

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S).6474-6798/2017
(Arising out Special Leave Petition(C) No(s). 14454-14778/2008)

STATE OF ORISSA & ORS.

APPELLANT(s)

VERSUS

M/S RELIANCE INDUSTRIES LTD. & ORS.

RESPONDENT(s)

WITH

CIVIL APPEAL NO(S).7124-7130/2017
(Arising out Special Leave Petition(C) No(s).30534-30540/2008)

O R D E R

CIVIL APPEAL NO(S).6474-6798/2017
(Arising out Special Leave Petition(C) No(s). 14454-14778/2008)

Delay condoned.

Impleadment and interventions applications allowed.

Leave granted.

The State is in appeal against the judgment of the High Court wherein the High Court has decided that the impugned levy is not compensatory in nature. Since the theory of compensatory stands

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being fully discarded, these appeals are to be allowed. It is ordered accordingly.

CIVIL APPEAL NO(S).7124-7130/2017

(Arising out Special Leave Petition(C) No(s).30534-30540/2008)

Delay condoned.

Leave granted.

By the impugned judgment dated February 18, 2008 passed by the High Court of Orissa, the High Court has decided the issues in the following manner:

"28. To sum up, we are of the opinion that the State has the following three alternatives to impose a levy of tax which would not be violative of Article 301 meaning thereby it will not be treated as a hindrance in trade commerce and intercourse. They are:-

(i) If the levy imposed is compensatory in nature and facially or patently indicates the quantifiable data on the basis of which the compensatory levy or tax is sought to be levied and the Act facially indicates the benefits which is quantifiable or measurable and the proportionality of the quantifiable benefits and should be in the form of reimbursement/recompense for the quantifiable and measurable benefits to be provided to its payers or trades people.

(ii) If the tax is levied under clause(a) of Article 304 but subject to conditions given therein that such levy or tax on goods would not result in discrimination between the goods imported from other States and similar goods manufactured or produced within the State entering into a local area. However, the scope of clause(a) of Article 304 is limited to the extent that the State cannot impose tax on the goods imported from other States and are not manufactured or produced within that State;

(iii) If the tax is imposed following the provisions of clause(b) of Article 304 meaning thereby that the previous sanction of the President has been obtained in imposing the tax.

