Karnataka High Court Avinyl Polymers Pvt. Ltd. vs State Of Karnataka And Others on 4 August, 1997 Equivalent citations: ILR 1998 KAR 576 Author: G Bharuka Bench: G Bharuka, V G Gowda ORDER G.C. Bharuka, J. 1. The petitioners herein are engaged in the business of manufacturing various commodities. Their manufacturing units are situated within the jurisdictional limits of "local areas" as defined under section 2(5) of the Karnataka Tax on Entry of Goods Act, 1979 (hereinafter "the Act" only). For the purpose of their manufacturing process, they purchase the raw materials like chemicals, petro products, based oil, beedi leaves, bulk drugs and/or packing materials from outside the State of Karnataka and after causing entry thereof in the said local areas, consume the said goods in their manufacturing process or packing of finished products. 2. According to the petitioners, though, under Notification No. FD 112 CET 93(III) dated March 30, 1994 read with Notification No. FD 109 CET 97(8) dated March 31, 1997 (hereinafter referred to as the "first" and "second" notification) issued under section 3(1) of the Act, the raw materials brought by them in the local areas, which having been purchases from outside the State of Karnataka, have been made liable for levy of entry tax at 1 per cent but similar goods of karnataka and brought into those very local areas have been exempted from such the levy. Accordingly, they have impugned the validity of the said notifications by raising various contentions. 3. On hearing the rival submissions made at the Bar, we find that the following contentions call for our consideration : (a) the notifications have been issued in excess of the legislative power delegated to the State Government under section 3(1) of the Act inasmuch as the State Government as a delegatee was competent to only specify the rate or rates" in respect of different goods or different classes of goods or different classes of goods" as specified in the Schedule but it could not have specified the rate of tax by dividing the given commodity into further groups thereby levying tax on similar goods fulfilling certain condition and leaving the remaining out of the taxing net. (b) the impugned notifications are also constitutionally invalid as offending article 304(a) of the Constitution since these have resulted in causing discrimination in the matter of levy of entry tax under the Act between similar goods manufactured or produced in the State of Karnataka and those imported from other States; (c) the second notification to the extent its operation has been retrospective with effect from April 1, 1994 is ultra vires the powers of the State Government since the expressions "retrospectively or prospectively" were inserted by Karnataka Act No. 8 of 1993 which never came into force for want of the President's assent as required under the proviso to article 304(b) of the Constitution of India. 4. Before deliberating on the contentions raised at the Bar, it will be of benefit to first refer to the relevant provisions of the Act as they stood from May 1, 1992. These Are : "Section 2(4a) : 'goods' means all kinds of movable property (other than newspapers, actionable claims, stocks and shares and securities) and includes livestock; Section 2(5) : 'local area' means an area within the limits of a city under the Karnataka Municipal Corporations Act, 1976 (Karnataka Act 14 of 1977), a municipality under the Karnataka Municipalities Act, 1964 (Karnataka Act 22 of 1964), a Notified Area Committee, a Town Board, a Sanitary Board or

a Cantonment Board constituted or continued under any law for the time being in force and a Mandal under the Karnataka Zilla Parishads. Taluk Panchayat Samithis, Mandal Panchayats and Nyaya Panchayats Act, 1983 (Karnataka Act 20 of 1985) and Panchayat area under the Karnataka Panchayat Raj Act, 1993 (Karnataka Act 14 of 1993). Section 3(1) : There shall be levied and collected a tax on entry of any goods specified in the First Schedule into a local area for consumption, use or sale therein, at such rates not exceeding five per cent of the value of the goods as may be specified retrospectively or prospectively by the State Government by notification, from time to time, and, different dates and different rates may be specified in respect of different goods or different classes of goods or different local areas. 5. The impugned notifications have been issued under the above noticed section 3(1) of the Act. These are being reproduced hereunder :"FIRST NOTIFICATION No. FD 112 CET 93(III), Bangalore, dated 31st March, 1994 Karnataka Gazette (Extraordinary), dated 31st March, 1994. In exercise of the powers conferred by sub-section (1) of section 3 of the Karnataka Tax on Entry of Goods Act, 1979 (Karnataka Act 27 of 1979), the Government of Karnataka, hereby specify that with effect from the first day of April, 1994, tax shall be levied and collected under the said Act on the entry of goods specified in column (2) of the table below into a local area from any place outside the State for consumption or use therein, at the rates specified in the corresponding entries in column (3), thereof : TABLE — ———————————————————————————————- Sl.No. Commodity Rate of tax (1) (2) (3) ———————————————————————————————- 1 Machinery (all kinds) and parts and accessories 2% thereof but excluding agricultural machinery. 2 Motor vehicles (all kinds) and parts and 5% accessories thereof including chassis - motor vehicles. 3 Packing materials, namely : (i) Fibre board cases, paper boxes, folding cartons, 2% paper bags, carrier bags and cardboard boxes, corrugated board boxes and the like. (ii) Tin plate containers (cans, tins and boxes), 2% tin sheets, aluminium foil, aluminium tubes, collapsible tubes, aluminium or steel drums, barrels and crates and the like. (iii) Plastic, polyvinyl, chloride and polyethylene 2% films, bottles, pots, jars, boxes, crates, cans, carboys, drums, bags and cushion materials and the like. (iv) Wooden boxes, crates, casks and containers and 2% the like. (v) Gunny bags, bardan (including batars) hessian 2% cloth and the like (vi) Glass bottles, jars and carboys and the like 2% (vii) Laminated packing materials, such as 2% bituminised paper and hessain-based paper and the like. 4 Raw materials, component parts and inputs which are 1% used in the manufacture of an intermediate or finised product. ———————————————————————————————

Explanation I. - The words 'raw materials, component parts and any other inputs' do not include, exempted goods which are specified in the Schedule, horticultural produce, cereals, pulses, oil seeds including copra and cotton seeds, timber or wood of any species, newsprint, silk cocoons, raw, thrown or twisted silk, tobacco (whether raw or cured), and blended yarn, man-made filament yarn, man-made fibre yarn, man-made fibre, woolen yarn and woolen blended yarn, washed cotton seed oil, non-refined edible oil, rice bran and oil cake and

such other goods as may be notified by the State Government from time to time. Explanation II. - If any of the goods liable to tax under this Act are brought into a local area for use or consumption as raw materials, component parts and inputs in the manufacture of an intermediated or furnished product, the tax payable on such goods shall be at the rate of one per cent." "SECOND NOTIFICATION No. FD 109 CET 97(8), dated 31st March, 1997 Karnataka Gazette, Extraordinary, dated March 31, 1997. In exercise of the powers conferred by sub-section (1) of section 3 of the Karnataka Tax on Entry of Goods Act, 1979 (Karnataka Act 27 of 1979), read with section 21 of the Mysore General Clauses Act, 1899 (Mysore Act III of 1899), the Government of Karnataka, hereby amends the Notification No. FD 112 CET 93(III), dated 30th March, 1994 as follows :- In the said notification, (i) for the words 'from any place outside the State for consumption or use', the words 'where such entry is for consumption or use of such goods and where such goods have not suffered tax under the Karnataka Sales Tax, Act, 1957 (Karnataka Act 25 of 1957)', shall be deemed to have been substituted with effect from the first day of April, 1994. (ii) for explanation II, the following shall be substituted with effect from the first day of April, 1997, namely, - Explanation II. - If any of the goods liable to tax under this Act, other than the goods specified in serial numbers 5, 22, 29(i) and (ii) of Notification No. FD 109 CET 97(10), dated 31st day of March, 1997 are brought into a local area for consumption or use as raw materials, component parts and inputs in the manufacture of an intermediate or finished product, the tax payable on such goods, shall be at the rate of one per cent." Re : Contention (a) : 6. Under entry 52 of List II (State List) of the Seventh Schedule to the Constitution the State Legislature has been empowered to make law in relation to "taxes on the entry of goods in a local area for consumption, use or sale therein". Therefore, keeping in view this legislative entry, which is more appropriately recognised as a field of legislation, empowering the concerned Legislature to enact a law in relation to any aspect of that field subject to the limitations prescribed in the other parts of the Constitution, the State Legislature has enacted the present Act. A reading of sub-section (1) of section 3 of the Act shows that the Legislature in its wisdom had devised that there shall be levied and collected tax on the entry of goods specified in its First Schedule into the local areas for consumption, use or sale therein. The First Schedule to the Act contains the list of goods placed under various serial numbers either as an independent commodity like copper sulphate (No. 18) or representing a class of goods like dyes (No. 26), hardware (No, 42), paper (No. 65), packing materials (No. 66) and the like. But instead of prescribing the rate of tax by itself, the Legislature found it more advisable to authorise the State Government to specify the said rates by issuing appropriate notifications subject to the upper ceiling of 5 per cent of the value of the value of the goods. The rates so required to be notified were to be "in respect of different goods or classes of goods" to be picked up from the list set out in the First Schedule to the Act. 7. In exercise of the said delegated powers under section 3(1) of the Act, the State Government has, inter alia, prescribed the rates of tax in respect of various goods which have been picked up form the First Schedule but while doing so, under the first notification, it restricted the

levy of the said tax only in respect of the goods which were imported from the places outside the State of Karnataka in the local areas and that too only if those were meant for consumption or use therein. The resultant effect was that the goods which were manufactured or produced in the State of Karnataka became exempt from levy of entry tax. Similarly, the goods either brought from outside the state or produced within the State but if those were not brought in the local areas for consumption or use therein, that is, for resale only, then on such goods as well no tax was levied. 8. Keeping in view the said aspects and consequences arising out of the first notification, which apparently evidenced discrimination in levy of tax under the Act on similar goods, occasioned the filing of a bunch of writ petitions in this Court challenging the validity of the said notification, on the grounds of violation of articles 14 and 304 of the Constitution as also being in excess of delegated powers. The said writ petitions were heard at great length by the learned single Judge but considering the importance and wider implications of the issues raised, the cases were referred to a Division Bench. 9. It appears that the State Government, on realisation of some force in the contentions raised by the dealers, thought it proper to amend the first notification retrospectively and accordingly, the second notification was issued substituting the words "from any place outside the State for consumption or use" by the words "where such entry is for consumption or use of such goods and where such goods have not suffered tax under the Karnataka Sales Act, 1957 (Karnataka Act 25 of 1957)". But despite the said amendments carried out in the first notification, the dealers by filing amendment petitions or fresh writ petitions, which are all before us for consideration, have maintained their grounds of attack by taking the plea that the infirmities in the notifications, as pleaded by them earlier still subsists and the exercise undertaken by the State Government is colourable in nature. 10. On hearing the rival contentions and having closely examined the provisions of the Act, particularly, sub-section (1) of section 3 of the Act, even on a plain reading thereof, it seems quite clear to us that the Legislature had empowered the State Government only to prescribe the rates of tax by picking out any of the goods enumerated in the First Schedule to the Act. It could have been done wither by prescribing a given rate of tax in respect of specific goods or by picking out various goods mentioned in the Schedule and formed a class for the purpose of spcifying a particular rate. It was also open for the State Government to prescribe different rates of tax in respect of particular commodity or class of goods for different local areas by adopting some intelligible and rational basis. But the language employed in section 3(1) of the Act does not seem to suggest that the Legislature had at all intended to empower the State Government to pick out a particular commodity from the Schedule and then divide it into various classes by applying certain self-evolved criteria like "tax-paid goods", "imported goods", "locally produced goods", "goods sold by a particular dealer", etc. No doubt the State Government had been empowered to provide rate of tax to a given class of goods but under section 3(1), it has not been authorised to create classes among the same goods. 11. Mr. D'Sa, the learned Additional Government Advocate, in order to meet the said plea raised on behalf of the petitioners, submitted that

creation of classes based on an objective mode of classification thereby satisfying the test of "well-defined class" always lies within the competence of law making authority like the State Government in the present case, may be acting only as a delegatee under the Act. To substantiate his submission, he invited our attention to section 11A of the Act which empowers the State Government to exempt or reduce tax in public interest, inter alia, on the entry of "all or any goods or class of goods into any specified local area". We failed to understand as to how this section in any way helps the State Government in wriggling out of the objections at hand. In our opinion, the notifications under consideration do not pertain to grant of any exemption and therefore we forbear from expressing any opinion on the scope and extent of the power State Government under the said provision. 12. Any how, we are of the considered view that so far as the section 3(1) of the Act is concerned, the State Government has been authorised to specify a given rate of tax in respect of a particular commodity or a class of commodities to be selected out of the list set out in the First Schedule to the Act and specify the rate of tax for the same. That rate has to be made applicable to a commodity having the same nature and contents and known as such in the common parlance or commercial sense without suffixing or prefixing any other criterion to create classes among the said commodity. To illustrate, if the State Government decides to specify the rate of tax for butter (No. 7), then it cannot prescribe different rates of tax for butter manufactured by different classes of manufacturers or butter suffering tax under a particular Act or butter imported or locally produced or butter having different colours and taste and the like. For these reasons, in our opinion, the impugned notification prescribing rate of tax in respect of goods mentioned therein if those have not suffered tax under the Karnataka Sales Tax Act, has to be held as ultra virus and unenforceable as having been issued in excess of the legislative delegation. 13. We are also constrained to hold that it was not permissible on the part of the State Government to prescribed the rate of tax only on the entry of goods in the local areas meant for consumptions or use therein and not on goods meant for sale, since, the State Government has not been authorised to prescribed different rate of tax depending on the purpose for which the entry of the goods is caused in the local areas. The legislative policy under the Act is to levy tax on the Scheduled goods on its entry in a local area it if is meant either for consumption or for use or for sale therein. The State Government under the guise of power to prescribe rate of tax cannot disturb the said policy of the Legislature. While so holding, we are conscious of the fact that the Legislature in its wisdom could have certainly provided that the levy of such tax will be on entry of goods meant either for consumption or for use or for sale or for any two or for all the three purposes or it could have even authorised the State Government to levy tax if the entry was for either of the said purposes but the Legislature neither has done the same by itself nor has empowered the State Government to do so. Therefore, on this aspect as well we have to hold against the State Government by pronouncing that it has over-stepped its delegated legislative power by devising to specify rate of tax on entry of certain goods subscribing to certain conditions and that the entry thereof is

meant only for consumption and use in the local areas. Constitutional aspect : 14. For appreciating the challenges made to the impugned notification on constitutional grounds, we find it advisable to reproduce articles 301 to 304 of the Constitution. These are : Article 301. - Subject to the provisions of this Part, trade, commerce and intercourse throughout the territory of India shall be free. Article 302. - Parliament may by law impose such restriction on the freedom of trade, commerce or intercourse between one State and another or within any part of the territory of India as may be required in the public interest. Article 303(1) Notwithstanding anything in article 302, neither Parliament nor the Legislature of a State shall have power to make any law giving, or authorising the giving of, any preference to one State over another, or making, or authorising the making of, any discrimination between one State and another, by virtue of any entry relating to trade and commerce in any of the Lists in the Seventh Schedule. (2) Nothing in clause (1) shall prevent Parliament from making any law giving, or authorising the giving of, any preference or making, or authorising the making of, any discrimination if it is declared by such law that it is necessary to do so for the purpose of dealing with a situation arising from scarcity of goods in any part of the territory of India. Article 304. - Notwithstanding anything in article 301 or article 303, the Legislature of a State may by law - (a) impose on goods imported by other State or the Union territories any tax to which similar goods manufactured or produced in that State are subject, so, however, as not to discriminate between goods so imported and goods so manufactured or produced; and (b) impose such reasonable restrictions on the freedom of trade, commerce or intercourse with or within that State as may be required in the public interest : Provided that no Bill or amendment for the purposes of clause (b) shall be introduced or moved in the Legislature of a State without the previous sanction of the President. Re : contention (b) : 15. Challenge to the impugned notifications on the ground of infraction of article 304(a) has two facets, namely, - (i) the meaning of the expression "similar goods"; and, (ii) whether the discrimination is to be worked out on the basis of rate of tax made applicable to such goods or on the basis of the overall burden of tax suffered by the goods in the State. 16. So far as the first aspect is concerned, it has arisen because of the fact that on similar goods, under one condition, that is, if the goods have suffered tax under the State Sales Tax Act, no entry tax has been levied whereas if the goods have not suffered such a tax, like the goods imported from outside the State of Karnataka, it attracts the levy of entry tax. The question is whether such a classification is permissible keeping in view the prohibition contained in article 304(a) of the Constitution. To our mind, the issue are no more res integra. 17. In the case of Firm A. T. B. Mehtab Majid & Co. v. State of Madras , a discrimination between hides and skins suffering tax in the State and those not suffering such tax was sought to be salvaged by the State from the attack based on article 304(a) by taking the plea that those from different classes and cannot be said to be similar goods for the purpose of the said article but it was negatived by the Supreme Court by holding that (para 18); (page 362 of STC); "It is urged for the respondent State that to consider discrimination between the imported goods and goods produced or

manufactured in the State, circumstances and situations at the taxable point must be similar and that the circumstance of hides or skins tanned within the State and on which tax had been paid earlier at the time of their purchase in the raw condition is sufficient to consider such hides or skins to be different from the hides or skins which had been tanned outside the State. We do not consider that the mere circumstance of a tax having been paid on the sale of such hides or skins in their raw condition justifies their forming goods of a different kind from the tanned hides or skins which had been imported from outside. At the time of sale of those hides or skins in the tanned State, there was no difference between them as goods and the hides or skins tanned outside the State as goods. The similarity contemplated by article 304(a) is in the nature of the quality and kind of the goods and not with respect to whether they were subject of a tax already or not." 18. The next facet is as to how the discrimination pertaining to levy of any tax vis-a-vis similar goods needs to be worked out. The contention of the petitioners is that for working out the discrimination one is required to only see the rate of tax applied to imported goods as compared to locally manufactured or produced goods and whether it is the same or different and nothing more. But the contention of the State is that the discrimination envisaged under article 304(a) should be viewed by taking at the forefront the constitutional scheme under articles 301 to 303 which intends to ensures trade, commerce and intercourse throughout the territory of India to be free and the economic unity of India may not be broken up by internal barriers by creating the total tax burden created by the taxing legislations of the States concerned as comparatively higher on goods imported form outside the State. According to Mr. D'Sa, the discrimination in question cannot be worked out by merely referring to an isolated taxing statute like the present one. His submission is that if the sum total of tax levied on the goods produced in the State by taking into account the levy of sales tax and the entry tax is found to be higher than the entry tax levied on imported goods, then no discrimination can be alleged in terms of article 304(a). 19. In our opinion, the argument advanced on behalf of the State of Karnataka cannot be accepted as valid and sustainable. This issue has also been repeatedly attended to by the Supreme Court by clearly pronouncing that it is the rate of tax under a particular taxing statute which should be taken as the determining factor for ascertaining the discrimination contemplated under article 304(a). In the case of Rattan Lal and Co. v. Assessing Authority , it has been declared by the Supreme Court "so long as the rate is the' same article 304 is satisfied". The Supreme Court refused to adjudicate the discrimination aspect by taking into account any other factor. 20. We do not wish to overload our judgment by referring to all the judgments of the Supreme Court on the point. But suffice it would be to refer to the most recent judgment on the point being in the case of Shree Mahavir Oil Mills v. State of Jammu and Kashmir (1997) 104 STC 148, wherein the Supreme Court after reviewing almost all its earlier judgments has summarised the law by holding that clause (a) of article 304 : ".....though worded in positive language has a negative aspect. It is, in truth, a provision prohibiting discrimination against the imported goods. In the matter of levy of tax - and

this is important to bear in mind - the clause tells the State Legislatures - 'tax you may the goods imported from other States/Union territories but do not, in that process, discriminate against them vis-a-vis goods manufactured locally'. In short, the clause says : levy of tax on both ought to be at the same rate. This was and is a ringing declaration against the States creating what may be called 'tax barriers' - or 'fiscal barriers', as they may be called - at or along their boundaries, in the interest of freedom of trade, commerce and intercourse throughout the territory of India, guaranteed by article 301." The said dictum has been followed with approval in the subsequent judgment of the apex Court in the case of State of Uttar Pradesh v. Laxmi Paper Mart . 21. Coming to the facts of the present case, admittedly, on the raw materials brought by the petitioners from outside the State of Karnataka, a tax at the rate of 1 per cent is liable to be paid for entry into the local area whereas for the similar goods produced in the State, no tax has been prescribed. Thus, keeping in view the rate of entry tax, there is a clear discrimination between the two and thus offends article 304(a). In State of Uttar Pradesh v. Laxmi Paper Mart , the apex Court has clearly spelt out that, "Once the discrimination is made out, the enquiry by the court ends. The price structure of the imported goods vis-a-vis the locally manufactured goods or the economics of the importer need not be gone into". For these reasons, the validity of the impugned notifications cannot be sustained as also on the touch-stone of the constitutional prohibition. Re : Contention (c) : 22. This ground of challenge is based on article 304(b) of the Constitution. It has been submitted on behalf of the petitioners that the retrospectively of the second notification is bad because the insertion of the words retrospectively or prospectively is section 3(1) of the Act were inserted by Karnataka Act 8 of 1993 which has never received the assent or previous sanction of the President and therefore the said amending Act has not come into force so far. 23. In the case of State of Karnataka v. Hasna Corporation , the Supreme Court while considering the constitutional validity of the Act, has, inter alia, held that "to the extent the impugned tax is levied on the entry of goods in a local area it cannot be gainsaid that its immediate impact would be on movement of goods and the measure would fail within the inhibition of article 301". But since it was found as a matter of fact that the President had accorded his sanction to the Act impugned therein, therefore it was held that the requirement of proviso of article 304(b)/255 of the Constitution of India had been satisfied. 24. A similar challenge was made before this Court to certain amendments effected by Karnataka Acts 10 and 12 of 1981, in the case of Jyothi Home Industries v. State of Karnataka (1987) 64 STC 254 (Kar) [App.], inter alia, on the ground that the said provisions were void for want of Presidential sanction in terms of proviso to article 304(b) of the Constitution of India. The Division Bench of this Court speaking through M. N. Venkatachaliah, J. (as he then was), on through examination of the constitutional requirements in this regard had to hold that some of the amendments have resulted in imposition of tax in area other than those originally defined and on a number of new and different items and therefore it would constitute additional restrictions within the special meaning of article 301 of the Constitution of India, necessitating

fulfilment of requirement of prior sanction or subsequent assent as provided under article 304(b)/255 of the Constitution of India. 25. In the case of Jyothi Home Industries (1987) 64 STC 254 (Kar) [App], the State, as is evident from the judgment (see para 70), at that point of time, did not seek to support the tax on entry of goods under the Act as compensatory in nature by placing any material before the court. The relevant passage of the judgment reads as under : "The tax in question was not sought to be supported as a compensatory tax. A compensatory tax is outside the purview of article 301 as the tax is intended to create facilities for trade and promote the free-flow of trade and not to impede it. All the taxes have in some degree or other a compensatory element and if it had been contended that the tax was compensatory in character the argument might, perhaps, have had some interesting possibilities, though it is hardly permissible to speculate as to what the result might have been." 26. Contrary to the said stand taken by the State in the earlier round of litigation pertaining to the validity of certain amending Acts relating to entry tax, now an affidavited statement has been filed in W.P. No. 41966-7 of 1995 with copies circulated to all the appearing counsel, taking the plea that the impugned entry tax is in fact compensatory in nature. The affidavit has been sworn by the Under Secretary to the Government, Finance Department. He has stated that the amounts collected by way of entry tax are distributed to the local bodies to compensate for the loss of octroi revenue suffered by such local bodies. He has set out break-up of the figures showing the amounts collected during the year 1994-95 and the manner of its disbursement. 27. In the case of Bhagatram Rajeev Kumar v. Commissioner of Sales Tax, Madhya Pradesh , the Supreme Court, while negativing the contention that the M.P. Entry Tax Act interferes with the free-flow of trade and commerce within the meaning of article 301 of the Constitution has held that : "The concept of compensatory nature of tax has been widened and if there is substantial or even some link between the tax and the facilities extended to such dealers directly or indirectly the levy cannot be impugned as invalid. The stand of the State that the revenue earned is being made over to the local bodies to compensate them for the loss caused, makes the impost compensatory in nature, as augmentation of their finance would enable them to provide municipal services more efficiently, which would help or ease free-flow of trade and commerce, because of which the impost has to be regarded as compensatory in nature, in view of what has been stated in the aforesaid decisions, more particularly in Hansa Corporation's case ." The said decision has been followed with approval by the Supreme Court in its later judgment in the case of State of Bihar v. Bihar Chamber of Commerce , in which it has inter alia been held that "the interest of the State and the interest of the local authorities are, in essence, no different." 28. For these reasons, since it is now not in dispute that the entire amount of entry tax collected in the State subject to deduction of levy and collection expenses, is made over to the local authorities for providing municipal and civil amenities, now it has to be held that the tax in question is compensatory in nature instead of restrictive requiring any previous sanction or assent of the President of India. Accordingly, in our considered opinion, Karnataka Act 8 of 1993 bringing about amendments

to the Act cannot be held as not come into force for want of President's assent. 29. Keeping in view the aforesaid discussions and the findings arrived at by us, it is declared that the impugned notifications are ultra vires the powers of the State Government both on the ground of causing discrimination in terms of article 304(a) of the Constitution of India as also on the ground of exceeding the legislative delegation made in its favour under section 3(1) of the Act. The authorities under the Act are accordingly directed to complete the proceedings, if any, pending before them in accordance with the law so declared. Anyhow, there will be no order as to costs. 30. Ordered accordingly.