petitioner(s)

Versus

1 - State Of Chhattisgarh Through Special Secretary, Department Of Commercial Tax (Excise), Government Of Chhattisgarh Mantralaya, Mahanadi Bhawan, New Raipur, Atal Nagar, Raipur, District- Raipur Pin Code 492002

2 - Union Of India Through Secretary, Ministry Of Finance, Government Of India, North Block, New Delhi, Pin Code 110001

--- Respondent(s)

WPC No. 1897 of 2025

Maa Banbhorl Global Ventures Private Limited A Private Limited Company, Registered Address - S.S.-16, Kundla, Vasundhara City, Ambikapur, District - Surguja (C.G.), Pin Code - 497 001, Through The Director - Hitesh Jain S/o Shri Manoj Jain, Aged About 22 Years, R/o House No. C.E. 11, Kundla, Vasundhara City, Ambikapur, District - Surguja (C.G.) Pin Code - 497 001

---Petitioner(s)

Versus

1 - State Of Chhattisgarh Through - Special Secretary, Department Of Commercial Tax (Excise), Government Of Chhattisgarh, Mantralaya, Mahanadi Bhawan, New Raipur Atal Nagar, Raipur, District - Raipur (C.G.), Pin Code - 492 002

2 - Union Of India Through - Secretary, Ministry Of Finance, Government Of India, North Block, New Delhi, Pin Code - 110 001

--- Respondent(s)

**WPC No. 1898 of 2025**

Vardhaman Trading Company, A Proprietorship Firm, Registered Address- Ward No. 37, Agrasen Ward, Shop No. Ff 7, Kundla City Plaza Complex, Vasundhara City, Ambikapur, District- Surguja (Cg) Pin Code- 497001 Through Its Proprietor Manoj Kumar Jain, S/o Shri Tara Chand Jain, Aged About 50 Years, R/o - House No. CE 11, Kundla, Vasundhara City, Ambikapur, District- Surguja (Cg) Pin Code- 497001

---Petitioner(s)

Versus

1 - State Of Chhattisgarh Through Special Secretary, Department Of Commercial Tax (Excise), Government Of Chhattisgarh Mantralaya, Mahanadi Bhawan, New Raipur, Atal Nagar, Raipur, District- Raipur (Cg) Pin Code- 492002

2 - Union Of India Through Secretary, Ministry Of Finance, Government Of India, North Block, New Delhi Pin Code- 110001

--- Respondent(s)

WPC No. 4236 of 2025

Pasupati Agrovet Private Limited A Private Limited Company, Registered Address Plot No. 93-110 Phase - li, Jagatpur New Industrial Estate Jagatpur, District - Cuttack (Odisha) Pin 754021, Manufacturing Unit Chhattisgarh At M/s Pasupati Agrovet Private Limited Registered Address Plot No. 67 Sector - 1 Food Park Bagoud Village Bagoud Tehsil Kurud, District Dhamtari (C.G.) Pin Code - 493770 Through Its Authorised Representative Abhishek Agarwal S/o Late Shri Dinesh Kumar Agarwal, Aged About 33 Years R/o N-2/106 I.R.C. Village Nayapalli Bhubaneswar District - Khurda (Odisha) Pin Code - 751015

---Petitioner(s)

Versus

1 - State Of Chhattisgarh Through Special Secretary, Department Of Commercial Taxes (Excise) Government Of Chhattisgarh Mantralaya, Mahanadi Bhawan, New Raipur, Atal Nagar, Raipur District - Raipur (C.G.) Pin Code - 492002

2 - Union Of India Through Secretary, Ministry Of Finance, Government Of India, North Block New Delhi Pin Code - 110001

--- Respondent(s)



WPC No. 536 of 2026

Shree Balaji Enterprises, Through- Ujjwal Sharma, S/o Shri Ramesh Kumar Sharma, Aged About 33 Years, Proprietor, Having GST Registration No. 22DJTPS2475E1ZV, R/o House No. 97, TP Nagar Road, Korba, District Korba, State Of Chhattisgarh

---Petitioner(s)

Versus

1 - State Of Chhattisgarh Through Its Principal Secretary, Department Of Commercial Tax (Excise), Government Of Chhattisgarh, Mantralaya, Mahanadi Bhawan, Atal Nagar, Nava Raipur, District Raipur, Chhattisgarh 492002

2 - Excise Commissioner State Of Chhattisgarh, Office At Raipur, District Raipur, State Of Chhattisgarh

3 - District Excise Officer Korba, Office At District Korba, State Of Chhattisgarh

4 - Union Of India Through Secretary, Ministry Of Finance, Department Of Revenue, North Block, New Delhi 110001

--- Respondent(s)

For Petitioner(s)	: Mr. Manoj Paranjpe, Senior Advocate assisted by Mr. K. Rohan, Kabeer Kalwani, Advocates {WPC No. 3580/2022, 4236/2025}
	Mr. K. Rohan, Advocate {WPC No. 152/2023, 2480/2023, 2481/2023, 1897/2025, 1898/2025}
	Mr. T.K.Tiwari, Advocate {WPC No. 211/2023, 218/2023, 614/2023}
	Mr. Amit Sharma, Advocate {WPC No. 1376/2023, 1943/2023, 2099/2023, 2519/2023, 2533/2023, 2748/2024}
	Mr. Manish Nigam, Advocate {WPC No. 1032/2024}
For Respondent(s)/State	: Mr. Pankaj Singh, Advocate {WPC No. 536/2026} : Mr. Shashank Thakur, Additional Advocate General
For Respondent/Union of India	Mr. Ramakant Mishra, Deputy Solicitor General, Mr. Roop Ram Naik, Ms. Annapurna Tiwari, Mr. Amitesh Kumar Pandey and Mr. Rishabh Dev Singh
Date of Hearing	: 18/03/2026
Date of Judgment	: 27/03/2026



Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Ravindra Kumar Agrawal, Judge

C.A.V Order

Per Ramesh Sinha, Chief Justice

- 1 Heard Mr. Manoj Paranjpe, learned Senior Advocate assisted by Mr. K. Rohan, Mr. Kabeer Kalwani, Mr. Pankaj Singh, Mr. Amit Sharma, Mr. T.K.Tiwari, Mr. Manish Nigam, learned counsel appearing for the respective petitioners. Also heard Mr. Shashank Thakur, learned Additional Advocate General for the State, Mr. Ramakant Mishra, learned Deputy Solicitor General alongwith Mr. Roop Ram Naik, Ms.Annapurna Tiwari, Mr. Amitesh Kumar Pandey and Mr. Rishabh Dev Singh, learned counsel appearing for the respondent/Union of India.
- 2 Since the facts and issues involved in this batch of petitions are identical, they are being considered and decided by this common judgment and WPC No. 3580/2022 is taken as the lead case.
- 3 By these petitions under Article 226 of the Constitution of India, the petitioner seeks for the following relief(s):
 - a) Call for the entire records pertaining to the present case.*
 - b) Hold and declare that the impugned Enactment i.e. Chhattisgarh Molasses Control and Regulation Rules, 2022 (Annexure P/1) is ultra vires to the Constitution of India.*
 - c) Grant the cost of the petition to the petitioner.*
 - d) Grant any other relief as deemed fit and proper in the facts and circumstances of the case.”*
- 4 Similar prayers have been made in all other petitions, except WPC No.536/2026, wherein the following relief(s) have been claimed:



"A. hold and declare that the Chhattisgarh Molasses Control and Regulation Rules, 2022, purportedly framed under Section 8 and Section 62 of the Chhattisgarh Excise Act, 1915, are ultra vires the Constitution of India and beyond the legislative competence of the State, in so far as they seek to regulate, control, license or otherwise interfere with trade in molasses used for non-intoxicant purposes. and are consequently null and void to that extent;

B. hold and declare that molasses, when dealt with by the Petitioner as a GST-registered trader for non-intoxicant purpose is not an "intoxicant", "liquor" or "excisable article within the meaning of Sections 2(6), 2(11-a), 2(12) and 2(13) of the Chhattisgarh Excise Act. 1915, and therefore does not fall within the regulatory or fiscal ambit of the said Excise Act;

C. hold and declare that the State Government has no authority in law under Entries 8 and 51 of List II of the Seventh Schedule to the Constitution, read with the Chhattisgarh Excise Act, 1915, to insist upon an Excise licence under Rule 8 of the Chhattisgarh Molasses Control and Regulation Rules, 2022 from traders such as the Petitioner, who deal in molasses exclusively for non-intoxicant uses and have no nexus with manufacture, production or sale of liquor or intoxicants;

D. issue an appropriate writ, order or direction in the nature of certiorari, quashing and setting aside:

- i. the Chhattisgarh Molasses Control and Regulation Rules, 2022 (to the extent they are sought to be applied to the Petitioner's business of non-intoxicant molasses trade); and*
- ii. all consequential circulars, directions, notices, communications, oral or written demands, and proposed or initiated steps of the Respondent-authorities insisting that the Petitioner obtain a licence under Rule 8 of the said Rules, 2022, or threatening coercive measures for non-compliance;*

E. issue an appropriate writ, order or direction in the nature of mandamus restraining the Respondents, their officers, servants and agents from:



i. compelling the Petitioner to apply for or obtain any Excise licence in respect of his trading activities in molasses for non-intoxicant purposes;

ii. conducting Excise raids, inspections, seizures, searches, or initiating prosecution or penal proceedings against the Petitioner solely on the ground that he does not hold an Excise licence under the impugned Rules, 2022, in relation to such non-intoxicant activities; and

iii. otherwise obstructing, interfering with or harassing the Petitioner in the peaceful conduct of his GST-registered business of trading in molasses;

F. hold and declare that any past, present or proposed invocation of the impugned Rules, 2022 against the Petitioner's non-intoxicant molasses trading is illegal, arbitrary, unconstitutional and unenforceable, and direct that any action already taken thereunder, if any, shall stand recalled, withdrawn or treated as non est in the eye of law;

G) award costs of the present Petition in favour of the Petitioner and against the Respondents; and

H) pass such other or further writs, orders or directions as this Hon'ble Court may deem fit, proper and just in the facts and circumstances of the case, in the interest of justice."

- 5 The jurisdiction of this Hon'ble High Court is invoked to challenge the legality, validity and constitutional permissibility of the Chhattisgarh Molasses Control and Regulation Rules, 2022 (*for short, the Rules of 2022*), framed purportedly in exercise of powers conferred by clause (c) of Section 8 of sub-section (1) and clause (f), (g), (h) of sub-section (2) of Section 62 read with proviso to sub-section (3) of Section 62 of the Chhattisgarh Excise Act, 1915 (No. 2 of 1915) (*for short, the Excise Act*), in so far as the said Rules are being construed and implemented so as to regulate, control and license ordinary traders like the petitioner, who deal in Molasses purely for non-intoxicant purposes.



- 6 The impugned Rules, and the manner of their enforcement, are further challenged in so far as they have led to consequential actions, demands and threats by the Excise authorities, who have insisted that the petitioner must obtain an Excise Licence under the Rules of 2022, on pain of coercive measures such as inspection, seizure of stock, initiation of proceedings, and exposure to penal and fiscal consequences. This insistence is made despite the undisputed position that the petitioner are only a GST-registered trader in Molasses for non-intoxicant uses and neither manufactures, distills, bottles, stores nor sells any alcoholic liquor for human consumption or other intoxicants.
- 7 Mr. Manoj Paranjpe, learned Senior Advocate appearing for the petitioners would submit that impugned Rules of 2022, and their extension to the petitioner's trading activity, are ultra vires the Constitution of India, fall beyond the legislative competence of the State under Entries 8 and 51 of List II of the Seventh Schedule, and operate as an arbitrary and unreasonable restriction on the petitioner's fundamental right to carry on trade and business guaranteed under Article 19(1)(g). The impugned regime, by equating neutral commercial trading in Molasses with excisable intoxicant activity, also offends Article 14 by subjecting unlike entities to an identical and onerous excise framework without any *intelligible differentia* or rational nexus to the purported object of controlling intoxicants. The petitioner neither owns nor operates any distillery, does not manufacture liquor or industrial alcohol, and has no commercial engagement with intoxicating liquors for human consumption. His business is confined to bona fide purchase and sale of Molasses in the ordinary course of trade. In exercise of powers traceable to the Excise Act, the State has framed the Rules of 2022. Proceeding on the footing that Molasses is a potential input for liquor



manufacture, the Excise Authorities are now insisting that all persons dealing in molasses, irrespective of the end-use, must obtain an Excise licence under Rule 8 and submit to the entire Excise regulatory apparatus. By treating an ordinary non-intoxicant trader in Molasses at par with liquor manufacturers, the State has travelled beyond its legislative field under Entries 8 and 51 of List II (State List), Seventh Schedule, which are confined to intoxicating liquors and alcoholic liquors for human consumption, and has thereby encroached into a general field of trade and commerce not constitutionally earmarked for the Excise power. The impugned Rules of 2022, to the extent they are sought to be applied to traders like the petitioner, are *ex facie ultra vires* the Constitution, lack legislative competence, and suffer from manifest arbitrariness. The petitioner, therefore, seeks a declaration that pure trading in Molasses for non-intoxicant purposes cannot be compulsorily brought under an Excise licensing regime, and that he cannot be compelled to obtain an Excise licence or be exposed to coercive Excise action merely for carrying on a legitimate, GST-regulated trading activity. The challenge is thus founded on violation of Articles 14 and 19(1)(g) of the Constitution, as also on the fundamental ground of absence and excess of legislative competence.

- 8 Mr. Paranjpe would submit that the petitioner M/s. Kedia Trading is a proprietary firm engaged in carrying the business of cattle feed at Raipur and for the purpose of its business needs molasses. The petitioner purchases the Molasses from the Sugar Mills and then sells the Molasses to the Manufacturers who prepare cattle feed from Molasses. The petitioner also sells the Molasses to the Gudakhu Manufacturers as Molasses is also the raw material for Gudakhu. Thus, the petitioner purchases and stores the Molasses. Molasses is a by-product in the



manufacture of sugar from sugarcane or gur (jaggery) and its production is directly related to sugar production. Molasses constitute about 42% of the sugar produced. Major portion of the Molasses go into the production of Alcohol (Rectified Spirit) and the remaining Molasses go into the manufacture of cattle feed, Gudakhu, fodder, coal briquette, metal briquette, bricks, refractories, chemicals like citric acid etc. Molasses is also used in foundries. Out of the Alcohol prepared from Molasses, 50% of the Alcohol goes for potable use (for human consumption) and the remaining 50% goes for Industrial use. The industrial use of Alcohol is for production for various chemicals. Molasses is the main ingredient in manufacture of cattle feed and Gudakhu. Molasses in its basic form is neither potable i.e. it cannot be consumed directly by human being nor it has any intoxicating effect on human being. It does not contain alcohol in its basic form. However it can be fermented into alcohol through a very complicated industrial process just like several other items like fruits (Grapes, Apple, etc.), food grains (Rice, Wheat, Jowar, Barley, etc.), Sugar, Gur, etc. Molasses *per se* is not an intoxicant and is unfit for human consumption. Only when the Molasses is fermented, it turns into Alcohol. Molasses is a by-product in the manufacture of sugar and the Sugar Mill/Factory is an industrial undertaking as defined under Entry 25 of the Industries (Development and Regulation) Act, 1951 (*for short, the Act of 1951*). The prices and distribution of the Molasses were being regulated by the Central Government under the Molasses Control Order, 1961 (*for short, the Control Order*) till 10.06.1993 when the pricing and distribution of Molasses was decontrolled by the Central Government. The Molasses Control Order, 1961 was enacted under the provisions of Section 18 G of the Act of 1951. After the decontrolling of the Molasses, a Standing Committee on Petroleum & Chemicals (1994-1995) was



constituted which was authorised to submit their Report on "Molasses - Distribution & Pricing". The Standing Committee after due deliberations submitted their Report dated 13.02.1995. Molasses, a by-product of Sugar is controlled and charged by the Central Government at the time of its disposal from the Sugar Mill/Factory. Earlier Central Excise Duty was levied on Molasses and now the Central Government has enacted the Central Goods and Services Tax Act, 2017 (*for short, the GST Act*) for levy and collection of tax on intra-State supply of goods and services or both by the Central Government. The Central Government through its Ministry of Food Processing Industries has issued the product-wise GST rates of food products wherein a GST of 28% is levied/applicable on Molasses. Intoxicants are kept out of the purview of the GST Act. The very inclusion of Molasses in the GST Act would establish the very fact that Molasses *per se* is not an Intoxicant and therefore would not come within the purview of Excise Act. Only when the Molasses are fermented and turned into Alcohol (Rectified Spirit) and when the Alcohol is sent to the Distilleries for manufacturing of potable Alcohol i.e. Alcohol for human consumption; the State Legislature can levy tax, duty or impost. Molasses being the raw material for preparation/manufacturing of Alcohol can be termed as an Intoxicant as defined under the Excise Act and thus, would be exempted from the tax, duty or impost as applicable under the Excise Act. Furthermore, in light of the tax being levied by the Central Government under the GST Act, 2017 on Molasses, it becomes *ex facie* clear that the regulation, control pricing and distribution of Molasses would remain exclusively with the Central Government.

- 9 Mr. Paranjpe would further submit that the petitioner was required to seek license from the Department of Excise of the State of Chhattisgarh, therefore, the proprietor of the petitioner firm preferred an application



under the provisions of the Right to Information Act, 2005 dated 25.04.2019 seeking information as to the Legislation governing the regulation and control of the Molasses in the State of Chhattisgarh. As the information sought was not provided within the prescribed time limit of 30 days, the proprietor of the petitioner firm preferred an appeal under the provisions of the Right to Information Act, 2005. Ultimately, the petitioner was provided the information sought vide letter dated 27.05.2019.

- 10** The State of Chhattisgarh, vide Notification dated 12.07.2022 has enacted the Rules of 2022 in exercise of the powers conferred by Section 8(1)(c), Section 62 (2) (f)(g)(h) and Proviso to Section 62(3) of the Excise Act. On a careful reading of the provisions of the Excise Act, it is clear that Molasses is not an "excisable article" under the provisions of Section 2(6). Molasses is neither an "intoxicant" under Section 2 (11-a), nor an "intoxicating drug" under Section 2(12). Thus, the "excisable duty" and "countervailing duty" defined under Section 2(6-a) of the Excise Act to be imposed/levied by the State Government as envisaged under Entry 51 of List II in the Seventh Schedule of the Constitution of India cannot be imposed by the State Government on Molasses.
- 11** Mr. Paranjpe would further submit that the State of Odisha, vide an amendment inserted the word "Molasses" in Section 2, Clause 12-a of the definition clause under the Bihar and Orissa Excise Act, 1915 after Mahua Flower. Thus, assailing the validity of the said amendment enacted by the State of Odisha inserting "Molasses" in the Bihar and Orissa Excise Act, 1915, several writ petitions were filed before the Hon'ble High Court of Odisha. In one of the Writ Petition namely WP(C) No. 3399/2011 {*M/s. Uma Enterprises v. State of Orissa*}, the



Hon'ble High Court of Orissa, vide order dated 12.02.2012 was pleased to uphold the validity of the Amendment Act inserting "Molasses" in the Bihar and Orissa Excise Act, 1915. Assailing the said judgment passed by the Orissa High Court, the petitioner therein preferred a Special Leave Petitions (SLP) in the Hon'ble Supreme Court of India and the Hon'ble Supreme Court of India was pleased to dismiss the said Special leave petition *in limine*. While other writ petitions were pending before the Orissa High Court, a review petition was also preferred against the judgment of **M/s. Uma Enterprises** (supra) on the grounds that one of the judgments passed by the Hon'ble Supreme Court was not considered while passing the final order. The other writ petitions as well as the review petition came up for hearing and the Orissa High Court, after careful consideration of the entire matter and also considering the fact of enactment of the GST Act by the Central Government; was pleased to uphold the validity of the Amendment Act in light of the judgment passed in M/s. Uma Enterprises (supra), observed that the State Government will not have power to levy excise duty in view of Entry-84 of Union List. The constitutional validity of the entries were upheld and it was made clear that the Molasses which is used other than distillery purpose, the petitioners were not required to pay local tax i.e. excise duty. If the molases was used for cattle feed, poultry or for preparation of 'gudakhu', then it will be exempted from excise duty. Assailing the said judgment passed by the Orissa High Court, the State of Odisha preferred a Special Leave Petition before the Apex Court wherein the Hon'ble Apex Court was pleased to stay the operation of the judgment passed by the Orissa High Court vide order dated 20.08.2020 passed in SLP(Civil) Diary No. 13515/2020 {*State of Odisha v. M/s. Shree Lingraj Feeds Ltd.*}. Mr. Paranjpe would further submit that in



light of entire facts and circumstances and also in light of the interim order granted by the Hon'ble Supreme Court of India whereby the operation of the judgment passed by the Hon'ble High Court of Orissa has been stayed, the Petitioner has carved out a good case warranting interference of this Hon'ble High Court.

- 12** Mr. Paranjpe would argue that Molasses is the main ingredient in manufacture of cattle feed and Gudakhu. Molasses in its basic form is neither potable i.e. it cannot be consumed directly by human being nor it has any intoxicating effect on human being. It does not contain alcohol in its basic form. However it can be fermented into alcohol through a very complicated industrial process just like several other items like fruits (Grapes, Apple, etc.), food grains (Rice, Wheat, Jowar, Barley, etc.), Sugar, Gur, etc. Molasses per se is not an intoxicant and is unfit for human consumption. Only when the Molasses is fermented, it turns into Alcohol. Molasses is a by-product in the manufacture of sugar and the Sugar Mill/Factory is an industrial undertaking as defined under Entry 25 of the Act of 1951. Section 2 of the Act of 1951 provides that in the public interest, the Union should take under its control the industries specified in the First Schedule and 'sugar' and 'fermentation industries (other than potable alcohol)' is provided in entry No. 25 and 26 of the First Schedule of the Act of 1951. Thus, the license, production of sugar and its distribution, transport, disposal or use are regulated by the provisions of the Act of 1951 and it is only the Central Government which can bring in any enactment in relation to sugar.
- 13** Mr. Paranjpe would further place reliance on Entry 52 and Entry 84 of List-I Union List of the Seventh Schedule and Entry 8 and Entry 51 of the List-II State List of the Seventh Schedule to submit that it is the Central



Government / Parliament which has the exclusive power to make laws with respect to industrial alcohol (unfit for human consumption) and it is the Legislature of the State which has the exclusive power to make laws with respect to the alcohol for human consumption.

- 14 In support of their contention, learned counsel appearing for the respective petitioners would place reliance on the decision of the Apex Court in ***Tika Ramji & Others v. State of Uttar Pradesh & Others*** {(1956) 1 SCC 624}; ***Synthetics & Chemicals Limited v. State of U.P.***{(1990) 1 SCC 109}; ***Kerala Samsthana Chethu Thozhilali Union v. State of Kerala & Others*** {(2006) 4 SCC 327}; ***State of Orissa v. Utkal Distilleries Ltd.*** {(2022) 5 SCC 326}; ***Naresh Chandra Agrawal v. Institute of Chartered Accountants of India & Others*** {(2024) 13 SCC 241}; ***State of Uttar Pradesh & Others v. Lalta Prasad Vaish & Others*** {(2024) 17 SCC 1}; and the decision of the Orissa High Court in ***Sunil Kumar Dhanuka v. State of Orissa*** {2019(2) ILR (Cut) 724}.
- 15 While adopting the arguments advanced by Mr. Paranjpe, Mr. K. Rohan, learned counsel for the petitioner(s) would also draw attention of this Court to page No. 165 of the WPC No. 3580/2022 which is product-wise GST rates of food products. 'Molasses' finds place at serial No. 1, upon which there is a GST of 28%. Imposition of excise duty by the State would amount to double taxation. For obtaining licence, the petitioner had to pay Rs. 1 Lac and till date, the petitioners have paid a sum of Rs. 9 Lacs towards the excise duty.
- 16 On the other hand, Mr. Shashank Thakur, learned Additional Advocate General appearing for the State/respondent would submit that the



petitioners have placed reliance on Entry 52 and Entry 84 of List I Union List of VII Schedule of Constitution of India, but no pleading have been made regarding applicability of the said provisions in the instant case. The petitioners have also placed reliance on Entry 8 and 51 of List II State List of the VII Schedule but no pleadings have been made regarding applicability of the said provisions in the instant case. Entry 8 provides exclusive power to the State Government/Legislature of Chhattisgarh to make Laws with respect to production, manufacture, possession, transport, purchase and sale of Intoxicating liquors. The State Government/Legislature has full authority to make Laws with respect to every item/things which is involved in production and manufacture of liquor. The State Government/Legislature has full authority to make laws with respect to every item/things which is involved in production and manufacture of liquor. The petitioner has tried to make out a case that the State Legislature can only make laws with respect to alcohol which is being used for human consumption and not with regard to any other material or things despite the same is used a raw material, whereas the Entry 8 clearly provides legislative competence to make specific Laws which is necessary for manufacturing and production of liquor. It cannot be disputed by any party that the Molasses is raw material for making potable liquor. Accordingly the State Legislature has every right to make law for the purposes of control and regulation of supply, possession, sale, consumption, transport, import, export, license and permit for the use of molasses. Since the Molasses is a raw material/basic product which can be converted into a potable alcohol, therefore it is the prime duty of the State Government/Legislature to keep an eye with respect to unaccounted molasses, so that there cannot be any revenue loss which



may occur in case of conversion of Molasses into potable liquor without the knowledge of the excise department. Mr. Thakur would place reliance on the judgment of the Apex Court in the matter of ***Synthetic and Chemicals Limited*** (supra) to contend that widest amplitude should be given to the language of the entries in three lists but some of these entries in different lists or in the same list may override and sometimes may appear to be in direct conflict with each other, then and then only comes the duty of the Court to find the true intent and purpose and to examine the particular Legislation in question. Each general word would be held to extend to all ancillary or subsidiary matters which can fairly and reasonably be comprehended in it. In interpreting an entry it would not be reasonable to import any limitation by comparing or contrasting that entry with any other in the same list. It has to be interpreted as the Constitution must be interpreted as an organic document in the light of the experience gathered. Earlier there was law made by the Central Government with respect to control of molasses, however the same has been rescinded the Molasses Control Order 1961 vide notification dated 10.06.1993. Thus it is clear that so far as the control of Molasses if concerned the aforesaid filed has not been occupied by the Central Government/Parliament as at present no law with respect to control of Molasses is available. Thus the petitioner cannot contend and plead that the State Government/Legislature has encroached upon the field occupied by the Central Legislation/Law. It appears that the petitioner does not want to be regulated with respect to use of Molasses and he also does not want to provide any details/account with respect to use of molasses, which is not permissible in any manner Under the provisions of Molasses Control Order, 1961 the Excise Commissioner was declared as Molasses Controlling Authority.



In order to control/stop misuse of Molasses the Rules of 2022 has been made, which has a prime duty and responsibility of the State Government. It is own assertion of the petitioner that Molasses is the raw material for preparation/ manufacturing of Alcohol. Accordingly the State Legislature has the authority by invoking Entry 8 of List II of the Seventh Schedule to make law with respect to production and manufacture of intoxicating liquors. The Molasses being a raw material is required to be controlled as content of alcohol is in the molasses. Accordingly the Rules of 2022 has been made by invoking the provisions of clause (c) of Section 8 of the Excise Act which clearly authorises the State Government to make suitable provisions for effective control of Mahua (*Bassia Latifolia and Bassia Longifolia*) or any other base which is or can be utilized for the manufacturer of liquor. He would stress on the words 'other bases' which includes 'Molasses'. As per the document filed by the petitioner, it clearly appears that the Excise Commissioner of the State of Chhattisgarh was declared as Molasses Controlling Authority. The petitioners have not challenged any specific provision of the Rules of 2022, but the entire Rules have been challenged on the ground that the Legislature/Government of Chhattisgarh has no constitutional competence to make law with respect to Molasses. The Legislature of Chhattisgarh has constitutional authority under Entry 8 of List II of the Seventh Schedule to make law with respect to production and manufacture of intoxicating liquors. By invoking the aforesaid Entry, the Legislature of Chhattisgarh has made the Excise Act in which it has been clearly provided that the State Government may make suitable provisions for effective control of Molasses which is or can be utilized for the manufacturer of liquor. Thus the submission of the petitioners is *ex-facie* wrong and liable to be rejected. These petitions are also liable to



be dismissed in absence of any specific challenge of the Rules of 2022.

A bare perusal of the Section 8 (c) it clarify that the State Government has been authorized to make provision for control of the Molasses which is base (raw material) for manufacturing alcohol. The petitioners themselves have pleaded it therefore it is an admitted fact. Section 62 (1) authorises the State to make rules for the purpose of carrying out the provision of the Excise Act. Section 8(c) of the Excise Act is clear and unambiguous according to which the Government has been authorized to make provision for control of the base (raw material) for manufacturing alcohol. Under the powers conferred by the Excise Act, the State Government made the Chhattisgarh Distillery Rules, 1995 (*for short, the Rules of 1995*) way back in the year 1995. The Rules of 1995 provides the provisions of formation, enactment and functioning of Distilleries within the State. As per the provisions, distillery licenses are provided under the said rules. Molasses in one of the main source of production of spirit as it contains high percentage of starch and sugar content in it. As a result, Molasses have been separately defined vide Rule 2(13) in the Chhattisgarh Distillery Rules, 1995 as the heavy dark coloured residual syrup, drained away in the final stage of manufacture of Gur or Sugar, containing in solution or suspension, Sugars which can be fermented. In addition to this, in the Rules of 1995, Rule 5 specifies the recovery of alcohol, which reads as under:

"5. Recovery of Alcohol:

(1). The distillers of Chhattisgarh shall be responsible for maintaining such minimum fermentation and distillation efficiency and such minimum recovery of alcohol from Molasses or any other base used for production of alcohol as is prescribed under these rules.

(2). The minimum fermentation and distillation efficiencies



and recovery of alcohol from Molasses or any other base shall be as under:

(a) Fermentation efficiency sugar present in Molasses." 84% of fermentable."

- 17 Mentioning of Molasses in specific itself clears that Molasses is one of the main source for the production of alcohol. Misuse of Molasses can directly affect the revenue of the state, hence a strict control over Molasses is necessary, as a result the State has formulated the Rules of 2022. In the Rules of 1995, the definition of Denatured Alcohol is specifically provided, which says, "Denatured spirit" or "Denatured Alcohol" means alcohol of any strength which has been rendered effectively unfit for human consumption by admixture of such denaturant as may be approved by the Excise Commissioner. Section 2 of the Excise Act also provides the definition of Denatured Alcohol as rendered unfit for human consumption in such manner as may be prescribed by the Government. Hence from the definition of Denatured Spirit, it is clear that denatured spirit is produced after undergoing a process as defined by Excise Commissioner. It is the process by which such spirit is converted into denatured spirit. That is to say that originally what all spirit is produced after undergoing the distillation process, is fit for the preparation of potable alcohol. In the initial condition, all the spirit produced in the distillery has high percentage of alcohol content that makes it unfit for human consumption. The produced spirit only after undergoing the reduction process becomes fit for human consumption. This is the very reason to control the production of spirit by the Excise Department because a spirit which was to undergo the process for conversion to denatured, might not be done so, in the light of illegal activity and might be used in production of potable alcohol, then it would cause a revenue loss to the State Government, directly and on the other



hand make way for illegal activity.

- 18** Mr. Thakur would further submit that the Hon'ble High Court of Orissa has clearly held that the State Legislature has constitutional competence to make law regarding molasses, but the Hon'ble High Court of Orissa has further held that the State Government cannot levy excise duty. Further the aforesaid judgment has been assailed by the State of Orissa before the Hon'ble Supreme Court where an interim stay has been granted by the Hon'ble Supreme Court. Thus the fact remains that the State of Odisha is fully authorized to levy excise duty on Molasses by way of interim order as the judgment passed by the Hon'ble High Court of Orissa has been stayed. It is clear from the aforesaid judgment that inclusion of Molasses in the Excise Act would not be in violation of Entry 8 and 51 of the State List. So far as levy of Excise duty is concerned the same is pending consideration before the Hon'ble Supreme Court. The petitioners have failed to see that the Hon'ble Supreme Court has passed an interim order which is in favour of the State of Odisha and similar provision has been challenged by the petitioners in the instant writ petition by similar legal grounds. Thus the contention of the petitioners is liable to be rejected. The petitioners have not made any specific challenge to the provisions of Rules of 2022, thus these writ petitions are not maintainable in absence of any specific pleadings. There are several manufactures and traders have applied for grant of license and the same have been provided to them in accordance with the provisions of Rules of 2022.
- 19** Mr. Ramakant Mishra, learned Deputy Solicitor General appearing for the Respondent/Union of India would submit that the contesting party in this batch of writ petitions would be the State Government as the Rules



under challenge is the Rules of 2022 framed by the State of Chhattisgarh. However, he would submit that under the Constitutional and statutory framework, GST is a tax on supply of goods or services or both and the levy is not based on the intoxicating nature of a product. Currently, GST at the rate of 5% is levied on supply of Molasses vide Notification bearing No. 17/2023-Central Tax (Rate) dated 19-10-2023. The GST Act provides for various compliance and procedures (such as invoicing / returns and movement related compliance) for administration of tax. Such tax compliance procedures are distinct from and do not amount to a substantive control / distribution /transport regime for the commodity. The GST rates and procedures related to GST are prescribed on the recommendations of GST Council which consists of members of the Union and the State Governments. It is stated that as per Section 9 of the CGST Act, 2017 which states as under:

“Section 9. Levy and collection. -

(1) Subject to the provisions of sub-section (2), there shall be levied a tax called the central goods and services tax on all intra-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption and un-denatured extra neutral alcohol or rectified spirit used for manufacture of alcoholic liquor, for human consumption), on the value determined under section 15 and at such rates, not exceeding twenty per cent., as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.

(2) The central tax on the supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council.”

From the above, it is crystal clear that only the goods mentioned in



section 9(1) of the above provision are out of purview of GST.

- 20** Mr. Mishra would further submit that no relief has been claimed as against the Union of India and as such, the State would be in a better position to rebut the submissions made by petitioners.
- 21** Mr. Paranjpe, relying on the rejoinder filed, would submit that these petitions deserve to be allowed and the Rules of 2022 be declared ultra vires the Constitution of India.
- 22** We have heard learned counsel appearing for the parties, perused the pleadings and documents appended with the petitions.
- 23** It is common knowledge that Molasses is a by-product of sugar industries. It is used as sweetener in food products like baked goods, cookies, cakes, and breads, ingredient in traditional sweets, syrups, and confectionery, flavoring agent in sauces, marinades and barbecue sauces, animal feed as an energy source and to improve palatability, raw material in alcohol production (rum, ethanol, industrial alcohol), fermentation industries (yeast, citric acid, antibiotics), soil amendment in agriculture to promote beneficial microbial activity, organic fertilizer component due to mineral content (iron, calcium, potassium), composting to accelerate decomposition, pharmaceuticals and home remedies (iron supplement source), tobacco processing for flavor and moisture retention, industrial use in adhesives and binding agents.
- 24** The term 'Molasses' is defined in Rule 2(c) of the Rules of 2022, which means the thick, dark coloured syrup obtained at the end of manufacture of sugar and jaggery which in the liquid form contains sugar, which can be fermented. A note has also been added that the general Molasses used in the cattle feed are Bago-Molasses.



25 The contention of the petitioners, in nutshell, is that when the petitioners are using Molasses for manufacture of poultry feeds, cattle feeds, gudakhu etc. and are not in the business of manufacture of spirit/alcohol/liquor, then the State cannot compel them to obtain licence and to pay the excise duty and imposition of such condition in the garb of Rules of 2022 is illegal and unjust. The Molasses itself is not an intoxicant. Unless it is fermented and converted into spiritalcohol, the raw Molasses cannot be said to be an intoxicant. It is an admitted position that none of the petitioners in this batch of writ petitions are involved in manufacture of spirit/liquor/alcohol out of Molasses. It would be beneficial to take note of the relevant provisions of the Excise Act, Rules of 2022 and various Articles of the Constitution and the entries of List-I (Union List) and List-II (State List) of the Constitution.

26 Article 246 and 246A of the Constitution reads as under:

“246. Subject-matter of laws made by Parliament and by the Legislatures of States.-

(1) Notwithstanding anything in clauses (2) and (3), Parliament has exclusive power to make laws with respect to any of the matters enumerated in List I in the Seventh Schedule (in this Constitution referred to as the "Union List").

(2) Notwithstanding anything in clause (3), Parliament, and, subject to clause (1), the Legislature of any State also, have power to make laws with respect to any of the matters enumerated in List III in the Seventh Schedule (in this Constitution referred to as the "Concurrent List").

(3) Subject to clauses (1) and (2), the Legislature of any State has exclusive power to make laws for such State or any part thereof with respect to any of the matters enumerated in List II in the Seventh Schedule (in this Constitution referred to as the "State List").



(4) Parliament has power to make laws with respect to any matter for any part of the territory of India not included in a State notwithstanding that such matter is a matter enumerated in the State List.

246A. Special provision with respect to goods and services tax.-

(1) Notwithstanding anything contained in articles 246 and 254, Parliament, and, subject to clause (2), the Legislature of every State, have power to make laws with respect to goods and services tax imposed by the Union or by such State.

(2) Parliament has exclusive power to make laws with respect to goods and services tax where the supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.

Explanation. The provisions of this article, shall, in respect of goods and services tax referred to in clause (5) of article 279A, take effect from the date recommended by the Goods and Services Tax Council.”

27 Entry 52 and 84 of List I (Union List) of the VII Schedule of the Constitution reads as under:

“52. Industries, the control of which by the Union is declared by Parliament by law to be expedient in the public interest.

84. Duties of excise on the following goods manufactured or produced in India, namely:-

(a) petroleum crude;

(b) high speed diesel;

(c) motor spirit (commonly known as petrol);

(d) natural gas;

(e) aviation turbine fuel; and

(f) tobacco and tobacco products.”

28 Entry 8 and Entry 51 of List II (State List) of the VII Schedule of the



Constitution of India, reads as under:

"8. Intoxicating liquors, that is to say, the production, manufacture, possession, transport, purchase and sale of intoxicating liquors.

51. Duties of excise on the following goods manufactured or produced in the State and countervailing duties at the same or lower rates on similar goods manufactured or produced elsewhere in India:-

(a) alcoholic liquors for human consumption;

(b) opium, Indian hemp and other narcotic drugs and narcotics, but not including medicinal and toilet preparations containing alcohol or any substance included in subparagraph (b) of this entry."

- 29** The opening paragraph of the Rules of 2022 is also relevant for deciding the *lis*, hence is quoted hereinbelow for ready reference:

"In exercise of the powers conferred by clause (c) of Section 8, sub-section (1) and clause (f), (g), (h) of sub-section (2) of Section 62 read with proviso to sub-section (3) of Section 62 of the Chhattisgarh Excise Act, 1915 (No. 2 of 1915), the State Government, hereby, makes the following rules, for the purposes of control and regulation of supply, possession, sale, consumption, transport, import, export, license and permits for the use of molasses for distillation of spirit in distillery or for purpose to use as scientific, industrial, agricultural, educational, medicine cattle-feed etc. of Molasses, namely:

...."

- 30** A bare perusal of the above paragraph makes it amply clear that the same is in two parts, firstly which deals with use of Molasses for distillation of spirit in distillery and secondly, for purpose to use as scientific, industrial, agricultural, educational, medicine, cattle-feed etc.



The Molasses used for distillation of spirit in distillery may be covered under the Excise Act but the other uses such as scientific, industrial, agricultural, educational, medicine and cattle feed etc. are not the field which is governed by the Excise Act.

- 31** The Rules of 2022 have been framed by the State Government in exercise of powers conferred by clause (c) of Section 8, sub-section (1) and clause (f), (g), (h) of sub-section (2) of Section 62 read with proviso to sub-section (3) of Section 62 of the of the Excise Act. The said provisions are quoted hereinbelow:

“8. Power to prohibit import, export or transport. The State Government may, by notification, -

(a) prohibit throughout the State or in any specified area thereof, the import or export of any intoxicant;

(b) prohibit the transport of any intoxicant.

(c) make suitable provisions for the effective control of Mahua (Bassia Latifolia and Bassia Longifolia) or any other base which is or which can be utilised for the manufacture of liquor.

62. Power to Make Rules. - (1) *The State Government may make rules for the purpose of carrying out the provisions of this Act.*

(2) In particular, and without prejudice to the generality of the foregoing provision, the State Government may make rules -

(a) Prescribing the powers and duties of Excise Officers;

(b) Regulating the delegation of any powers or duties by the Chief Revenue authority, the Excise Commissioner or Collectors under Section 7, Clause (g);

(c) Declaring in what cases or classes of cases and to what authorities shall lie from orders, whether original or appellate, passed under this Act or under any rule made thereunder, or by what authorities such orders may be revised, and



prescribing the time and manner of presenting, and the procedure for dealing with appeals and revisions;

(d) Regulating the import, export, transport, manufacture, collection, possession, supply or storage of any intoxicant, or the cultivation of the hemp plant and may, by such rules, among other matters -

(i) Regulate the tapping of tari-producing trees, the drawing of tari from such trees, the marking of the same and the maintenance of such marks,

(ii) Declare the process by which spirit shall be denatured and the denaturisation of spirit ascertained, and

(iii) Cause spirit to be denatured through the agency or under the supervision of its officers;

(d-1) regulating the import, export, transport, collection, possession, supply, storage, or sale of Mahua flowers prescribing licenses and permit therefor, throughout the State or in any specified area or for any specified period;

(e) Regulating the periods and localities for which, and the persons or classes of persons to whom, licenses for the wholesale or retail vend of any intoxicant may be granted, and regulating the number of such licenses which may be granted in any local area;

(f) Prescribing the procedure to be followed and the matters to be ascertained before any license for such vend is granted for any locality;

(g) Regulating the amount, time, place and manner, of payment of any duty or fee or tax or penalty;

(h) Prescribing the authority by, the form in which, and terms and conditions on and subject to which any license, permit or pass shall be granted, any by such rules, among other matters,

(i) fix the period for which any license, permit or pass shall continue in force,



(ii) prescribe the scale of fees or the manner of fixing the fees payable in respect of any such license, permit or pass,

(iii) prescribe the amount of security to be deposited by holders of any license, permit or pass for the performance of the conditions of the same,

(iv) prescribe the accounts to be maintained and the returns to be submitted by license-holders, and

(v) prohibit and regulate the partnership in, or the transfer of, licensees;

(i) prescribing the measures for ascertaining local public opinion and prescribing the powers of District Planning Committee constituted under sub-section (1) of Section 3 of the Chhattisgarh Zila Yojana Samiti Adhiniyam, 1995 (No. 19 of 1995) in respect of advising about opening, closing or shifting of any retail intoxicant shop;

(j) providing for the destruction or other disposal of any intoxicant deemed to be unfit for use;

(k) regulating the disposal of confiscated articles;

(l) regulating the grant of expenses to witnesses and of consumption to persons charged with offences under this Act and subsequently released, discharged or acquitted; and

(m) regulating the power of Excise Officers to summon witnesses from a distance;

(n) regulating the payment of rewards to officers, informers and other persons out of the proceeds of fines and confiscations under this Act.

(3) The power conferred by this section of making rules is subject to the condition that the rules made under sub-section (2)(a), (b), (c), (e), (f), (i), (l) and (m) shall be made after previous publication:

Provided that any such rules may be made without previous publication if the State Government considers that they should be brought into force at once."



32 It would be equally important to take note of various provisions of the Excise Act, which reads as under:

"2. Definitions. -In this Act, unless there is anything repugnant in the subject or context, -

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(6) "excisable article" means-

(a) any alcoholic liquor for human consumption; or

(b) any intoxicating drug; or

(c) opium as defined in clause (xv) and poppy straw as defined in clause (xviii) of Section 2 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (No. 61 of 1985);

(6-a) "excise duty" and "countervailing duty" means any such excise duty or countervailing duty, as the case may be, as is mentioned in entry 51 of list II in the Seventh Schedule to the Constitution;

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(8) "excise revenue" means revenue derived or derivable from any duty, fee, tax, penalty, payment (other than a fine imposed by a Court of Law) or confiscation imposed or ordered or agreed to under the provisions of the Act, or of any other law for the time being in force relating to liquor or intoxicating drugs;

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(11-a) "intoxicant" means any liquor or intoxicating drug;

(12) "intoxicating drug" means-

(i) the leaves, small stalks and flowering or fruiting tops of the Indian hemp plant ("Cannabis sativa"), including all forms known as "bhang", "sindhi" or "ganja";

(ii) Omitted.

(iii) any mixture, with or without neutral materials, of



any of the above forms of intoxicating drug, or any drink prepared therefrom; and

(iv) any other intoxicating or narcotic substance which the State Government may, by notification, declare to be an intoxicating drug not being narcotic drug as defined in the Narcotic Drugs and Psychotropic Substances Act, 1985 (No. 61 of 1985).

(13) "liquor" means intoxicating liquor, and includes spirits of wine, spirit, wine, tari, beer, all liquid consisting of or containing alcohol, and any substance which the State Government may, by notification, declare to be liquor for the purposes of this Act;

(14) "manufacture" includes every process, whether natural or artificial, by which any intoxicant is produced or prepared and also redistillation and every process for the rectification, flavouring, blending or colouring of liquor;"

- 33** From bare perusal of the above provisions, it is abundantly clear that Molasses is not an excisable article under Section 2(6) of the Excise Act. Further, it is neither an intoxicant as defined under Section 2(11-a) nor an intoxicating drug as defined under Section 2(12) of the Excise Act.
- 34** The preamble of the Excise Act states that whereas it is expedient to consolidate and amend the law in Chhattisgarh relating to the import, export, transport, manufacture, sale and possession of intoxicating liquor and of intoxicating drugs, and whereas the previous sanction of the Governor General required under Sections of the Indian Councils Act, 1892 (55 and 56, Vict., c. 14) has been obtained to the passing of this Act. The Rule/legislation cannot be contrary to its preamble. Here, the word 'intoxicating liquor' and 'intoxicating drug' are important, which have been defined under the Excise Act. Molasses is neither a part of 'intoxicating liquor' nor 'intoxicating drugs'. According to Mr. Paranjpe, the power of distillation of Molasses into spirit/alcohol lies only with the



State Government and the State Government has the monopoly with regard to manufacture and sale of liquor. Molasses is further not an excisable article which is evident from bare perusal of Section 2(6) of the Excise Act. The petitioners here are not at all engaged in the business of distilleries / manufacture / sale or otherwise of spirit / liquor / intoxicating drug /alcoholic liquor for human consumption but still the Molasses has been brought within the purview of excisable article and the petitioners are compelled to obtain licence and to pay licence fee and the duty on molasses.

- 35** Further, Section 8 of the Excise Act provides for the power to prohibit import, export or transport. Clause (c) of Section 8 provides the State Government the power to make suitable provisions for the effective control of Mahua (Bassia Latifolia and Bassia Longifolia) or any other base which is or which can be utilized for the manufacture of liquor. The words 'any other base' cannot be interpreted to include Molasses as the Molasses itself cannot be the base for manufacture of spirit/alcohol/ liquor as unless the Molasses undergoes fermentation process, it is of no use for manufacture of liquor/alcohol.
- 36** Section 62 of the Excise Act is in respect of the power of the State Government to make rules for the purpose of carrying out the provisions of this Act. It means that the State Government cannot go beyond what has been provided in the preamble which speaks about the object of this Act. The Rules of 2022 have been framed in exercise of clause (f), (g) and (h) of sub-section (2) of Section 62 of the Excise Act. The State Government cannot frame rules in respect of any article which is not the part of the Excise Act as the rules so framed is for carrying out the provisions of the Excise Act only. Excisable article has been defined



under Section 2(6) of the Excise Act, which states any alcoholic liquor for human consumption, or any intoxicating drug or opium as defined under clause (xv) and poppy straw as defined in clause (xviii) of Section 2 of the Narcotic Drugs and Psychotropic Substances Act, 1985. Till date, in the State of Chhattisgarh, the Molasses is not the article which is dealt with in under the Excise Act and it further does not fall within the category of excisable article and as such, the Rules of 2022 compelling the petitioners to obtain licence and further to pay excise duty, appears to be unjust and unreasonable.

- 37** A restriction has been imposed vide Rule 3 of the Rules of 2022 which states that the use of Molasses could not be done except for the distillation of the spirit in the distilleries established under the Excise Act and for any scientific, industrial, medicinal, agricultural, cattle feed, educational or such other objective which could be decided time to time by the Excise Commissioner. The said Rule would mean that if a farmer uses the Molasses for the cattle feed, for such use, the person concerned would have to obtain permission from the Excise Commissioner. Molasses are not specifically manufactured but are the by-product in the process of manufacture of sugar or jaggery. Rule 11 of the Rules of 2022 provides for imposition of duty on Molasses within the State. It provides that Molasses duty at the rate of Rs. 200/- per ton shall be applicable on the Molasses within the State upon the license approved under these Rules. The duty on Molasses shall be payable by the purchaser and such duty shall be deposited prior to the receipt of the permit for transportation of the molasses.
- 38** Rule 19 of the Rules of 2022 provides for possession and transport of Molasses for domestic purpose. It states that any person can possess



and transport Molasses up to a specific quantity for domestic use without any license and permit, which is 20 Kg. At a point of time and the purchase of Molasses for the domestic use shall be done only from the license M-3 holder. The M-3 licensee is further obliged to maintain the details of the purchase of Molasses for domestic use, in a register.

- 39** 'Intoxicating liquor' and 'alcoholic liquor for human consumption' are two different things which finds place in Entry 8 and 51 of List II (State List) of the VII Schedule of the Constitution. Entry 8 does not provide for imposition of duty but is in relation to production, manufacture, possession, transport, purchase and sale, whereas Entry 51(a) is in regard to imposition of excise duty on alcoholic liquor for human consumption and the term 'Molasses' is not found either within Entry 8 or Entry 51.
- 40** A Seven Judge Bench of the Hon'ble Supreme Court in ***Synthetics and Chemicals Limited*** (supra), the Hon'ble Supreme Court observed as under:

"67. It is well to remember that the meaning of the expressions used in the Constitution must be found from the language used. We should interpret the words of the Constitution on the same principle of interpretation as one applies to an ordinary law but these very principles of interpretation compel one to take into account the nature and scope of the Act which requires interpretation. A Constitution is the mechanism under which laws are to be made and not merely an Act which declares what the law is to be. It is also well settled that a Constitution must not be construed in any narrow or pedantic sense and that construction which is most beneficial to the widest possible amplitude of its power, must be adopted. An exclusionary clause in any of the entries should be strictly and, therefore, narrowly construed. No entry should, however, be so read as not (sic) to rob it of entire



content. A broad and liberal spirit should, therefore, inspire those whose duty it is to interpret the Constitution, and the courts are not free to stretch or to pervert the language of an enactment in the interest of any legal or constitutional theory. Constitutional adjudication is not strengthened by such an attempt but it must seek to declare the law but it must not try to give meaning on the theory of what the law should be, but it must so look upon a Constitution that it is a living and organic thing and must adapt itself to the changing situations and pattern in which it has to be interpreted. It has also to be borne in mind that where division of powers and jurisdiction in a federal Constitution is the scheme, it is desirable to read the Constitution in harmonious way. It is also necessary that in deciding whether any particular enactment is within the purview of one legislature or the other, it is the pith and substance of the legislation in question that has to be looked into. It is well settled that the various entries in the three lists of the Indian Constitution are not powers but fields of legislation. The power to legislate is given by Article 246 and other Articles of the Constitution. The three lists of the Seventh Schedule to the Constitution are legislative heads or fields of legislation. These demarcate the area over which the appropriate legislatures can operate. It is well settled that widest amplitude should be given to the language of the entries in three Lists but some of these entries in different lists or in the same list may override and sometimes may appear to be in direct conflict with each other, then and then only comes the duty of the court to find the true intent and purpose and to examine the particular legislation in question. Each general word should be held to extend to all ancillary or subsidiary matters which can fairly and reasonably be comprehended in it. In interpreting an entry it would not be reasonable to import any limitation by comparing or contrasting that entry with any other in the same list. It has to be interpreted as the Constitution must be interpreted as an organic document in the light of the experience gathered. In the constitutional scheme of division of powers under the legislative lists, there are separate entries pertaining to taxation and other laws. The aforesaid principles are fairly well settled by various decisions of this Court



and other courts. Some of these decisions have been referred to in the decision of this Court in Civil Appeal No. 62 (N)/70 -India Cement Ltd. v. State of Tamil Nadu [(1990) 1 SCC 12].

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83. Having regard to the principles of interpretation and the constitutional provisions, in the light of the language used and having considered the impost and the composition of industrial alcohol, and the legislative practice of this country, we are of the opinion that the impost in question cannot be justified as State imposts as these have been done. We have examined the different provisions. These are not merely regulatory. These are much more than that. These seek to levy imposition in their pith and substance not as incidental or as merely disincentives but as attempts to raise revenue for States' purposes. There is no taxing provision permitting these in the lists in the field of industrial alcohol for the State to legislate.

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85. After the 1956 amendment to the IDR Act bringing alcohol industries (under fermentation industries) as Item 26 of the First Schedule to IDR Act the control of this industry has vested exclusively in the Union. Thereafter, licences to manufacture both potable and non-potable alcohol is vested in the Central Government. Distilleries are manufacturing alcohol under the central licences under IDR Act. No privilege for manufacture even if one existed, has been transferred to the distilleries by the State. The State cannot itself manufacture industrial alcohol without the permission of the Central Government. The States cannot claim to pass a right which they do not possess. Nor can the States claim exclusive right to produce and manufacture industrial alcohol which are manufactured under the grant of licence from the Central Government. Industrial alcohol cannot upon coming into existence under such grant be amenable to States' claim of exclusive possession of privilege. The State can neither rely on Entry 8 of List II nor Entry 33 of List III as a basis for such a claim. The State cannot claim that under Entry 33 of List III, it can regulate industrial alcohol as a product of the scheduled industry,



because the Union, under Section 18-G of the IDR Act, has evinced clear intention to occupy the whole field. Even otherwise sections like Sections 24-A and 24-B of the U.P. Act do not constitute any regulation in respect of the industrial alcohol as product of the scheduled industry. On the contrary, these purport to deal with the so-called transfer of privilege regarding manufacturing and sale. This power, admittedly, has been exercised by the State purporting to act under Entry 8 of List II and not under Entry 33 of List III.

86. *The position with regard to the control of alcohol industry has undergone material and significant change after the amendment of 1956 to the IDR Act. After the amendment, the State is left with only the following powers to legislate in respect of alcohol:*

(a) It may pass any legislation in the nature of prohibition of potable liquor referable to Entry 6 of List II and regulating powers.

(b) It may lay down regulations to ensure that non-potable alcohol is not diverted and misused as a substitute for potable alcohol.

(c) The State may charge excise duty on potable alcohol and sales tax under Entry 52 of List II. However, sales tax cannot be charged on industrial alcohol in the present case, because under the Ethyl Alcohol (Price Control) Orders, sales tax cannot be charged by the State on industrial alcohol.

(d) However, in case State is rendering any service, as distinct from its claim of so-called grant of privilege, it may charge fees based on quid pro quo. See in this connection, the observations of Indian Mica case [(1971) 2 SCC 236: 1971 Supp SCR 319 : AIR 1971 SC 1182].

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93. *In these matters the main question that arise for consideration is about the validity of the levies made by the respondent States on alcohol which is utilised by the industries for manufacturing the products where alcohol is the raw material. Some of these industries themselves manufacture alcohol as they have their own*



distilleries and from their distilleries through pipelines it goes to their industrial units where this is used as a raw material whereas some are industries which purchase alcohol or denatured spirit on being allotted by the Government. It is alleged that in addition to excise duty levied by the Central Government, excise duty and various levies in various names like vend fee, transport fee and others numbering about eight levies are imposed by the State Government. The main contention on behalf of the industries is that the State legislature has no authority in view of Entry 84 of List I read with Entry 51 of List II to impose such levies, this being alcohol which does not fall within the ambit of "Alcoholic liquors for human consumption". It is only the Centre which has the authority under Entry 84 of List I to tax. Entry 51 of List II authorises the State legislature to impose a tax on "Alcoholic liquors for human consumption".

94. *It is further contended that Entry 8 in List II which talks of intoxicating liquors only authorises the State legislature to enact laws to regulate but does not empower the State legislature to impose any levy and the various levies which have been imposed by the State legislature on industrial alcohol and even methylated spirit could not be brought within the ambit of regulatory duties for purposes of regulation only and therefore could not be justified under Entry 8 of List II.*

95. *It was also contended that the State ultimately falls back on the consideration for parting with the privilege to sell alcoholic liquors which has been the basis of series of decisions of this Court based on English and American decisions but according to the learned counsel for the petitioners this doctrine of privilege and consideration for sale of privilege also could be available to the State only in respect of alcohol or alcoholic liquors which are for human consumption. According to the learned counsel by merely widening the definition of intoxicating liquors in respective excise laws enacted by the States the ambit of authority of taxation could not be enlarged by the State legislature when in List II Entry 51 the words used are alcoholic liquors for human consumption. Entry 84 in List I reads:*

"84. Duties of excise on tobacco and other goods



manufactured or produced in India except-

- (a) alcoholic liquors for human consumption;*
 - (b) opium, Indian hemp and other narcotic drugs and narcotics,*
- but including medicinal and toilet preparations containing alcohol or any substance included in sub-paragraph (b) of this entry."*

96. *Entry 51 in List II reads:*

"51. Duties of excise on the following goods manufactured or produced in the State and countervailing duties at the same or lower rates on similar goods manufactured or produced elsewhere in India:

- (a) alcoholic liquors for human consumption;*
 - (b) opium, Indian hemp and other narcotic drugs and narcotics;*
- but not including medicinal and toilet preparations containing alcohol or any substance included in sub-paragraph (b) of this entry."*

97. *A comparison of the language of these two entries clearly demonstrates that the powers of taxation on alcoholic liquors have been based on the way in which they are used as admittedly alcoholic liquor is a very wide term and may include variety of types of alcoholic liquors but our Constitution-makers distributed them into two heads:*

- (a) for human consumption*
- (b) other than for human consumption*

Alcoholic liquors which are for human consumption were put in Entry 51 List II authorising the State legislature to levy tax on them whereas alcoholic liquors other than for human consumption have been left to the central legislature under Entry 84 for levy of duty of excise. This scheme of these two entries in Lists I and II is clear enough to indicate the line of demarcation for purposes of taxation of alcoholic liquors. What has been excluded in Entry 84 has specifically been put within the authority of the State for



purposes of taxation.

98. *Entry 8 in List II reads:*

"8. Intoxicating liquors, that is to say, the production, manufacture, possession, transport, purchase and sale of intoxicating liquors."

This entry talks of intoxicating liquors and further on refers to production, manufacture, possession, transport, purchase and sale of these liquors. It appears that the State has levied some kind of duties in various names at each of these stages used in this entry, that is, production, manufacture, possession, transport, purchase and sale. But from the scheme of entries in the three lists it is clear that taxing entries have been specifically enacted conferring powers of taxation whereas other entries pertain to the authority of the legislature to enact laws for purposes of regulation. If we compare Entry 8 in List II with Entry 51 it is clear that when Entry 51 authorises the State legislature to levy tax and duties on alcoholic liquors falling in Entry 51, Entry 8 confers authority on the State legislature to enact laws for regulation. Similarly are entries in List I. As regards regulation or regulatory fees it was contended that Entry 52 in List I empowers the Parliament to declare the industries which the Union proposes to control in public interest under Industries Development and Regulation Act.

99. *Entry 52 List I reads as under:*

"52. Industries, the control of which by the Union is declared by Parliament by law to be expedient in the public interest."

100. *Such a declaration is made by the Parliament and this industry that is industry based on fermentation and alcohol has been declared to be an industry under that Act and therefore is directly under the control of the Centre and therefore even in respect of regulation the authority of the State legislature in Entry 8 List 11 could only be subject to the Industries Development and Regulation Act or Rules made by the Centre.*

101. *Under these circumstances therefore it is clear that the State legislature had no authority to levy duty or tax on alcohol which is not for human consumption as that could only be levied by the*



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110. In our opinion, therefore so far as the present case is concerned the State in exercise of powers under Entry 8 of List II and by appropriate law regulate and that regulation could be to prevent the conversion of alcoholic liquors for industrial use to one for human consumption and for purpose of regulation, the regulatory fees only could be justified. In fact, the regulation should be the main purpose, the fee or earning out of it has to be incidental and that is why the learned counsel appearing for the State attempted to use this terminology by saying that the purpose is regulation, the earnings are incidental but frankly conceded that in fact the earnings are substantial. In fact in some of the excise laws in the States they have even used terminology relying on the doctrine of privilege and parting with privilege but in my opinion it is not necessary for us to go into these questions in greater detail as we are not here concerned with the trade in alcoholic liquors meant for human consumption and therefore in view of clear demarcation of authority under various items in the three lists, Entry 8 List II could not be invoked to justify the levies which have been imposed by the State in respect of alcoholic liquors which are not meant for human consumption.”

- 41 In **Kerala Samsthana Chethu Thozhilali Union** (supra), the Apex Court observed that a rule is not only required to be made in conformity with the provisions of the Act whereunder it is made, but the same must be in conformity with the provisions of any other Act, as a subordinate legislation cannot be violative of any plenary legislation made by Parliament or the State Legislature. The relevant paragraphs reads under:

“14. Drawing our attention to sub-rule (38) of Rule 7 , it was urged that the licensees are bound by all the Rules which have either been passed under the Act or which may thereafter be made there under or under any law relating to Abkari Revenue



which may be made in future and, thus, the power conferred upon the State must be held to be of wide amplitude.

15. *The Act was enacted to consolidate and amend the law relating to the import, export, transport, manufacture, sale and possession of intoxicating liquor and/ or intoxicating drugs in the State of Kerala. While framing the Rules for the purposes of the Act, the legislative policy cannot be abridged. The Rules must be framed to carry out the purposes of the Act.*

16. *By reason of Section 8 of the Act, trade in arrack was prohibited as far back as in the year 1996. By reason of the impugned Rules, the State has not laid down the terms and conditions for employment of a worker. The Act does not contain any provision therefor. Under the common law as also under the provisions of the Specific Relief Act, an employer is entitled to employ any person he likes. It is well-settled that no person can be thrust upon an unwilling employer except in accordance with the provisions of a special statute operating in the field. Such a provision cannot be made by the State in exercise of its power under delegated legislation unless the same is expressly conferred by the statute.*

17. *A rule is not only required to be made in conformity with the provisions of the Act whereunder it is made, but the same must be in conformity with the provisions of any other Act, as a subordinate legislation cannot be violative of any plenary legislation made by the Parliament or the State Legislature.*

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25. *While imposing terms and conditions in terms of Section 18A of the Act, the State cannot take recourse to something which is not within its jurisdiction or what is otherwise prohibited in law. Sub-sections (c) and (d) of Section 24 of the Act provide that every licence or permit granted under the Act would be subject to such restrictions and on such conditions and shall be in such form and contain such particulars as the Government may direct either generally or in any particular instance in this behalf. The said provisions are also subject to the inherent limitations of the statute. Such an inherent limitation is that rules framed under*



the Act must be lawful and may not be contrary to the legislative policy. The rule making power is contained in Section 29 of the Act. At the relevant time, sub-section (1) of Section 29 of the Act provided that the government may make rules for the purpose of carrying out the provisions of the Act which has been amended by Act No. 12 of 2003 with effect from 1.4.2003 empowering the State to make rules either prospectively or retrospectively for the purposes of the Act.

26. *Its power, therefore, was to make rules only for the purpose of carrying out the purposes of the Act and not de hors the same. In other words, rules cannot be framed in matters that are not contemplated under the Act.*

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28. *The Rules in terms of sub-section (1) of Section 29 of the Act, thus, could be framed only for the purpose of carrying out the provisions of the Act. Both the power to frame rules and the power to impose terms and conditions are, therefore, subject to the provisions of the Act. They must conform to the legislative policy. They must not be contrary to the other provisions of the Act. They must not be framed in contravention of the constitutional or statutory scheme.*

29. *In Ashok Lanka and Another v. Rishi Dixit and Others [(2005) 5 SCC 598], it was held:*

"We are not oblivious of the fact that framing of rules is not an executive act but a legislative act; but there cannot be any doubt whatsoever that such subordinate legislation must be framed strictly in consonance with the legislative intent as reflected in the rule-making power contained in Section 62 of the Act."

30. *In Bombay Dyeing & Mfg. Co. Ltd. v. Bombay Environmental Action Group & Ors. [2006 (3) SCALE 1], this Court has stated the law in the following terms:*

"A policy decision, as is well known, should not be lightly interfered with but it is difficult to accept the submissions made on behalf of the learned counsel appearing on behalf of the Appellants that the courts cannot exercise their power



of judicial review at all. By reason of any legislation whether enacted by the legislature or by way of subordinate legislation, the State gives effect to its legislative policy. Such legislation, however, must not be ultra vires the Constitution. A subordinate legislation apart from being intra vires the Constitution, should not also be ultra vires the parent Act under which it has been made. A subordinate legislation, it is trite, must be reasonable and in consonance with the legislative policy as also give effect to the purport and object of the Act and in good faith."

31. *In Craies on Statute Law, 7th edition, it is stated at page 297:*

"The initial difference between subordinate legislation (of the kind dealt with in this chapter) and statute law lies in the fact that a subordinate law-making body is bound by the terms of its delegated or derived authority, and that courts of law, as a general rule, will not give effect to the rules, etc., thus made, unless satisfied that all the conditions precedent to the validity of the rules have been fulfilled. The validity of statutes cannot be canvassed by the courts, the validity of delegated legislation as a general rule can be. The courts therefore (1) will require due proof that the rules have been made and promulgated in accordance with the statutory authority, unless the statute directs them to be judicially noticed; (2) in the absence of express statutory provision to the contrary, may inquire whether the rule-making power has been exercised in accordance with the provisions of the statute by which it is created, either with respect to the procedure adopted, the form or substance of the regulation, or the sanction, if any, attached to the regulation : and it follows that the court may reject as invalid and ultra vires a regulation which fails to comply with the statutory essentials."

32. *In G.P. Singh's Principles of Statutory Interpretation, Tenth Edition, it is stated at page 916:*

"Grounds for judicial review. Delegated legislation is open to the scrutiny of courts and may be declared invalid particularly on two grounds: (a) Violation of the Constitution; and (b)



Violation of the enabling Act. The second ground includes within itself not only cases of violation of the substantive provisions of the enabling Act, but also cases of violation of the mandatory procedure prescribed. It may also be challenged on the ground that it cannot be said to be in conformity with the statute or Article 14 of the Constitution or that it has been exercised in bad faith. The limitations which apply to the exercise of administrative or quasi-judicial power conferred by a statute except the requirement of natural justice also apply to the exercise of power of delegated legislation. Rules made under the Constitution do not qualify as legislation in true sense and are treated as subordinate legislation and can be challenged in judicial review like delegated legislation. Compliance with the laying requirement or even approval by a resolution of Parliament does not confer any immunity to the delegated legislation but it may be a circumstance to be taken into account along with other factors to uphold its validity although as earlier seen a laying clause may prevent the enabling Act being declared invalid for excessive delegation."

33. *In Clariant International Ltd. & Anr. vs. Securities & Exchange Board of India [(2004) 8 SCC 524], this Court observed:*

"63. When any criterion is fixed by a statute or by a policy, an attempt should be made by the authority making the delegated legislation to follow the policy formulation broadly and substantially and in conformity therewith. [See Secy., Ministry of Chemicals & Fertilizers, Govt. of India v. Cipla Ltd. 23, SCC para 4.1.)"

34. *We may notice that in State of Rajasthan & Ors. vs. Basant Nahata [(2005) 12 SCC 77 : AIR 2005 SC 3401], it was pointed out :*

"66. The contention raised to the effect that this Court would not interfere with the policy decision is again devoid of any merit. A legislative policy must conform to the provisions of the constitutional mandates. Even otherwise a policy decision can be subjected to judicial review"



35. In *B.K. Industries & Others v. Union of India & Others* [(1993) Supp. 3 SCC 621], this Court clearly held that a delegate cannot act contrary to the basic feature of the Act stating:

*"The words 'so far as may be' occurring in Section 3(4) of the Cess Act cannot be stretched to that extent. Above all it is extremely doubtful whether the power of exemption conferred by Rule 8 can be carried to the extent of nullifying the very Act itself. It would be difficult to agree that by view of the power of exemption, the very levy created by Section 3(1) can be dispensed with. Doing so would amount to nullifying the Cess Act itself. Nothing remains thereafter to be done under the Cess Act. Even the language of Rule 8 does not warrant such extensive power. Rule 8 contemplates merely exempting of certain exciseable goods from the whole or any part of the duty leviable on such goods. The principle of the decision of this Court in *Kesavananda Bharati v. State of Kerala* applies here perfectly. It was held therein that the power of amendment conferred by Article 368 cannot extend to scrapping of the Constitution or to altering the basic structure of the Constitution. Applying the principle of the decision, it must be held that the power of exemption cannot be utilised for, nor can it extend to, the scrapping of the very Act itself. To repeat, the power of exemption cannot be utilised to dispense with the very levy created under Section 3 of the Cess Act or for that matter under Section 3 of the Central Excise Act."*

42 In *Naresh Chandra Agrawal* (supra), the Apex Court held as under:

"37. From reference to the precedents discussed above and taking an overall view of the instant matter, we proceed to distil and summarise the following legal principles that may be relevant in adjudicating cases where subordinate legislation are challenged on the ground of being 'ultra vires' the parent Act:

37.1 *The doctrine of ultra vires envisages that a Rule making body must function within the purview of the Rule making authority, conferred on it by the parent Act. As the body making*



Rules or Regulations has no inherent power of its own to make rules, but derives such power only from the statute, it must necessarily function within the purview of the statute. Delegated legislation should not travel beyond the purview of the parent Act.

37.2 *Ultra vires may arise in several ways; there may be simple excess of power over what is conferred by the parent Act; delegated legislation may be inconsistent with the provisions of the parent Act; there may be non-compliance with the procedural requirement as laid down in the parent Act. It is the function of the courts to keep all authorities within the confines of the law by supplying the doctrine of ultra vires.*

37.3 *If a rule is challenged as being ultra vires, on the ground that it exceeds the power conferred by the parent Act, the Court must, firstly, determine and consider the source of power which is relatable to the rule. Secondly, it must determine the meaning of the subordinate legislation itself and finally, it must decide whether the subordinate legislation is consistent with and within the scope of the power delegated.*

37.4 *Delegated rule-making power in statutes generally follows a standardized pattern. A broad section grants authority with phrases like 'to carry out the provisions' or 'to carry out the purposes.' Another sub-section specifies areas for delegation, often using language like 'without prejudice to the generality of the foregoing power.' In determining if the impugned rule is intra vires/ultra vires the scope of delegated power, Courts have applied the 'generality vs enumeration' principle.*

37.5 *The "generality vs enumeration" principle lays down that, where a statute confers particular powers without prejudice to the generality of a general power already conferred, the particular powers are only illustrative of the general power, and do not in any way restrict the general power. In that sense, even if the impugned rule does not fall within the enumerated heads, that by itself will not determine if the rule is ultra vires/intra vires. It must be further examined if the impugned rule can be upheld by reference to the scope of the general power.*

37.6 *The delegated power to legislate by making rules 'for*



carrying out the purposes of the Act' is a general delegation, without laying down any guidelines as such. When such a power is given, it may be permissible to find out the object of the enactment and then see if the rules framed satisfy the Act of having been so framed as to fall within the scope of such general power confirmed.

37.7 However, it must be remembered that such power delegated by an enactment does not enable the authority, by rules/regulations, to extend the scope or general operation of the enactment but is strictly ancillary. It will authorize the provision of subsidiary means of carrying into effect what is enacted in the statute itself and will cover what is incidental to the execution of its specific provision. In that sense, the general power cannot be so exercised as to bring into existence substantive rights or obligations or disabilities not contemplated by the provisions of the Act itself.

37.8 If the rule making power is not expressed in such a usual general form but are specifically enumerated, then it shall have to be seen if the rules made are protected by the limits prescribed by the parent Act.”

43 A 9 Judge Bench of the Apex Court, in **Lalta Prasad Vaish & Sons** (supra), observed as under:

“78. As a consequence, Parliament does not have the legislative competence to enact a law taking control of the industry of intoxicating liquor under Entry 52 of List I.

iv. Scope of Entry 8: Meaning of ‘intoxicating liquor’

79. Entry 8 of List II is a general entry and not a taxing entry. However, it is a special entry in the sense that it specifically enumerates ‘intoxicating liquors’ as a legislative field to the exclusion of all other general entries under which it may have otherwise been subsumed. The Entry stipulates that intoxicating liquors would fall within the legislative domain of States. The arguments of the counsel on either side on the scope of Entry 8 of List II rest on the interpretation of the expression “intoxicating liquor’.



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121. *The Oxford English Dictionary provides multiple meanings of the word ‘Liquor’. They include: (a) alcoholic drinks, especially spirits; (b) water used in brewing; (c) liquid that has been produced in or used for cooking; and (d) liquid from which a substance has been crystallized or extracted. Liquor thus broadly takes two meanings, of an alcoholic beverage or liquid. The word ‘intoxicate’ is defined to mean: (a) cause someone to lose control of their senses; (b) poison; and (c) excite or exhilarate.*

122. *The dictionary meanings of the phrases ‘liquor’ and ‘intoxicate’ are variable. If liquor is interpreted to mean ‘liquid’ instead of an alcoholic beverage and intoxication a reference to alcohol, the Entry would cover all liquids that contain alcohol. However, if liquor is interpreted to mean alcoholic beverage, the Entry would only cover alcoholic beverages for human consumption which causes intoxication, that is, potable alcohol.*

123. *Entry 51 of List II refers to duties of excise on, inter alia, “alcoholic liquors for human consumption’. Article 47 which is placed in the Part on the Directive Principles of State Policy stipulates that the State shall endeavour to bring prohibition of the consumption of intoxicating drinks and drugs injurious to health, except for medicinal purposes. The provision lists this as one of the aspects of the duty of the State to improve public health. The phrase liquor is also used in multiple places in the 6th Schedule to the Constitution. The sixth Schedule stipulates provisions on the administration of Tribal Areas in the States of Assam, Meghalaya, Tripura and Mizoram. Paragraphs 12, 12AA and 12B provide for the application of Acts of Parliament and of the Legislature of the State to the autonomous districts and regions in the States of Assam, Tripura and Mizoram. The provisions stipulate that the enactments of the Legislature of the State “prohibiting or restricting the consumption of any non-distilled alcoholic liquor” would not apply to the autonomous Districts or autonomous regions¹⁹². The expressions in the 6th Schedule will not be of aid to interpret Entry 8 because it refers to a legislation enacted by the State Legislature under Entry 8.*



124. Thus, the Constitution uses three distinct expressions relating to alcohol: “intoxicating liquor”, “alcoholic liquor for human consumption” and “intoxicating drinks”. The evolution of the entries in the legislative Lists indicate that it was a conscious decision to substitute ‘alcoholic liquor’ with ‘intoxicating liquor’ in the regulatory provision. It was also a conscious decision to use different phrases in the taxing entry and the regulatory entry. We do not think that it is necessary for us to lay down the contours of the different phrases used in the Constitution. That is a decision for another day and in another case.

125. However, it is still possible to draw some inferences from the different uses. The expressions “alcoholic liquor for human consumption” and ‘intoxicating drink’ are used in the context of ‘consumption’. However, the provision relating to “intoxicating liquor” is not limited to its consumption. It stretches to its ‘production, manufacture, possession, transport, purchase and sale of intoxicating liquors’ and beyond. The second difference is the use of the expression ‘intoxicating’ instead of ‘alcoholic’ as the adjective to liquor. The following inferences can be drawn from the above differences:

125.1 ‘Alcoholic liquor’ defines the scope of the provision based on the ingredient, that is, ‘alcohol’. In contrast, ‘intoxicating liquor’ defines the scope of the provision based on the effect, that is, intoxication. Thus, even liquor which colloquially or traditionally is not considered as alcoholic liquor may be covered by the phrase ‘intoxicating liquor’ if it produces the effect of intoxication;

125.2 “Intoxicate” means the ability of someone to lose control of their behaviour. It could also mean poison. Thus, the purpose of substituting the adjective which indicates the ingredient (alcohol) with the impact (intoxication) seems to be enhance the scope of the Entry to cover liquor which has an impact on health; and

125.3 The public interest purpose of the provision is evident from the accompanying words in the provision which includes every stage from its production to consumption within the scope of the Entry. The public interest purpose of the provision is also



evident from the evolution of the Entry. The relevant entry in the 1935 Act also regulated narcotic drugs and opium along with intoxicating liquor. References to narcotic drugs and opium were deleted to prevent its overlap with entries in the Concurrent list. As highlighted in the previous section, a common thread that runs through alcohol, narcotic drugs and opium is that they are products which can be noxiously used because they are also used as raw materials in the production of other products.

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F. Conclusion

156. In view of the discussion above, the following conclusions emerge:

156.1 Entry 8 of List II of the Seventh Schedule to the Constitution is both an industry-based entry and a product-based entry. The words that follow the expression “that is to say” in the Entry are not exhaustive of its contents. It includes the regulation of everything from the raw materials to the consumption of ‘intoxicating liquor’;

156.2 Parliament cannot occupy the field of the entire industry merely by issuing a declaration under Entry 52 of List I. The State Legislature’s competence under Entry 24 of List II is denuded only to the extent of the field covered by the law of Parliament under Entry 52 of List I;

156.3 Parliament does not have the legislative competence to enact a law taking control of the industry of intoxicating liquor covered by Entry 8 of List II in exercise of the power under Article 246 read with Entry 52 of List I;

156.4. The judgments of the Bombay High Court in *Fram Nusserwanji Balsara v. State of Bombay* {1950 SCC OnLine Bom 57}, this Court in *FN Balsara* {AIR 1951 SC 318} and *Southern Pharmaceuticals* {(1981) 4 SCC 391} did not limit the meaning of the expression ‘intoxicating liquor’ to its popular meaning, that is, alcoholic beverages that produce intoxication. All the three judgments interpreted the expression to cover alcohol that could be noxiously used to the detriment of health;



156.5 *The expression 'intoxicating liquor' in Entry 8 has not acquired a legislative meaning on an application of the test laid down in Ganon Dunkerley {1958 SCC OnLine SC 100}.*

156.6 *The study of the evolution of the legislative entries on alcohol indicates that the use of the expressions "intoxicating liquor" and "alcoholic liquor for human consumption" in the Seventh Schedule to the Constitution was a matter well-thought of. It also indicates that the members of the Constituent Assembly were aware of use of the variants of alcohol as a raw material in the production of multiple products;*

156.7 *Entry 8 of List II is based on public interest. It seeks to enhance the scope of the entry beyond potable alcohol. This is inferable from the use of the phrase 'intoxicating' and other accompanying words in the Entry. Alcohol is inherently a noxious substance that is prone to misuse affecting public health at large. Entry 8 covers alcohol that could be used noxiously to the detriment of public health. This includes alcohol such as rectified spirit, ENA and denatured spirit which are used as raw materials in the production of potable alcohol and other products. However, it does not include the final product (such as a hand sanitiser) that contains alcohol since such an interpretation will substantially diminish the scope of other legislative entries;*

156.8 *The judgment in Synthetics (7J) (supra) is overruled in terms of this judgment;*

156.9 *Item 26 of the First Schedule to the IDRA must be read as excluding the industry of "intoxicating liquor", as interpreted in this judgment;*

156.10 *The correctness of the judgment in Tika Ramji (supra) on the interpretation of word 'industry' as it occurs in the legislative entries does not fall for determination in this reference; and*

156.11 *The issue of whether Section 18G of the IDRA covers the field under Entry 33 of List III does not arise for adjudication in view of the finding that denatured alcohol is covered by Entry 8 of List II."*



44 It is not at all in dispute that Molasses is a by-product of sugar industry and it is not fit for human consumption in its raw form. It further does not contain alcohol and becomes capable of producing alcohol only after fermentation. As such, the Molasses cannot per se be equated with 'intoxicant', 'intoxicating liquor' or 'exisable article' as defined under the Excise Act. The Excise Act is a legislation dealing with intoxicating liquor and intoxicating drugs. Therefore, bringing Molasses within the regulatory fold of the Excise Act, without statutory backing, is impermissible. The State's attempt to regulate Molasses on the ground that it *may be used* for producing alcohol amounts to over-extension of legislative power. Accepting such a contention would permit the State to regulate any substance capable of fermentation, which is constitutionally impermissible. The State relies on Section 8(c) of the Excise Act, which refers to "any other base" used for manufacture of liquor. This Court is unable to accept that the expression "any other base" can be stretched to include molasses in its raw, non-intoxicant form. Such interpretation would override the definition provisions, expand the Act beyond its object, and further violate settled principles of statutory interpretation. Section 62 of the Excise Act empowers the State to make rules to carry out the provisions of the Act. It is a settled principle that *rules cannot enlarge the scope of the parent statute*. The Rules of 2022 extend control to non-intoxicant uses, impose licensing and duty, regulate ordinary trade activity. This clearly travels beyond the scope of the Excise Act and is therefore ultra vires. A plain reading of the Rules shows two categories: use for distillation (valid domain of State), and use for industrial, agricultural, cattle feed etc. The latter category clearly falls outside the Excise domain.



45 In view of the above discussion, this Court holds that the Rules of 2022 is ultra vires the Constitution.

46 As a result, all the writ petitions stand **allowed**. The petitioners would be entitled to consequential relief(s) flowing from this order.

47 No order as to costs.

Sd/-
(Ravindra Kumar Agrawal)
JUDGE

Sd/-
(Ramesh Sinha)
CHIEF JUSTICE



Head Note

Any Rules/Legislation framed cannot enlarge the scope of its parent statute and cannot travel beyond the Preamble or the object for which the said Rules/Legislation is framed.