

## **Topic: Principle Of Harmonious Interpretation Under Article 246**

Name of the Case: Godfrey Phillips India Limited v. State of Uttar Pradesh, AIR 2005 SC 1103

Bench: Chief Justice Ruma pal, Justice Arun Kumarg, Justice P. Mathur and Justice C.K. Thakkar

Fact of the case: The appellants are manufacturer of tobacco and tobacco products. They have challenged the imposition and levy of all luxury tax on tobacco and tobacco products by treating them as luxuries within the meaning of word in Entry 62 of List II.

### **Principle of harmonious interpretation**

The three lists are very detailed and Constitution makers have made an attempt to make the increase in one list exclusive for those in the other list. But, as no drafting can be perfect, at times, some conflict or overlapping between an entry in one list and an entry in the other list comes to surface. This gives rise to the question of determining inter- relationship between such entries.

Some of the entries in the different list may overlap and appears to be in direct conflict with each other. In such a situation, the principle of supremacy of the Union List over the State List, as enunciated above, is not to be applied automatically or mechanically as soon as some conflict of legislative judicial becomes apparent. The non-obstinate clause is the ultimate rule which is to be invoked only as a last resort, in case of inevitable or irreconcilable conflict between the entries in different lists.

Judgment: The Supreme Court held that before applying the abovementioned rule the court should make an attempt to reasonably and practically construed the interest so as to reconcile the conflict and avoid overlapping. This is the rule of harmonious interpretation of various entries. An effort is to be made by the court to reconcile all concerned and relevant interest. To harmonise and reconcile conflicting entries in the list, it may be necessary to read and interpret the relevant entries together, and, where necessary, restrict the ambit of the broader entry in favour of narrower entry so that it is not eaten up by the former. It may be necessary to construe a broad entry in a somewhat restricted sense that it theoretically capable of. If one entry is general, and the other limited or specific, then the former maybe restricted to give sense and efficacy to the letter which may be treated as particularised and something in the nature of an exception to the general entry. It has been held that the scope of List II Entry 54 was widened by insertion of Article 366 (29-A) powers of the States to levy such tax as subjected to a corresponding restriction as a consequence of constitutional limit imposed on sale tax under Article 286 (3) and Section 3 and schedule 2 proviso.

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