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A CASE ANALYSIS ON: GODFREY PHILLIPS INDIA LTD. V. STATE OF U.P., (2005) 2 SCC 515 (INDIA)

- Aparajita Singh[1]

I. Particulars of the Case

COURT: Supreme Court of India.

CITATION: (2005) 2 SCC 515.

PETITIONER: Godfrey Philips (I) Ltd. & Anr.

RESPONDENT: State of Uttar Pradesh & Ors.

DATE OF JUDGEMENT: Decided on 20 January 2005.

BENCH: Before Chief Justice of India R.C. Lahoti and Justice Ruma Pal, Justice Arun Kumar, Justice G.P. Mathur, Justice C.K. Thakker.

II. Facts of the Case and its Procedural History

The Appellants in this matters of which is the Godfrey Philips India ltd[2]., they were the lead petitioner where they were the manafactures, dealers, and sellers of the tobacco products such as the cigarettes and the chewing tobacco which they challenged the consitutional validity of three state enactments which are: the Uttar Pradesh Tax on Luxuries, 1955[3], Andhra Pradesh Tax on Luxuries Act, 1987[4] and the West Bengal Tax on Luxury Act, 1994[5] to the extent that the statue and imposed a levy on tobacco products by treating them as luxuries within the meaning of Entry 62[6], List II of the Seventh Schedule of the Constitution. Entry 62[7] confer upon the state legislature the exclusive power to make laws with respect to tax on luxuries including taxes on entertainment amusement betting and gambling. The three states relied on the head of the legislative power which is the tax tobacco directly and treating it as an article of luxury account of its non-essential, indulgence

[1] Student at Symbiosis Law School, Pune
[2] Godfrey Phillips India Ltd. v. State of U.P., (2005) 2 SCC 515 (India).
[3] Uttar Pradesh Tax on Luxuries Act, 1955 (India).
[4] Andhra Pradesh Tax on Luxuries Act, 1987, Act No. 24 of 1987 (India).
[5] West Bengal Luxury Tax Act, 1994, West Bengal Act XV of 1994 (India).
[6] Constitution of India sched. 7, list II, entry 62 (India).
[7] *ibid.*

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character and thereby sort to place the levy outside the restaurant start with otherwise attached to a tax on the sale of purchase of courts namely, Entry 54 of the List II[8], Article 286[9] in the Constitution of India and Section 14[10] and 15[11] of the Central Sales Tax Act, 1956[12] which declared and outside the Union Exclusive Domain over Excise Duty on the Tobacco under Entry 84[13] of List.

As the long proceed trail of the dispute before it reach the constitutional bench. The individual assess had approached the different High Court by way of the petition and shined under the law of Article 226[14] of the Constitution, questioning both the wires of the respective state enactments and the assessment orders passed under them. Then result across to jurisdiction were not uniform and in some states the laws were, while the others upheld the system some parties agreed by an adverse outcome carried the matter for which eventually lead to the appeal against the decisions of the states striking it out or reading it down. These matter in the Writ Petition (Civil) Nos. 568-569 of 1994 together with the connected civil appeals filed between 1995 and 2000 which were eventually later loved and pleased before the honourable Supreme Court Court of the india.

Because the challenge necessary required to re-examine the correctness of its all ruling in one of the most landmark cases which is *A.B. Abdul Kadir v State of Kerala*[15]. where a similarly frame luxury tax on tobacco had been of upheld without the specific arguments now raised the batch was referred to and finally heard by the Constitution bench of five judges as it involved a substantial question of interpretation of the Constitution and the correctness of the view expressed by earliest smaller branch eventually the judgement was delivered on 20 January 2005.

III. Issues

1. Whether Entry 62 of List II[16] of Seventh schedule Taxes on luxuries empowers state legislature to impose a tax directly on goods as a distinct from taxing any activity event or occasion of indulgence.

[8] Constitution of India sched. 7, list II, entry 54 (India).
[9] Constitution of India art. 286 (India).
[10] Central Sales Tax Act, No. 74 of 1956, § 14 (India).
[11] Central Sales Tax Act, No. 74 of 1956, § 15 (India).
[12] *Ibid.*
[13] Constitution of India sched. 7, list II, entry 84 (India).
[14] Constitution of India art. 226 (India).
[15] *A.B. Abdul Kadir v State of Kerala. (1976) 2 SCC 759.*
[16] Constitution of India sched. 7, list II, entry 62 (India).

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2. Wheather tobacco and tobacco products though undoubtably articles of indulgence rather than necessity can be brought to tax on luxuries under Entry 62 merely by the virtue of the character as goods.
3. Whether the impugned state enactment in taxing tobacco as under the guise of the luxury tax passed upon fields exclusively reserve to the Parliament under the Entry 84 of list I[17] or upon the states own differently conditioned power under entry 54 of list II[18], thereby rendering the acts constitutional incompetent.
4. Whether the earlier decision in the landmark case of *AB.Abdul Kadir v. State of Kerala*[19], upholding a comparable levy correctly stated the law and should continue to be followed.
5. Whether the levy were held unconstitutional, the tax already collected from consumers over several years was liable to be refunded or whether the doctrine of unjust enrichment bar such refund.

IV. Analysis of Rules (Provisions involved)

The resolution of the dispute rested up north upon a single provision but upon the interplay of several constitutional and statutory rules that together define the India's taxing power.[20] Add this heart of the matter is bounded by Article 246[21] of the Indian constitution which channels all legislative competent through the three states of seventh schedule, an Article 265[22] which insist that no levy can survive unless it is a genuinely traceable to a competent authority. These general principles were three specific taxing under Entry 54[23] and Entry 62[24] of the state list lastly Entry 84[25] of the union list which states that each of a claim either directly or indirectly over any taxation of tobacco. The three states an act under challenge sat awkwardly at the intersection of these provisions and entries as it was this intersection that the Constitution bench was called upon untangle.[26]

[17] Constitution of India sched. 7, list II, entry 84 (India).
[18] Constitution of India sched. 7, list II, entry 54 (India).
[19] *(1976) 2 SCC 759.*
[20] Kashish Vaishnavi, Between Bread and Diamonds: A Critical Study of Taxation on Essentials and Luxury Goods in India, 7 Indian J. L. & Legal Rsch., Issue 6 (2025), https://www.ijllr.com/post/between-bread-and-diamonds-a-critical-study-of-taxation-on-essentials-and-luxury-goods-in-india.
[21] Constitution of India art. 246 (India).
[22] Constitution of India art. 265 (India).
[23] Constitution of India sched. 7, list II, entry 54 (India).
[24] Constitution of India sched. 7, list II, entry 62 (India).
[25] Constitution of India sched. 7, list II, entry 84 (India).
[26] K. Gopakumar, Multiplicity of Taxes and Exclusion of Revenue-Potential Commodities: Highlighting Two Crucial Issues of GST in India, 58 J. Indian L. Inst. 393 (2016).

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Provision	Substance
Article 256	The rule distributes legislative competence between the Parliament and the state legislature by reference to the three list of seven schedule.
Article 265	"No tax shall be levied or collected except by the authority of law"where the foundation limit on all tax power.
Article 286/ CST Act, ss. 14-15	Investigates the state taxation of declared goods including the tobacco to prevent multipoint and cascade taxation across the states
Entry 54, List II	It gives the power to the state to tax the sale or purchase of goods other than newspaper which are subject to article 286.
Entry 62, List II	It also give the state the power to tax"luxuries, including entertainment, betting and gambling"the entry actually envoke by the state.
Entry 84, List II	It gives union exclusive power to levy excise duty on tobacco and other goods manufactured or produced in India within the limited exceptions.

Each of these provision, the text distinct it also converts upon a single constitutional anxiety which is of overlap. Article 246[27] does not itself confer the power to tax but it also merely the conduct through which power flows and the substance of that power residing entirely in the language of these entries and references.[28] Article 265[29] stands as a sentient over this conduct and reminding

[27] Constitution of India art. 246 (India).
[28] Tarun Jain, Is Dividend Distribution Tax a Tax on Income of Shareholder? The Debate Continues, 2021 SCC OnLine Blog Exp 54 (July 5, 2021).
[29] Constitution of India art. 265 (India).

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that every rupee collected by the justified chain of Authority must unbroken from the entry to article 246. Moreover Entry 54[30] and Entry 84[31] meanwhile are not silent by in this disputes and they are the very entries which territory or whose territory Entry 62[32] threatened to invade; Entry 54[33] already permits the state to tax the sale of tobacco as goods, subject to the discipline of Article 286[34] and the central sales tax act; further more Entry 84[35] already reserved the taxation of tobacco manufacturers to the union through excise duty and Entry 62[36] by the contrast was never meant to be a third and unrestrained gateway to the same commodity where it's natural home is ready to accompany of "entertainment, amusement, betting and gambling"is the taxation of the occasion of indulgence not the ownership of an object.[37]

Lastly, it is the architecture of the restaurant where the provisions that exists not in the isolation but also in the careful deliberate relation to each other that gives the case is enduring doctrine null weight. The rules extracted above are less of a checklist more of a map of constitutional boundaries each line drawn precise so that no single entry might through any kind of general construction swallow the others whole.[38]

V. Application and Analysis

A. Contentions of the Petitioners/Assessees

Cancel for the petitioner argue that the word"luxuries" Entry 62[39] could not be read as a license to the tax goods nearly because they happen to be a non-essential or indulgent in character. On their submission, a tax entry that speaks of luxuries placed alongside the entertainment, amusements, betting and gambling or occasion of enjoyment which happened to be indulgence rather than to the ownership, sale or position of a commodity. If the state construction were accepted, the argument ran a state could reach virtually any valuable or simply by labelling it a luxury good by passing Article 286[40] and Section 14[41] and 15[42] of the Central Sales Tax Act

[30] Constitution of India sched. 7, list II, entry 54 (India).
[31] Constitution of India sched. 7, list II, entry 84 (India).
[32] Constitution of India sched. 7, list II, entry 62 (India).
[33] *Supra note 24.*
[34] Constitution of India art. 286 (India).
[35] *Supra note 25.*
[36] *Supra note 26.*
[37] Sujal Sailu Karreusra, Impact of GST on Luxury Goods, 4 Int'l J. Advanced Rsch. Sci., Commc'n & Tech. 206 (2024), https://ijarsct.co.in/Paper16647.pdf.
[38] Pradheepa V, How Does Sin Tax Regulate the Use of Sin Goods in India, 4 Int'l J. Advanced Legal Rsch., Issue 2 (2023), https://ijalr.in/volume-4-issue-2/how-does-sin-tax-regulate-the-use-of-sin-goods-in-india-pradheepa-v/.
[39] Constitution of India sched. 7, list II, entry 62 (India).
[40] Constitution of India art. 286 (India).

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which applies specifically to sales under Entry 54[43], and encroaching on Parliament exclusive field over excise duty on tobacco under Entry 84 of List I[44]. It was humbly submitted by the councils that it must be considered so that each occupy its own field without overlap; permitting Entry 62[45] to swallow goods already covered by Entry 54[46] or Entry 84[47] would violence to the settle principle of harmonious construction of the schedule.

B. **Contentions by the state**

The state representated in part by Mr. Gupta which content that the object of luxury tax is the occurrence of luxury under understood broadly as indulgence, extravagance, comfort or gratification of the senses and the concept of capacious enough to cover both commodities and services. Reliance was placed on *Express Hotels (P) Ltd. v. State of Gujarat*[48] where the word "luxury" was held to extend to both goods and services. It was for the submitted that luxury tax is in substance and indirect tax whose incidence ultimately falls on the consumer who enjoys the luxury and the word including in Entry 62[49] signal a non-exhaustive, expenses rather than narrow, active only reading confined to entertainment and gambling.

C. **Analysis and the Court's Reasoning**

The Constitution bench undertook a close reading of Entry 62[50] in line of its prior to texting entries of the seven schedule. It examined *Federation of Hotel & Restaurant Association of India v. Union of India*[51], and the subsequent decision in *State of West Bengal v. Kesoram Industries Ltd.*[52].both of which had grappled with the meaning of luxuries as a taxable event rather than a taxable object. The court also visited the renowned *Abdula case* noting that the specific contention of press that Entry 62[53] which excludes tax on good altogether neither been

[41] Central Sales Tax Act, No. 74 of 1956, § 14 (India).
[42] Central Sales Tax Act, No. 74 of 1956, § 15 (India).
[43]Constitution of India sched. 7, list II, entry 54 (India).
[44]Constitution of India sched. 7, list II, entry 84 (India).
[45] Constitution of India sched. 7, list II, entry 62 (India).
[46]Constitution of India sched. 7, list II, entry 54 (India).
[47]Constitution of India sched. 7, list II, entry 84 (India).
[48]*Express Hotels (P) Ltd. v. State of Gujarat*, (1989) 3 SCC 677.
[49] Constitution of India sched. 7, list II, entry 62 (India).
[50]*ibid.*
[51]*Federation of Hotel & Restaurant Association of India v. Union of India*, (1989) 3 SCC 634.
[52]*State of West Bengal v. Kesoram Industries Ltd.*, (2004) 10 SCC 201.
[53] Constitution of India sched. 7, list II, entry 62 (India).

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not considered in that case so that Abdul Qadir could not be treated as a binding or a complete answer to the present challenge.[54]

Further, the Bench accepted the petitioners' central submission that a tax, in the classical sense, consists of two elements: the taxable event (the person, thing, or activity on which the tax is imposed) and the rate or measure of the tax. Entry 62[55], read as a whole and in the company of "entertainment, amusements, betting and gambling," was held to identify the taxable event as an activity of indulgence, the occasion on which a person enjoys or indulges, however costly or non-essential, and not the mere existence, sale, or possession of a commodity Entry 62, which is read as whole and in the company of the entertainment, amusements as well as betting and gambling was held to be contemplate the taxable event or as an activity of indulgence with the occasion on which person enjoys or indulgence however costly or non-essential that committing might be it does not mean that the mayor existence sale opposition of a commodity can make that person indulge in something.

Moreover the court also rear form that several entries in the list of seventh schedule are designed to demarcate mutually exclusive fields of legislation, each with its own objects and incident so that no one entry should be expansively enough to absorb the subject matter of another. Since a tax on tobacco ascots was already un specifically provided for elsewhere Constitution team through Entry 54[56] of List II and Entry 84[57] of List I reading Entry 62[58] to also authorise attacks on tobacco as goods could create an impermissible overlap and dilute the careful compartmentalisation Constitution and liability built into the tax power. Lastly, the bench held that even accepting for the argument sake that luxury could extent to certain services, it did not follow the word could be stretched to cover goods qua goods. None of the three impugned statues purported to tax any activity of indulgence, each of them. in substance, taxed goods described as luxury goods and the incident being fast to the entry, possession or supply of tobacco as a committee not on any occasion of its consumption or enjoyment. Further more the three state act for legislatively in competent to the extent they taxed the tobacco as goods under Entry 62. On the question of refund, the Court held that even though the levy was found to be beyond the states' legislative competence, the tax already

[54]Aossinomita, Tax Policy in Limiting the Consumption of Luxury Goods, 20 **Rev. Econ. & Fin.** 165 (2022).
[55]*ibid.*
[56] Constitution of India sched. 7, list II, entry 54 (India).
[57] Constitution of India sched. 7, list II, entry 84 (India).
[58] Constitution of India sched. 7, list II, entry 62 (India).

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collected from consumers over several years was not liable to be refunded to the assessees. The Court invoked the doctrine of unjust enrichment, reasoning that since the burden of the tax had, in substance, been passed on to and borne by the consumers rather than the assessees themselves, refunding the amount to the assessees would unjustly enrich them rather than restore any loss actually suffered by them.

VI. Conclusion

The Supreme Court's Constitution Bench in a landmark judgment held that, Entry 62, List II of the Seventh Schedule of the Constitution, which gives states the power to tax "luxuries, including entertainment, amusements, betting and gambling", allowed only a tax on the taxable event of indulgence or enjoyment and not on possession, sale or supply of goods, no matter how non-essential or extravagant they may be. After reading the entry along with its accompanying entries, the Court concluded that the acceptance of the following entries will not allow Entry 62 to "displace the carefully drawn lines which separate the constitutional spheres in which the different taxes are levied," namely Entry 54 (tax on sale/purchase of goods) and Entry 84,; List I (Union Excise on Tobacco). It was therefore found that the Uttar Pradesh, Andhra Pradesh and West Bengal luxury tax laws were "*legislatively incompetent*" as they imposed tax on tobacco as goods. The Court pointed out that its decision in *A.B Abdul Kadir v State of Kerala* was not a precedent in this case, and could not be used as a guide to this case. The judgement also reflects the discipline that article 265 imposes on the tax power because no tax can we levied or collected except by authority of law and because of authority must act a specific, correctly identified legislative entry and where the court scrutinise the true character of a closely rather than accepting the legislature own characterisation of it. This vigilance not only protects the union and state but also the horizontal economic unity which is under article 301, since the inconsistent state level luxury on the staple commodities like it can be left unchecked and also could fragment the national market and duplicate the button already carried by the union and the interstate sales tax.

The case retained the contemporary relevance even in the post 101st amendment of goods and services tax era. Although the specific Entry 54 and 92A/List I concession have been substantially reshaped by the introduction of article 246A and the GST regime, the underlying interpretative method not on his survived the taxing statue which are examine in the real incident and the taxable event but it cannot dress up attack on goods as a tax on an activity to escape the constitutional restraints. The decision continues to be cited including in later rolling as well as research paper

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explaining the idea behind luxury goods. In that sense the case of Godfry Phillips stands as a durable precedent and lastly and most importantly, Regarding the refund request, however, the Court rejected the automatic refund of tax already paid, citing the unjust Enrichment doctrine.

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