*** THE HON'BLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH**

THE HON'BLE SRI JUSTICE P.SAM KOSHY

THE HON'BLE SRI JUSTICE K.LAKSHMAN

THE HON'BLE SRI JUSTICE B.VIJAYSEN REDDY

AND

THE HON'BLE SRI JUSTICE N.TUKARAMJI

+ WRIT PETITION Nos.8883 of 1992, 16424 of 1993, 11871, 13690, 18444, 19635, 22314, 22946, 22965, 22966, 22968, 22971, 22973, 22974, 22975 and 22976 of 1994, 428, 720, 733, 1083, 1802, 1810, 1814, 2064, 2077, 2079, 2247, 2886, 3039, 3204, 3524, 3613, 3614, 3762, 4306, 4311, 4332, 4439, 4441, 4474, 4670, 5659, 5953, 5956, 6159, 6651, 6684, 6700, 6710, 7008, 7261, 7289, 7319, 7367, 7399, 7425, 7426, 7492, 8364, 8783, 9783, 9785, 9855, 9858, 10024, 10125, 11808, 12328, 13989, 15667, 21454, 21941, 23129, 23130 and 23458 of 1995, 3075 of 1996 and 29387 of 1998

% Dated: 06.08.2026

Sirpur Paper Mills Ltd., and others

…Petitioners

vs.

$ Government of Andhra Pradesh, rep. by Secretary,
Revenue, Hyderabad,
and others.

…Respondents

! Counsel for the petitioners in W.P.No.19635 of 1994 and 21941 of 1995: Sri G.Vidyasagar, learned Senior Counsel

! Counsel for the petitioners in W.P.Nos.18444, 22946, 22965, 22966, 22968, 22971, 22973, 22974, 22975 and 22976 of 1994, 720, 1802, 1810, 1814, 2247, 3613, 3614, 5659, 6710, 8783, 10125 and 11808 of 1995: Sri C.Niranjan Rao

! Counsel for the petitioner in W.P.No.11871 of 1994: Sri Tagore Bala

! Counsel for the petitioners in W.P.Nos.4306 and 6700 of 1995:
Ms. K.Mamata Choudary

^ **Counsel for the State:** Sri A.Sudarshan Reddy, learned Advocate General

< Gist:

> Head Note:

? Cases referred:

1. 1993 (2) ALT 32 (FB)
2. AIR 1983 AP 234 : 1982 SCC OnLine AP 82
3. AIR 1990 SC 85
4. 1995 Supp (2) SCC 686
5. AIR 1997 AP 85 : 1996 SCC OnLine AP 551
6. (2000) 6 SCC 550
7. (2024) 10 SCC 1
8. (2004) 10 SCC 201
9. 1996 (4) ALT 334
10. (2024) 10 SCC 257

<u>IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD</u>

<u>THE HON'BLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH</u>
<u>THE HON'BLE SRI JUSTICE P.SAM KOSHY</u>
<u>THE HON'BLE SRI JUSTICE K.LAKSHMAN</u>
<u>THE HON'BLE SRI JUSTICE B.VIJAYSEN REDDY</u>
<u>AND</u>
<u>THE HON'BLE SRI JUSTICE N.TUKARAMJI</u>

<u>WRIT PETITION Nos.8883 of 1992, 16424 of 1993, 11871, 13690, 18444, 19635, 22314, 22946, 22965, 22966, 22968, 22971, 22973, 22974, 22975 and 22976 of 1994, 428, 720, 733, 1083, 1802, 1810, 1814, 2064, 2077, 2079, 2247, 2886, 3039, 3204, 3524, 3613, 3614, 3762, 4306, 4311, 4332, 4439, 4441, 4474, 4670, 5659, 5953, 5956, 6159, 6651, 6684, 6700, 6710, 7008, 7261, 7289, 7319, 7367, 7399, 7425, 7426, 7492, 8364, 8783, 9783, 9785, 9855, 9858, 10024, 10125, 11808, 12328, 13989, 15667, 21454, 21941, 23129, 23130 and 23458 of 1995, 3075 of 1996 and 29387 of 1998</u>

<u>Dated:06.08.2026</u>

Between:
<u>W.P.No.8883 of 1992</u>:
Sirpur Paper Mills Ltd, 5-9-22/1/1, Adarsh Nagar, Hyderabad, rep. by its Chief Executive

…Petitioner

and

Government of Andhra Pradesh, rep. by Secretary, Revenue, Hyderabad, and two others.

…Respondents

<u>W.P.No.16424 of 1993</u>:
Sirpur Paper Mills Ltd, rep. by its Estate Officer

…Petitioner

and

Mandal Revenue Officer, Kagaz Nagar, and another

…Respondents

W.P.No.11871 of 1994:
National Airports Authority of India, Begumpet Airport, rep. by its Director

Petitioner

and

Government of A.P., rep. by its Secretary to Government, Revenue Department, Government of A.P., Secretariat Buildings, Hyderabad and three others.

…Respondents

W.P.No.13690 of 1994:
M/s.Hindustan Aeronautics Ltd, Balanagar, Hyderabad – 500 042, rep. by its General Manager Mr. S.Roy Choudhury.

…Petitioner

and

The State of Andhra Pradesh, rep. by its Secretary (Revenue Department), Secretariat, Hyderabad and two others.

…Respondents

W.P.No.18444 of 1994:
M/s.Cement Corporation of India Ltd, Tandur, Ranga Reddy District, rep. by its General Manager Sri D.S.Bindra

…Petitioner

and

The State of Andhra Pradesh, rep. by its Secretary, Revenue Department, Secretariat, Hyderabad and two others.

…Respondents

W.P.No.19635 of 1994:
M/s.Venkateswara Hatcheries Limited, Thimmapur Unit, Mahaboobnagar District, rep. by its Assistant Manager (P&A) and seven others.

…Petitioners

and

Revenue Divisional Officer, Mahaboobnagar, Mahaboobnagar District and three others.

…Respondents

W.P.No.22314 of 1994:
M/s.Rajyalakshmi Minerals Pvt Ltd., rep. by its Executive Director G.Jagadeesh, S/o Gopalakrishnarao, Aged about 55 years, Regd.Office at 5-504, Divya Shakti Apartments, 7-1-58, Ameerpet, Hyderabad – 16.

…Petitioner

and

The Principal Secretary Revenue to Government of A.P., Secretariat Buildings, Hyderabad and two others.

…Respondents

<u>W.P.No.22946 of 1994</u>:
M/s.Kanosika Laboratories Ltd, Plot No.45, Nagarjuna Hills, Panjagutta, Hyderabad – 500482, Location: Survey No.55, Masjidpura, Shameerpet Mandal, R.R.District, Rep. by its Executive Director Sri Harshavardhan Sikaria, S/o R.A.Sikaria, aged about 26 years.

…Petitioner

and

The State of Andhra Pradesh, rep. by its Secretary, Revenue Department, Secretariat, Hyderabad and another.

…Respondents

<u>W.P.No.22965 of 1994</u>:
M/s.Pennar Steels Ltd, Isnapur Village, Patancheru Mandal, Medak District, rep. by its General Manager, Works, T.V.Pavitran, S/o Late Kunni Raman, aged about 54 years.

…Petitioner

and

The State of Andhra Pradesh, rep. by its Secretary, Revenue Department, Secretariat, Hyderabad and another.

…Respondents

<u>W.P.No.22966 of 1994</u>:
M/s.Bajaj Sevashram Limited, 17-1-201-8, Saidabad, Hyderabad – 500 659, rep. by its Senior Executive Sri B.L.Maheshwari, aged 57 years, S/o Sri Laxminarayana

…Petitioner

and

The State of Andhra Pradesh, rep. by its Secretary, Hyderabad and another.

…Respondents

<u>W.P.No.22968 of 1994</u>:
M/s.ICI India Limited, Post Bag No.1, Balanagar, Hyderabad – 500 037, rep. by its Works Manager Sri Adnan Ahmad, aged 35 years, S/o Sri Mahboob Ahmed.

…Petitioner

and

The State of Andhra Pradesh, rep. by its Secretary, Revenue Department, Secretariat, Hyderabad and another.

…Respondents

<u>W.P.No.22971 of 1994</u>:
M/s.Diana Hotels Limited, Green Land, Begumpet, Hyderabad 500016, rep. by its Managing Director Sri A.Murali Krishna Reddy, aged 40 years, S/o Sri A.Sankar Reddy

…Petitioner

and

The State of Andhra Pradesh, rep. by its Secretary, Revenue Department, Secretariat, Hyderabad and another.

…Respondents

W.P.No.22973 of 1994:
Andhra Pradesh Rayons Ltd, Kamalapuram, Mangapet Mandal,
Warangal District, rep. by its Secretary Sri B.Hariharan,
Aged 38 years, S/o Sri H.Bhuthalingam

…Petitioner

and

The State of Andhra Pradesh, rep. by its Secretary,
Revenue Department, Secretariat, Hyderabad and another.

…Respondents

W.P.No.22974 of 1994:
M/s.Sponge Iron India Ltd, Palwancha, Khammam District
Rep. by its Company Secretary Sri P.V.Subba Rao,
Aged 41 years, S/o Late Sri Janaki Ramaiah

…Petitioner

and

The State of Andhra Pradesh, rep. by its Secretary,
Revenue Department, Secretariat, Hyderabad and two others.

…Respondents

W.P.No.22975 of 1994:
M/s.Godavari Explosives Pvt Ltd., 202 & 203, Minerva Complex,
2nd Floor, S.D.Road, Secunderabad, Rep. by its Chairman
Sri A.N.Gupta, aged 50 years, S/o Sri B.N.Gupta,

…Petitioner

and

The State of Andhra Pradesh, rep. by its Secretary,
Revenue Department, Secretariat, Hyderabad and another.

…Respondents

W.P.No.22976 of 1994:
M/s.Nitco Tiles & Marble Inds., (Andhra) Private Limited, 85, IDA, Jeedimetla,
Ranga Reddy District, Rep. by its Authorised Representative Ms.K.P.Usha,
Aged 34 years, D/o Sri K.A.Parameswaran

…Petitioner

and

The State of Andhra Pradesh, rep. by its Secretary,
Revenue Department, Secretariat, Hyderabad and another.

…Respondents

W.P.No.428 of 1995:
Sirpur Paper Mills Ltd, rep. by its Deputy Manager (Estates)

…Petitioner

and

The Secretary, Revenue Dept., Government of A.P.,
Hyderabad and two others

…Respondents

W.P.No.720 of 1995:
M/s.Barium Chemicals Ltd., Ramavaram Post, Kothagudem,
Khammam District, rep. by its Commercial Officer,
Umesh Bhatnagar, S/o Laxman Bhatnagar, aged about 38 years.

…Petitioner

and

The State of Andhra Pradesh, rep. by its Secretary,
Revenue Department, Secretariat, Hyderabad and two others.

…Respondents

W.P.No.733 of 1995:
M/s.Uma Vijaya Saw Mill, rep. by its Partner – Natwar Lal Patel,
S/o Pachan Bhai Patel, aged 38 years, R/o Khammam, Khammam District.

…Petitioner

and

Revenue Divisional Officer, Khammam, Khammam District and another

…Respondents

W.P.No.1083 of 1995:
M/s.Associated Cement Companies Ltd., Mancherial Cement Works,
Mancherial, Adilabad District, rep. by its Accounts Officer Sri Y.Venkateshwar Rao

…Petitioner

and

Government of Andhra Pradesh, rep. by its Secretary,
Revenue Department, Secretariat, Hyderabad and three others.

…Respondents

W.P.No.1802 of 1995:
M/s.Hindustan Magnetics Ltd., 6th Floor, Progressive Towers,
Khairatabad, Hyderabad, rep. by its Company Managing Director
Sri Koneru Srinivas, S/o K.Lakshmaiah, aged 34 years

…Petitioner

and

The State of Andhra Pradesh, rep. by its Secretary,
Revenue Department, Secretariat, Hyderabad and another

…Respondents

W.P.No.1810 of 1995:
M/s.Cement Corporation of India Limited, Adilabad Cement Factory,
Adilabad – 504003, rep. by its General Manager, Sri Atal Behari Kaushal,
Aged 54 years, S/o Sri B.C.Kaushal

…Petitioner

and

The State of Andhra Pradesh, rep. by its Secretary,
Revenue Department, Secretariat, Hyderabad and two others.

…Respondents

<u>W.P.No.1814 of 1995</u>:
M/s.Unicorn Organics Limited, Waddepalli, Hanumakonda,
Warangal, rep. by its Managing Director, Sri Atul Sanghani,
Aged 36 years, S/o Sri Bhanu C.Sanghani.

…Petitioner

and

The State of Andhra Pradesh, rep. by its Secretary,
Revenue Department, Secretariat, Hyderabad and another.

…Respondents

<u>W.P.No.2064 of 1995</u>:
Sri Mamtha Ginning Factory, Adilabad, rep. by Bajranglal,
S/o Gulabchand, aged 45 years, R/o Adilabad and two others

…Petitioners

and

The State of Andhra Pradesh, rep. by its Secretary,
Revenue Department, Secretariat, Hyderabad and two others.

…Respondents

<u>W.P.No.2077 of 1995</u>:
Sirpur Paper Mills Ltd., Sirpur Kagaz Nagar, rep. by its
Dy.Manager (Estates), R.P.Kanodia, S/o Gouri Sankar Kanodia,
Aged about 58 years, R/o Sirpur Kagaznagar

…Petitioner

and

Government of Andhra Pradesh, rep. by its Secretary,
Revenue Department, Secretariat, Hyderabad and two others.

…Respondents

<u>W.P.No.2079 of 1995</u>:
Om Ginning Factory, Adilabad, rep. by Sri Govind Agrawal,
S/o Gajanand Agrawal, aged 50 years, R/o Adilabad and two others

…Petitioners

and

The State of Andhra Pradesh, rep. by its Secretary,
Revenue Department, Secretariat, Hyderabad and two others.

…Respondents

<u>W.P.No.2247 of 1995</u>:
M/s.Azamjahi Mills, Laxmipura, Narsampet Road,
Warangal – 506 013, rep. by its General Manager
Sri M.V.Shivaram, aged 49 years, S/o M.V.Venkatarao

…Petitioner

and

The State of Andhra Pradesh, rep. by its Secretary,
Revenue Department, Secretariat, Hyderabad and two others.

…Respondents

W.P.No.2886 of 1995:
M/s.Real Food Products Pvt Ltd., 18-2-45, Chandrayangutta,
Hyderabad, rep. by its Administrative Officer Mr.K.Subhash,
S/o Balaraj, Hindu, aged about 50 years, R/o Hyderabad.

…Petitioner

and

Government of Andhra Pradesh, rep. by its Secretary,
Revenue Department, Secretariat, Hyderabad and another.

…Respondents

W.P.No.3039 of 1995:
M/s. Kinnera Steels (P) Ltd., rep. by its Managing Director
K.Seetha Rama Rao, Chunchupalli, Kothagudem Mandal, Khammam District.

…Petitioner

and

The State of Andhra Pradesh, rep. by its Secretary,
Revenue Department, Secretariat, Hyderabad and two others.

…Respondents

W.P.No.3204 of 1995:
M/s.Singareni Steels (P) Ltd., rep. by its Director V.V.R.V.Prasad,
Chunchupalli, Kothagudem Mandal, Khammam District.

…Petitioner

and

The State of Andhra Pradesh, rep. by its Secretary,
Revenue Department, Secretariat, Hyderabad and two others.

…Respondents

W.P.No.3524 of 1995:
Makhariya Refinery, Kondamadugu, Nalgonda District,
Rep. by Manoj Kumar, S/o Srigovind Agrawal, aged 30 years, R/o Hyderabad.

…Petitioner

and

The State of Andhra Pradesh, rep. by its Secretary,
Revenue Department, Secretariat, Hyderabad and another.

…Respondents

W.P.No.3613 of 1995:
M/s.Hyderabad Engineering Industries, Balanagar, Hyderabad,
A Division of the Jay Engineering Works Ltd., rep. by its
Assistant General Manager Mr. Inder Mohan Bhalla

…Petitioner

and

The State of Andhra Pradesh, rep. by its Secretary,
Revenue Department, Secretariat, Hyderabad and two others.

…Respondents

W.P.No.3614 of 1995:
Crystal Polymers & Additives Limited, 1-8-144-152 (133),
First Floor, Prenderghast Road, Secunderabad, rep. by
C.Prabhaker Raju, S/o C.Ramachandra Raju, aged 40 years, R/o Hyderabad.

…Petitioner

and

The State of Andhra Pradesh, rep. by its Secretary,
Revenue Department, Secretariat, Hyderabad and another.

…Respondents

W.P.No.3762 of 1995:
M.V.Ramanamma Granite Mines, 1-7-77, Jublipura,
Khammam District, rep. by its Proprietor Smt M.V.Ramanamma

…Petitioner

and

The State of Andhra Pradesh, rep. by its Principal Secretary,
Revenue Department, Secretariat, Hyderabad – 500004, and three others.

…Respondents

W.P.No.4306 of 1995:
M/s.Suvarna Cements Ltd., Hyderabad, rep. by its Managing Director
Shri V.C.Brahmanna

…Petitioner

and

Government of Andhra Pradesh, Secretary,
Revenue Department, Secretariat, Hyderabad and four others.

…Respondents

W.P.No.4311 of 1995:
Sandesh Ginning and Oil Industries, Bhainsa,
Rep. by Prop. Sri Digamber Rao Maheshettiwar,
S/o Ramanna, R/o Bhainsa, aged 58 years, Adilabad District.

…Petitioner

and

The State of Andhra Pradesh, rep. by its Secretary,
Revenue Department, Secretariat, Hyderabad and another.

…Respondents

W.P.No.4332 of 1995:
Sandesh Pressing Industries, Bhainsa, Rep. by Jagdish Mashettiwar,
S/o Ramanna, Aged 40 years, R/o Bhainsa, Adilabad District.

…Petitioner

and

The State of Andhra Pradesh, rep. by its Secretary,
Revenue Department, Secretariat, Hyderabad and another.

…Respondents

W.P.No.4439 of 1995:
M/s.Arandy Laboratories Ltd., Rajbhavan Road, Somajiguda,
Hyderabad rep. by its Personnel Officer, Mr. G.Prashant Verma.

…Petitioner

and

Government of Andhra Pradesh, rep. by its Secretary,
Revenue Department, Secretariat, Hyderabad and another.

…Respondents

W.P.No.4441 of 1995:
M/s.Suryalakshmi Cotton Mills Ltd., Pillalamarri Road,
Mahaboobnagar (A.P.), Rep. by its Additional Managing Director
Mr. Upendra Kumar Agarwal, Hindu, aged about 40 years, R/o Pillalamarri.

…Petitioner

and

Government of Andhra Pradesh, rep. by its Secretary,
Revenue Department, Secretariat, Hyderabad and another.

…Respondents

W.P.No.4474 of 1995:
Quality Spinning Mills Ltd., Bhainsa,
Rep. by its Partner Digamber Rao Mashettiwar,
S/o Ramanna, aged 58 years, R/o Bhainsa, Adilabad District.

…Petitioner

and

The State of Andhra Pradesh, rep. by its Secretary,
Revenue Department, Secretariat, Hyderabad and two others.

…Respondents

W.P.No.4670 of 1995:
M/s.Sanghi Polyesters Ltd., having its Registered Office at
Sanghinagar, Hayatnagar Mandal, Rangareddy District, through its
Managing Director Anand Prakash Sanghi.

…Petitioner

and

State of Andhra Pradesh, rep. by its Secretary,
Revenue Department, Secretariat, Hyderabad and another.

…Respondents

W.P.No.5659 of 1995:
M/s.Premier Tubes Ltd., Patancheru, Medak District,
Rep. by its General Manager Sri A.Nageswara Rao

…Petitioner

and

The State of Andhra Pradesh, rep. by its Secretary,
Revenue Department, Secretariat, Hyderabad and another.

…Respondents

W.P.No.5953 of 1995:
C.Rambhupal Reddy, S/o Peddaramireddy, Aged 64 years,
R/o Banjara Hills, Hyderabad.

…Petitioner

and

The Government of Andhra Pradesh, rep. by its Secretary,
Revenue Department, Secretariat, Hyderabad and two others.

…Respondents

W.P.No.5956 of 1995:
M/s.Deccan Syntex Limited, 3-5-874/4, Ground Floor,
Hyderguda, Hyderabad-500 029, rep. by its Managing Director Shri Sanjay Jalan.

…Petitioner

and

Government of Andhra Pradesh, rep. by its Principal Secretary
to Government, Revenue Department, Secretariat, Hyderabad, and two others.

…Respondents

W.P.No.6159 of 1995:
Andhra Pradesh Markfed Ltd., Hyderabad, Rep. by its General Manager

…Petitioner

and

State of Andhra Pradesh, rep. by its Secretary to Government,
Revenue Department, Secretariat Buildings, Hyderabad, and another

…Respondents

W.P.No.6651 of 1995:
M/s.Swan Vaccum System Ltd., Hyderabad,
Rep. by its Managing Director Sri B.Sadasiva Reddy

…Petitioner

and

Government of Andhra Pradesh, rep. by its Secretary,
Revenue Department, Secretariat, Hyderabad and another

…Respondents

W.P.No.6684 of 1995:
Family Planning Association of India, Hyderabad Branch,
6-3-883, Begumpet, Hyderabad, rep. by its Honarary Secretary Sri A.P.Jaiswal.

…Petitioner

and

Government of Andhra Pradesh, Department of Revenue,
Secretariat, Hyderabad, rep. by its Secretary and another

…Respondents

<u>W.P.No.6700 of 1995</u>:
M/s.Trans Valves (India) Limited, 15-B, Sri Venkateswara Coop. Industrial Estate, IDA, Jeedimetla, Hyderabad – 500 855. Rep. by its General Manager, Shri B.Manohar.

…Petitioner

and

Government of Andhra Pradesh, rep. by the Principal Secretary to Government, Revenue Department, Secretariat, Hyderabad and three others.

…Respondents

<u>W.P.No.6710 of 1995</u>:
M/s.HMT Limited (Machine Tool Division), Balanagar, Hyderabad, rep. by its Jt. General Manager (PI), Mr. K.P.Sharma

…Petitioner

and

The State of Andhra Pradesh, rep. by its Secretary, Revenue Department, Hyderabad and two others

…Respondents

<u>W.P.No.7008 of 1995</u>:
M/s.Automative Manufacturers Ltd., 8571, R.P.Road, Secunderabad, Rep. by its General Manager T.R.Ganesh Aiyer, S/o T.K.R.Aiyer, Aged 34 years, Secunderabad.

…Petitioner

and

The Government of Andhra Pradesh, rep. by its Secretary, Revenue, Secretariat Buildings, Hyderabad and another

…Respondents

<u>W.P.No.7261 of 1995</u>:
M/s.Hindustan Cables Ltd., rep. by its Chief General Manager, Mallapur, Ranga Reddy District.

…Petitioner

and

Revenue Divisional Officer, Mallapur Ranga Reddy District, and two others.

…Respondents

<u>W.P.No.7289 of 1995</u>:
Sonali Castings Pvt. Ltd., Plot No.88/C, IDA Jeedimetla, R.R.District, Rep. by its Director Shri B.Sudhakar Reddy, S/o Late Bhim Reddy, 45 years, R/o 3-4-474, Narayanaguda, Hyderabad

…Petitioner

and

The State of Andhra Pradesh, rep. by its Secretary, Revenue Department, Secretariat, Hyderabad and another

…Respondents

<u>W.P.No.7319 of 1995</u>:
Uttam Biscuit Company Pvt. Ltd., Plot No.41, 47 and 48,
Phase IV, IDA Jeedimetla, rep. by its Managing Director
Shri R.B.Rao, Son of R.Pitchaiah, Hindu, aged about 69 years,
R/o 502, Sreenivasa Towers, Begumpet, Hyderabad 500 016.

…Petitioner

and

The State of Andhra Pradesh, rep. by its Secretary,
Revenue Department, Secretariat, Hyderabad and another

…Respondents

<u>W.P.No.7367 of 1995</u>:
M/s.Lotus Chocolate Company Limited, 302, Srinivasa Complex,
7-1-27, Ameerpet, Hyderabad, India, rep. by its Secretary Sri R.Shiva Kumar.

…Petitioner

and

The Government of Andhra Pradesh, rep. by its Revenue Secretary,
A.P. Secretariat, Hyderabad and three others

…Respondents

<u>W.P.No.7399 of 1995</u>:
Bharat Heavy Electricals Ltd., (BHEL), Ramachandrapuram,
Medak District, rep. by its General Manager (SM), Hyderabad

…Petitioner

and

The State of Andhra Pradesh, rep. by its Secretary,
Revenue Department, Secretariat, Hyderabad and two others

…Respondents

<u>W.P.No.7425 of 1995</u>:
M/s.Malhotra Shaving Products Ltd., Plot No.30,
IDA, Balanagar, Hyderabad rep. by its Factory Manager Kumar Issac

…Petitioner

and

The State of Andhra Pradesh, rep. by its Secretary,
Revenue Department, Secretariat, Hyderabad and another

…Respondents

<u>W.P.No.7426 of 1995</u>:
Bharat Heavy Electricals Ltd., (BHEL), Ramachandrapuram, Medak District,
rep. by its General Manager (S.M.), Hyderabad Sri B.L.Narayana

…Petitioner

and

The State of Andhra Pradesh, rep. by its Secretary,
Revenue Department, Secretariat, Hyderabad and two others

…Respondents

W.P.No.7492 of 1995:
SIFCO Division Consolidated Coffee Ltd., Fathenagar, Hyderabad

…Petitioner

and

Government of Andhra Pradesh, rep. by its Secretary,
Revenue Department, Secretariat, Hyderabad and another

…Respondents

W.P.No.8364 of 1995:
M/s. Bakelite Hylam Limited, Sanathnagar, Hyderabad, rep. by its General Manager

…Petitioner

and

The Government of Andhra Pradesh, rep. by its Revenue Secretary,
Secretariat, Secretariat Building, Hyderabad and another

…Respondents

W.P.No.8783 of 1995:
M/s.Kumar's Metallurgical Corporation Limited., Vattimarthi Village,
Chityal Mandal, Nalgoda Distrtict, Rep. by its Company Sr. Manager (Personnel),
Mr N.Venkateswarlu, S/o late N.Nageswara Rao, Aged about 47 years.

…Petitioner

and

The State of Andhra Pradesh, rep. by its Secretary,
Revenue Department, Secretariat, Hyderabad and two others

…Respondents

W.P.No.9783 of 1995:
Ravela Timbers, A-13, Road No.9, I.D.A. Nacharam, Hyderabad – 500 076,
rep. by its Managing Partner Sri R.Srinivasa Rao, S/o Sri R.Seshagiri Rao,
aged about 46 years, R/o 1-2-97, Kakatiya Nagar, Habsiguda, Hyderabad – 500 007.

…Petitioner

and

The State of Andhra Pradesh, rep. by its Secretary,
Revenue Department, Secretariat, Hyderabad and another

…Respondents

W.P.No.9785 of 1995:
Raavela Agro Private Limited, Srirampur Road, Peddapalli,
Karimnagar District, rep. by its Chairman & Managing Director
Sri R.J.Mohan Rao, S/o Sri R.Seshagiri Rao, aged about 58 years,
R/o 1-2-36/3, Kakatiya Nagar, Habsiguda, Hyderabad – 500 007.

…Petitioner

and

The State of Andhra Pradesh, rep. by its Secretary,
Revenue Department, Secretariat, Hyderabad and another

…Respondents

W.P.No.9855 of 1995:
M/s.Century Fibre Plates Pvt., Ltd., Secunderabad,
Rep. by its Managing Director Sri B.D.Malani, S/o Gopi Kishen Malani,
Hindu, Aged about 61 years, R/o Hyderabad.

…Petitioner

and

Government of Andhra Pradesh, rep. by its Secretary,
Revenue Department, Secretariat, Hyderabad and another

…Respondents

W.P.No.9858 of 1995:
M/s.Virchow Chemicals (P) Ltd., rep. by its Authority Signatory
Sri M.Narayana Reddy, Jeedimetla, Hyderabad.

…Petitioner

and

Government of Andhra Pradesh, rep. by its Secretary,
Revenue Department, Secretariat, Hyderabad and another

…Respondents

W.P.No.10024 of 1995:
Kalyana Laxmaiah, S/o Appaiah, Aged 60 years,
R/o Laxmipuram Gubbakurthy Post, Konijerla Mandal,
Khammam District and another

…Petitioners

and

Government of Andhra Pradesh, rep. by its Secretary,
Revenue Department, Secretariat, Hyderabad and two others

…Respondents

W.P.No.10125 of 1995:
M/s.Hyderabad Vanaspathi Ltd., Factory & Regd. Office Moula Ali,
Hyderabad, rep. by its Factory Manager Mr. S.K.Moteka

…Petitioner

and

The State of Andhra Pradesh, rep. by its Secretary,
Revenue Department, Secretariat, Hyderabad and two others

…Respondents

W.P.No.11808 of 1995:
M/s.Visaka Industries Ltd., Factory at Velimala Village, Ramachandrapuram Mandal,
Medak District, rep. by its Vice President (Works) M.P.V.Rao

…Petitioner

and

The State of Andhra Pradesh, rep. by its Secretary,
Revenue, Secretariat, Hyderabad and two others

…Respondents

W.P.No.12328 of 1995:
M/s.Arrow Metalspin Limited, Chandapur Village, Hathnoora Mandal, Medak District, rep. by its General Manager Mr. David Mathew, S/o Sri R.K.Mathew, Aged 56 years, resident of Hyderabad.

…Petitioner

and

The State of Andhra Pradesh, rep. by its Revenue Secretary, Revenue Department, Secretariat Buildings, Hyderabad and two others

…Respondents

W.P.No.13989 of 1995:
M/s.Nava Bharat Ferro Alloys Ltd., Paloncha, Khammam District, Represented by its Company Secretary-cum-General Manager (Corporate Affairs) of the Company T.Ranga Raju, S/o Subba Rao, Aged 62 years, R/o Begumpet, Hyderabad.

…Petitioner

and

The Government of Andhra Pradesh, rep. by its Secretary, Revenue Department, Secretariat Buildings, Hyderabad and three others

…Respondents

W.P.No.15667 of 1995:
M/s.Bakelite Hylam Limited, Sanathnagar, Hyderabad, rep. by its General Manager (S.N.Malhotra)

…Petitioner

and

The Government of Andhra Pradesh, rep. by its Revenue Secretary, Secretariat, Secretariat Building, Hyderabad and another

…Respondents

W.P.No.21454 of 1995:
M/s.SIFCO Division of Consolidated Coffee Ltd., Hyderabad, rep. by its General Manager

…Petitioner

and

Government of Andhra Pradesh, rep. by its Secretary, Revenue Department, Hyderabad and another

…Respondents

W.P.No.21941 of 1995:
Mulkanoor Cooperative Rural Bank and Marketing Society Limited (formerly Mulkanoor Cooperative Rural Bank Limited), Mulkanoor, Karimnagar District represented by its General Manager Sri M.Lakshma Reddy

…Petitioner

and

Government of Andhra Pradesh, represented by its Secretary, Revenue Department, Secretariat, Hyderabad and two others

…Respondents

<u>W.P.No.23129 of 1995</u>:
M/s.Associated Cement Companies Ltd., Mancherial Cement Works,
Mancherial, Adilabad District, rep. by its Accounts Officer Sri Y.Venkateshwar Rao

…Petitioner

and

Government of Andhra Pradesh, rep. by its Secretary,
Revenue Department, Secretariat, Hyderabad and three others.

…Respondents

<u>W.P.No.23130 of 1995</u>:
M/s.The Associated Cement Companies Ltd., Mancherial Cement Works,
Mancherial, Adilabad District, rep. by its Accounts Officer

…Petitioner

and

Government of Andhra Pradesh, rep. by its Secretary,
Revenue Department, Secretariat, Hyderabad and another.

…Respondents

<u>W.P.No.23458 of 1995</u>:
Sirpur Paper Mills Ltd, rep. by its Deputy Manager (Estates)

…Petitioner

and

The Secretary, Revenue Department, Government of Andhra Pradesh,
Hyderabad, and three others.

…Respondents

<u>W.P.No.3075 of 1996</u>:
M/s.Imperial Granites Pvt. Ltd., represented by its (Manager having its)
G.A.P. of M.D. Sri R.Gunasekharam, S/o G.Raju,
Aged about 43 years, R/o Siddardhanagar, Kazipet, Warangal District.

…Petitioner

and

The State of Andhra Pradesh, represented by its Secretary to Government (Prl.),
Revenue Department, Secretariat, Hyderabad and two others

…Respondents

<u>W.P.No.29387 of 1998</u>:
M/s.Shiva Shankar Granites, rep. by its Power of Attorney Holder A.Mohan Reddy,
S/o Late Narayan Reddy, aged 38 years, R/o Burhanpuram, Khammam.

…Petitioner

and

The Government of Andhra Pradesh, rep. by Secretary,
Revenue Department, Secretariat, Hyderabad, and two others.

…Respondents

<u>COMMON ORDER</u>: (Per Hon'ble the Chief Justice Sri Aparesh Kumar Singh)

Sri G.Vidyasagar, learned Senior Counsel for the petitioners in W.P.No.19635 of 1994 and 21941 of 1995.

Sri C.Niranjan Rao, learned counsel for the petitioners in W.P.Nos.18444, 22946, 22965, 22966, 22968, 22971, 22973, 22974, 22975 and 22976 of 1994, 720, 1802, 1810, 1814, 2247, 3613, 3614, 5659, 6710, 8783, 10125 and 11808 of 1995.

Sri Tagore Bala, learned counsel for the petitioner in W.P.No.11871 of 1994.

Ms. K.Mamata Choudary, learned counsel for the petitioners in W.P.Nos.4306 and 6700 of 1995.

Sri A.Sudarshan Reddy, learned Advocate General appears for the State.

2. In this bunch of writ petitions, the petitioners have assailed the validity of Section 8 of the Andhra Pradesh Non-agricultural Land Assessment Act, 1963 (hereinafter referred to as 'NALA Act'), the validity of the Andhra Pradesh Non-agricultural Land Assessment (Amendment) Act, No.8 of 1994, with effect from 01.07.1993 and the validity of demand notices issued under Section 4 of the NALA Act as well as the orders of distraint issued under the NALA Act. In W.P.No.10024 of 1995, the petitioner has sought a declaration that the provisions of NALA Act are inapplicable to the lands covered under mining lease granted under the Central Act by striking down the definition of Section 2(j)(i) of the NALA Act.

3. The aforesaid writ petitions have come up before us for fresh consideration pursuant to the order of remand dated 22.11.2005 passed by the Hon'ble Supreme Court in Civil Appeal Nos.2885-3035 of 1998 **(State of Andhra Pradesh vs. M/s.Mahabaleswarappa and Sons)**. For the facility of reference, facts from W.P.No.22965 of 1994 are being referred to.

I. FACTS:

4. The petitioner, M/s.Pennar Steels Limited is a company incorporated under the Companies Act, 1956 having its factory at Isnapur Village, Patancheru Mandal, Medak District. The petitioner is the owner of land measuring 1,08,762 square meters. The petitioner has been paying non-agricultural land assessment tax for the land owned by it under the NALA Act. A Circular was sent by the Mandal Revenue Officer apprising the petitioner that the Commissioner, Land Revenue has issued circular instructions No.T3/434/94, dated 17.03.1994, by which the Mandal Revenue Officer was informed that NALA Act has been amended in the year 1974 and was further amended by the Amendment Act No.8 of 1994, which has come into force from 01.07.1993. The Mandal Revenue Officer was further apprised that rates of levy of non-agricultural land assessment provided in the Schedule of Section 3 of the NALA Act have been increased. The notices of demand dated 06.10.1993 and 01.07.1994 under Section 4 of the NALA Act in Form II were issued to the petitioner, by which the petitioner was asked to pay a sum of Rs.13,279/- and Rs.13,279/- respectively towards non-agricultural land assessment.

5. The petitioner, thereupon, filed the writ petition, namely W.P.No.22965 of 1994 *inter alia* on the ground that Section 8 of the NALA Act and amendment made to the Schedule vide Act No.8 of 1994, with effect from 01.07.1993 are *ultra vires* the Constitution. The rate of tax is also challenged on the ground that the same is arbitrary, collusive and is confiscatory in nature. It is the case of the petitioner that only a portion of land held by them is used for mining and rest of the land is vacant land. However, in view of the decision of the Full Bench of erstwhile High Court of Andhra Pradesh in **S.V.Cement Limited vs. Revenue Divisional Officer, Nandyal**[1], the entire extent of land is being taxed. The validity of the notices of demand was also challenged on the ground that the State Legislature has no power either under List II or List III of the Constitution of India to impose any tax, which is a tax on wealth and not on land.

II. ANTECEDENT FACTS LEADING TO REFERENCE:

6. S.V.Cement Limited is a company which is engaged in the business of manufacture of cement. The aforesaid company was assigned land by an order dated 08.06.1985 admeasuring Ac.30.02 cents in survey No.440/A3 situated at Kanakadripalli, Hamlet of Itikala Village, Kolimigundla Mandal, Kurnool District. Out of the aforesaid land, the said company utilised only 2431.99 square meters of

[1] 1993 (2) ALT 32 (FB)

land for industrial/commercial purpose. However, the entire land of Ac.30.02 cents was taken into account for determining non-agricultural land assessment.

7. A Division Bench of the erstwhile High Court of Andhra Pradesh in **the Associated Cement Companies Limited vs. Government of Andhra Pradesh**[2], held that the extent on which the factory and its buildings are constructed alone can be subject matter of assessment under the provisions of the NALA Act and the assessment cannot be carried out in respect of the land which is not used for any other purpose. However, another Division Bench of this Court doubted the correctness of the view taken by the Division Bench of this Court in **the Associated Cement Companies Limited** (supra) *inter alia* on the ground that the same is contradictory to the provisions of the NALA Act. Therefore, the matter was referred for consideration to Full Bench in **S.V.Cement Limited** (supra).

8. The following issue was referred for consideration of Full Bench:

> "Whether non-agricultural land assessment is leviable only on the non-agricultural land which is actually used for the purpose mentioned in the Act or not?"

9. A Full Bench of this Court in **S.V.Cement Limited** (supra) answered the reference in the following terms:

> (1) The word "used" in Section 3 of the NALA Act has to be given a wider purport.
> (2) The word "used" does not only mean actually used but also includes any land meant to be used or set apart for being used or even readily available for use.

[2] AIR 1983 AP 234 : 1982 SCC OnLine AP 82

(3) The words "used for industrial purpose" were to be interpreted strictly, meaning thereby "actually used for industrial purpose", it then cannot be said that manufacturing of any article is carried on with the aid of power in each of the building or in the area left for common use.

(4) Such strict and restrictive interpretation of the word "used" will lead to absurd results, for example a case, where the area which is occupied by the buildings and machinery can also be said to be not used for industrial purpose if the machinery is not actually working, which ultimately frustrated the object of the Act.

(5) In a case like the present one, it is not possible to say that a particular area is for industrial purpose and the other area is a waste land or land which is not being used for any other purpose.

(6) That the definitions also do not say that the non-agricultural land should be actually utilised for an industrial or commercial activity, but it is enough if the land is kept for use for a purpose connected with industrial or commercial undertaking.

(7) Therefore, when it is claimed to have been used for commercial/ industrial purposes, it also includes any purpose connected with the same. As per the definition, the said Non-Agricultural Land need not be actually utilized for the industrial/commercial purpose, but it is enough if the land is kept for use for a purpose connected with industrial or commercial undertaking. Hence the judgment in **Associated Cement Companies Limited** (supra) stands overruled.

10. The Judgment of the Division Bench of this Court in **Associated Cement Companies Limited** (supra) was overruled and the reference was answered accordingly.

11. In writ petition No.22965 of 1994 and batch, the petitioners therein as stated supra, had assailed the validity of Section 8 of the NALA Act, Amendment to the Schedule vide Act No.8 of 1994, with effect from 01.07.1993 and the demand notice. The Division Bench of the erstwhile High Court of Andhra Pradesh, vide its order dated 26.07.1995, *inter alia* came to the conclusion that levy of tax under the NALA Act on the ground that the land capable of being used or to be used or set apart for being used or even readily available for use would have the effect of

rendering the charging provision authorizing levy of tax itself arbitrary and unconstitutional being violative of Article 14 of the Constitution of India. The Division Bench, therefore, held that the judgment of the Full Bench of erstwhile High Court of Andhra Pradesh in **S.V.Cement Limited** (supra) requires re-consideration in view of the observations of the Hon'ble Supreme Court in **India Cement Limited vs. State of Tamil Nadu**[3] and **State of Orissa vs. Mahanadi Coalfields Limited**[4].

12. The Full Bench, thereupon *inter alia* held that even number of members of the Bench cannot re-consider the decision of another Bench. The Full Bench, therefore, referred the matter to Larger Bench of this Court consisting of five-Judges.

13. A five-Judge Bench of this Court, vide its order dated 13.08.1996 passed in **Mahabaleswarappa and Sons, Bellary vs. Commissioner of Land Revenue, Government of Andhra Pradesh, Hyderabad**[5] *inter alia* held as under:

> 1) The decision of the Full Bench in ***S.V. Cement's case*** (supra) does not call for any interference and it is affirmed;
> 2) Sections 3, 8 and the Schedule to the NALA Act are not ultra vires Articles 14 and 19 of the Constitution;
> 3) Section 2(d), in so far as the lands covered by 'mining operations' are concerned, has to be read down by empowering the State Government to levy and collect assessment only in accordance with the terms of the lease as contemplated under Rule 27(d) of the Mineral Concession Rules, 1960;
> 4) 'Waste lands', which are unfit for use are not liable for assessment under the NALA Act and this aspect has to be decided by the Revenue Inspector under Section 4 of the NALA Act;

[3] AIR 1990 SC 85
[4] 1995 Supp (2) SCC 686
[5] AIR 1997 AP 85 : 1996 SCC OnLine AP 551

5) There is an obligation on the Revenue Inspector to issue notice in Form No.1 before making assessment, failing which it would be in violation of Rules 3 and 4 of the Andhra Pradesh Non-Agricultural Lands Assessment Rules, 1960 and Section 4 of the NALA Act.
6) The demand notices impugned in Writ Petitions are hereby quashed since not contemplated by the mining lease. It is open to the respondents to act in accordance with Rule 27 of the Mineral Concession Rules.
7) In some cases, it is contended, no notices were issued in Form No.I by the Revenue Inspector. We have held that issuance of notice by the Revenue Inspector is mandatory according to Rules 3 and 4 read with Section 4 of the Act. But, in the present cases, most of the matters are carried in appeal to the Tahsildar and after their disposal, the present writ petitions were filed. The questions that were raised by the petitioners were decided by the said authorities. In these writ petitions, we have decided all the points raised by the petitioners. It is, therefore, not necessary to direct the authorities to issue notices again in the present cases. However, in cases where the land is 'waste land', it is open to the petitioners to bring it to the notice of the Revenue Inspector by filing a petition and setting out details thereof with supporting material thereto. On filing of such a petition, the concerned Revenue Inspector shall dispose of the same after conducting enquiry and pass appropriate orders. If the petitioners have paid assessment even in respect of 'waste land', it is open to the authorities to adjust the same for subsequent assessment years in case it is found that such land is 'waste land'.

The writ petitions are accordingly disposed of.

14. The Federation of Andhra Pradesh Chambers of Commerce and Industry, being aggrieved by the decision in **Mahabaleswarappa and Sons** (supra) filed Special Leave Petitions, which were numbered as Civil Appeal Nos.1039 of 2000 and batch. Three-Judge Bench of the Hon’ble Supreme Court in **Federation of Andhra Pradesh Chambers of Commerce and Industry vs. State of Andhra Pradesh**[6] held as follows:

i) A taxing statute has to be strictly construed.
ii) Only the land which is actually in use for an industrial purpose as defined in the Andhra Pradesh Non Agricultural Land Assessment Act, 1963 can be assessed to non-agricultural assessment at the rate specified for land used for industrial purposes.
iii) The wider meaning given to the word 'used' in **Mahabaleswarappa and Sons, Bellary vs. Commissioner of Land Revenue, Government of**

[6] (2000) 6 SCC 550

Andhra Pradesh [1996 SCC OnLine AP 551: AIR 1997 AP 85] is untenable.

iv) The Act is a taxing statute, no court is justified in imputing to the legislature an intention that it has not clearly expressed in the language it has employed.

Paragraph 10 of the aforesaid order is extracted below, for the facility of reference:

> “10. In the result, the appeals are allowed and the judgment and order under challenge is set aside insofar as it deals with the interpretation of the word "used" in Section 3 of the said Act."

Thus, the order passed by the five-Judge Bench of the erstwhile High Court of Andhra Pradesh insofar it related to the word "used" in Section 3 of the NALA Act is set aside.

15. Thus, it is evident that the land which is actually in use for industrial purposes as defined under the NALA Act can alone be assessed to non-agricultural assessment at the rate specified for land used for industrial purposes.

16. It appears that the erstwhile State of Andhra Pradesh also challenged the order passed by the five-Judge Bench of the erstwhile High Court of Andhra Pradesh in **Mahabaleswarappa and Sons** (supra) in Civil Appeal Nos.2885- 3035 of 1998. The aforesaid civil appeals were disposed by a two-Judge Bench of the Hon’ble Supreme Court, vide order dated 22.11.2005, which is extracted below for the facility of reference:

> "Leave granted in SLP (C) No.11087/1998.
> Heard learned counsel for the parties.

> All these appeals need be remitted to the High Court to be considered afresh in the light of the Constitution Bench decision of this Court in **State of West Bengal vs. Kesoram Industries Limited** [(2004) 10 SCC 201, more particularly the principles set out in paragraph 129 of the judgment. While hearing the matters afresh the principle indicated in the judgment of this Court in **Federation of Andhra Pradesh Chamber of Commerce and Industries and others vs. State of Andhra Pradesh and others** [(2000) 6 SCC 550] shall also be taken note of.
>
> The appeals are accordingly disposed of. No costs."

In the aforesaid background, the matter arises for our consideration.

III. SUBMISSIONS:

17. Learned Senior Counsel Sri G.Vidya Sagar appearing for the petitioners in writ petition Nos.19635 of 1994 and 21941 of 1995 submits that the issue which arises for consideration in this batch of cases is that whether the total non-agricultural land under the NALA Act is liable to be taxed under the Act or only the commercial and the industrial area actually used is to be levied tax? He submits that this issue decided by this Court in the earlier round of litigation in the case of **Mahabaleswarappa and Sons** (supra) was not approved by the Hon'ble Supreme Court and the matter was remanded to this court.

18. Learned Senior Counsel further submits that a nine-Judge Bench of the Hon'ble Supreme Court in **Mineral Area Development Authority vs. Steel Authority of India**[7] (for short '**MADA**') held that the State has the power to levy tax under Entry 49. He further submits that Entry 49 deals with the land whereas Entry 50 deals with the mineral rights. Learned Senior Counsel seeks to confine the

[7] (2024) 10 SCC 1

challenge only to those matters other than mining lease where also the same ratio would apply.

19. Learned Senior Counsel has referred to the decision in **State of West Bengal vs. Kesoram Industries Limited**[8] in which the issue was whether Royalty is tax or not. Reference is also made to a judgment of this Court in **Pokarna Limited, Secunderabad vs. Government of Andhra Pradesh**[9].

20. It is submitted that in the judgment of the Hon'ble Supreme Court in **Federation of A.P. Chambers of Commerce & Industry** (supra) this issue was decided holding that it is confined only to the land which is used for industrial or commercial purpose. Learned Senior Counsel submits that amendment took place in 1994, by which the entire land used for commercial/industrial purpose could be assessed for levy of Tax. A batch of writ petitions were filed on the issue whether State has got power under the NALA Act to levy tax and whether it is for the entire non-agricultural land in the possession of the owner or is it confined to the land used for commercial/industrial use. The learned Division Bench referred the matter to Five-Judge Bench doubting the correctness of the judgment in **the Associated Cement Companies Limited** (supra). The learned five-Judge Bench held that it is not confined to the extent of industrial/commercial avocation undertaken under the NALA Act. The matter was carried to the Hon'ble Supreme Court. The Apex Court

[8] (2004) 10 SCC 201
[9] 1996 (4) ALT 334

remanded all these appeals to the High Court to be considered afresh in the light of the Constitutional Bench decision of this Court in **Kesoram Industries Limited** (supra), more particularly the principle set out in para 129 thereof and in **Federation of A.P. Chambers of Commerce and Industry** (supra).

21. Learned Senior Counsel further submits that this judgment in **Federation of A.P. Chambers of Commerce and Industry** (supra) has been followed and not been overruled till date. Therefore, the Hon’ble Supreme Court has referred to this judgment while remanding the matter.

22. Learned Senior Counsel submits that the second issue had been answered at para 129 of the judgment in **Kesoram Industries Limited** (supra). However, in the case of **MADA** (supra) by the nine-Judge Bench, Entries 49 and 50 of List II of the Seventh Schedule of the Constitution have been interpreted to hold that it is within the domain of the State Legislature to levy tax on land and mineral rights. The NALA Act falls under Entry 49 of List II. The Mines and Minerals (Development and Regulation) Act, 1957 (hereinafter referred to as ‘the MMDR Act’) comes under Entry 54 of List I. Learned Senior Counsel submits that the judgment of the Hon’ble Supreme Court in the case of **MADA** (supra) has clarified that Entry 49 does not have any restriction. So far as Entry 50 of List II is concerned, limitations may be placed by law as enacted by Parliament. The Apex Court has held that

MMDR Act does not place any restriction therefrom. Therefore, the legislative field is open for the State, both on Entry 49 and 50. The NALA Act falls under Entry 49.

23. Learned Senior Counsel Sri G.Vidya Sagar submits that these writ petitions have been filed challenging the NALA Act 1963 and amendment made thereto. That Act was repealed with effect from 02.01.2006. The subject matter of the NALA cases before this Court is prior to 02.01.2006. A procedure was prescribed under Sections 3 and 4 how to assess the tax. No procedure has been followed under Section 4 to identify which is the land used for commercial purpose or which is used for industrial purpose. During the pendency of the writ petitions, interim stay was granted, however, some of the recoveries have been made.

24. Sri G.Vidya Sagar, learned Senior Counsel, further submitted that Section 3 and Schedule specifies the rate to be levied for the industrial and commercial purpose and other purposes. Therefore, not all the non-agricultural lands can be assessed for tax.

25. On the issue of the liability, learned Senior Counsel Sri G.Vidya Sagar, submitted that in one of the writ petitions there was a restraint order for about Rs.5,24,000/-. As on date, since the judgment of the earlier Full Bench has been remanded back, the taxing can be done only in respect of the lands which are put to use for commercial or industrial only. That exercise has not been undertaken.

26. Learned counsel Ms. Mamata Choudary also made her submissions on the word ‘used’ or ‘meant to be used’. She states that **Federation of A.P. Chambers of Commerce and Industry** (supra) in respect of the NALA Act went in appeal against the judgment of the five-Judge Bench judgment in **Mahabaleswarappa and Sons** (supra). The Apex Court confirmed that the word ‘used’ has to be understood as ‘actually used’ in the context of Section 3 of the NALA Act. The judgment of the Larger Bench was accordingly reversed. She submits, therefore, that none of the issues are open. The Hon’ble Supreme Court in **Mineral Area Development Authority vs. Steel Authority of India**[10] **(MADA-II)** laid down that no demand can be made in respect of the transactions prior to 01.04.2005. In fact, two types of lands are involved i.e., mineral lands and the other industrial/commercial purposes. She submits that the issues whether royalty is taxed or not, whether it is an occupied field and what is the legislative competence, arise only in respect of mineral bearing lands, but in respect of other commercial and industrial uses, there is no such issue. The decision in **MADA** (supra), therefore, will only be relevant for the purposes of mineral bearing lands. The issue of legislative competence in respect of mineral bearing lands also stands answered by the nine-Judge Bench of the Hon’ble Supreme Court.

27. Learned counsel Ms. Mamata Choudary also submits that in W.P.No.4306 of 1995 in which she is appearing, the levy under Section 3 of the NALA Act is also on

[10] (2024) 10 SCC 257

lands which are mineral bearing. She submits that except few cases in most of the matters this issue does not arise. She further submits that the measure of tax can be based on the value of the minerals. She submits that Section 3 of the NALA Act has been repealed in 2006 by another NALA Act currently in force. It does not have annual assessment based on use, instead on conversion base. The purpose of this NALA Act was to compensate for land revenue which it would have otherwise earned if that land had been put to agricultural use. Therefore, putting it to non-agricultural use was the basis for levying tax. Waste lands could never have been put to agricultural use. Therefore, they would be outside the ambit of NALA Act. It is further submitted that no notices were issued before levying the tax. The manner in which the waste lands have to be assessed is a question of fact. On the issue of waste land, there is no separate appeal by the State. Therefore, the Larger Bench judgment and also the consequential orders given on assessments and re-assessments would continue to hold the field.

28. Learned counsel Ms. Mamata Choudary, submits that in fact in some cases, interim stay was granted subject to condition of certain payments. Therefore, if the assessment is to be reduced from total land available to actually used, it would result in refunds.

29. Learned counsel Ms. Mamata Choudary, submits that the judgment in **MADA** (supra) is only in the context of mining lands. Mining lands were kept out

of the scope of NALA. Therefore, if it was to be brought within the scope of NALA, then resulting demands would need to be dealt with under **MADA-II** (supra).

30. Sri Tagore Bala, learned counsel for the petitioner in W.P.No.11871 of 1994 (National Airports Authority of India), submits that in this case, the issue pertains to land owned by the Central Government. Therefore the land which is owned by or vested with the National Airports Authority of India is the land of the Central Government. Therefore, the contention is that under the NALA Act, there is a specific provision which provides that lands owned by the State Government or the Central Government are exempted from the purview of the NALA Act. He submits that the case of the petitioner herein is completely different from the other matters. The relevant provision is Section 12 of NALA Act. In 1994, it was the Airports Authority of India Act. As per the Act, it is very clearly mentioned in Section 34 of the Act.

31. Learned Advocate General submits that the expression 'used' or 'unused' is to be left to the discretion of the State. After the **Federation of A.P. Chambers of Commerce and Industry** (supra), the judgment in **MADA** (supra) has come. The said decision made it clear that Entry 49 is the State's jurisdiction. Learned Advocate General further submits that the judgment in **Federation of A.P. Chambers of Commerce and Industry** (supra) was not referred to or overruled by nine-Judge Bench in **MADA** (supra). Therefore, in terms of this judgment, the

power is available to the State. It is further submitted that on the issue of legislative competence under Entry 50, there is no restriction on the State.

32. Learned Advocate General submits that much water has flown from the time when the matter was remanded here. The judgment of **MADA** (supra) has come after the remand.

33. Learned Advocate General further submits that none of the petitioners have pleaded that they have not passed on the tax which is imposed by the State to their customers. Any refund now would be a case of unjust enrichment. They have not pleaded that the burden has not been passed on to their customers. Therefore, these writ petitions are liable to be dismissed on that ground alone.

34. Learned Advocate General has then referred to Section 2(g) of the NALA Act, *which defines* "non-agricultural land" to mean, land other than the land used exclusively for the purpose of agriculture, but does not include the land used exclusively for — (i) cattle sheds; (ii) hay-ricks". He submits that, therefore, all other lands which are not being used for agriculture are non-agricultural lands and liable to be taxed. The 'waste land' is not defined anywhere.

35. Learned Advocate General submits that the judgment in **MADA** (supra) would go to show that absolute power rests with the State in respect of Entry 49 List II of the Seventh Schedule of the Constitution.

36. Learned Advocate General has submitted that anybody who uses land and is either the owner of the land or has taken lease for the purpose of mining need to pay tax under the NALA Act if it is used for non-agriculture purpose. That this land was given to them either as a lease or purchased by them for the purpose of using it for non-agriculture purpose. By not putting it to use for agriculture it will be deemed to be used for non-agricultural purpose and falling within the ambit of the NALA Act for the purpose of taxation. He submitted that the Schedule of the NALA Act contains 4 columns. The 2nd column refers to used for industrial purpose per fasli year, 3rd column for commercial purpose per fasli year and 4th column for any other non-agricultural purpose including residential purpose per fasli year. Therefore, lands which are not being put to agriculture are covered under the NALA Act.

37. Learned Advocate General further submitted that in the event there is a mistake done by the Tahsildar, Revenue Divisional Officer or the Assessing Officer, any person aggrieved can make a representation. The writ petitions therefore need to be dismissed.

38. In reply, learned Senior Counsel Sri G.Vidya Sagar, submitted that it is a levy on the land, which is used either for commercial, industrial or any non-agricultural purpose and not passing on to a dealer or a consumer.

IV. ANALYSIS:

39. Insofar as the contention of the petitioner in W.P.No.11871 of 1994 (National Airports Authority of India) that since the land which is owned or vested with the NAAI is the land of the Central Government, it is exempted from the purview of the NALA Act is concerned, it is pertinent to refer to the provisions of the National Airports Authority Act, 1985 (for short, 'Act of 1985'), under which the Authority was constituted. Sections 2(c), Sections 3(1) and (2) of the said Act are extracted as under:

> "2(c) 'Authority' means the National Airports Authority constituted under Section 3.
> 3(1) With effect from the commencement of this Act, the Central Government shall constitute an authority to be called the National Airports Authority.
> 3(2) The Authority shall be a body corporate by the name aforesaid having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property both movable and immovable, and to contract and shall by the said name sue and be sued."

The above provisions do not leave any room of doubt that National Airport Authority is constituted under the Act of 1985 as body corporate. It cannot be said to be the State Government or the Central Government which is exempted from the purview of the NALA Act. Therefore, this contention is fit to be rejected.

40. The Andhra Pradesh Non-agricultural Land Assessment Act, 1963 provides for levy and assessment on lands used for non-agricultural purposes in the State of Andhra Pradesh. The aforesaid Act came into force with effect from 01.07.1963. Section 2(b) defines 'commercial purpose'. Section 2(d) of the Act defines the

expression 'industrial purpose', whereas Section 2(g) defines 'non-agricultural land'. The aforesaid definitions, namely Sections 2(b), 2(d) and 2(g) of the Act read as under:

> “2(b) 'Commercial purpose' means purpose connected with the undertaking of any trade, commerce or business but it does not include an industrial purpose.
>
> 2(d) 'Industrial purpose' means any purpose connected with an industrial undertaking where the process of manufacturing any article is carried on with the aid of power and includes a purpose connected with an excavation, underground or otherwise where any operation for the purpose of searching for, or obtaining a mineral has been or is being carried on.
>
> 2(g) 'non-agricultural land' means a purpose connected with the undertaking of any trade, commerce or business but it does not include an industrial purpose."

41. Section 3 of the NALA Act deals with levy and collection of assessment on non-agricultural land. Section 3 is extracted below for the facility of reference:

> “3. (1) In the case of non-agricultural land in a local area with the population specified in column (1) of the Schedule, there shall be levied and collected by the Government for each Fasli Year commencing on the first day of July from the owner of such land, an assessment, at the rate specified in column (2) where the land is used for any industrial purpose, at the rate specified against it in column (3) where the land is used for any commercial purpose and at the rate specified against it in column (4) where the land is used for any other non-agricultural purpose including residential purpose:
>
> Provided that where assessment is levied and collected in respect of such land under this Act, no land revenue shall be payable in respect of that land and nothing contained in any enactment, regulation order, bye-law, rule, scheme, notification, or other instrument having the force of law, in operation immediately before the commencement of this Act relating to the assessment, levy and collection of land revenue on non-agricultural land shall apply in respect of that land, except as respect things done or omitted to be done before the commencement of this Act:
>
> Provided further that any amount payable on such land at the commencement of this Act towards the arrears of land revenue may be recovered under the provisions of the Andhra Pradesh Revenue Recovery Act, 1964.
>
> EXPLANATION: Where the land is used for any industrial or commercial purpose and also for any other non-agricultural purpose, such land shall be assessed at the rates specified in column (2) or column (3) of the Schedule as if it were used solely for any industrial or commercial purpose, as the case may be.
>
> (2) Notwithstanding anything contained in sub-section (1) where the assessment leviable on any non-agricultural land under this Act is less than the land revenue payable on such land, the land revenue alone shall be payable on that land."

42. Thus, it is evident that Section 3 of the NALA Act authorizes levy and collection of assessment on non-agricultural lands, which are used for industrial, commercial or any other non-agricultural purposes as per the rates specified in the Schedule. The assessment is on non-agricultural lands and use of such lands is taken for purposes of determining the rates of assessment to be fixed. The first proviso provides that where non-agricultural land assessment is levied, no land revenue shall be levied and collected under any other Act. However, in cases where the land revenue is more than the non-agricultural land assessment under this Act, the former will prevail. It is further clarified through Explanation that where the land is used for industrial or commercial purpose, the entire land appurtenant thereto will also be assessed as land used for industrial or commercial purpose, as the case may be.

43. Section 4 of the NALA Act enables the Revenue Inspector to determine the assessment payable by owner of non-agricultural land after making inquiry and to cause notice of demand to be served on the owner specifying the amount of such assessment. Against the demand raised under Section 4 of the Act, an appeal lies to the Tahsildar under Section 5 and a revision lies to the Revenue Divisional Officer under Section 6 of the Act. Section 8 of the Act deals with power of the State Government to alter, add or to cancel any of the items in the Schedule subject to post approval by the Legislature. Section 8 was amended by Andhra Pradesh Act

No.8 of 1994, with effect from 01.07.1993 and is extracted below for the facility of reference:

> "(1) The Government may, by notification, alter, add to or cancel any of the items of the Schedule.
>
> (2) Where a notification has been issued under sub-section (1), there shall, unless the notification is in the meantime rescinded, be introduced in the Legislative Assembly as soon as may be but following the date of the issue of the notification, a Bill on behalf of the Government, to give effect to the alteration, addition or cancellation as the case may be, of the Schedule specified in the notification and the notification shall cease to have effect when such Bill becomes Law, whether with or without modification but without prejudice to the validity of anything previously done thereunder:
>
> Provided that if the notification under sub-section (1) is issued when the Legislative Assembly is in session, such a Bill shall be introduced in the Legislative Assembly during that session:
>
> Provided further that where for any reason a Bill as aforesaid does not become law within six months from the date of its introduction in the Legislative Assembly, the notification shall cease to have effect on the expiration of the said period of six months.
>
> 3) All references made in this Act to the Schedule shall be construed as relating to the Schedule as for the time being amended in exercise of the powers conferred by this Section."

44. Section 10 of the NALA Act provides for collection of assessment from the occupier of the land in cases where the owner of the land himself is not an occupier. The State Government is also empowered under Section 13 of the Act to make rules by notification for carrying out all or any of the purposes of the NALA Act.

45. After having noticed the relevant provisions of the NALA Act, this Court is now required to decide the writ petitions in the light of the observations made in paragraph 129 of the **Kesoram Industries Limited** (supra) and in the light of the principles indicated in **Federation of Andhra Pradesh Chambers of Commerce and Industry** (supra). It is pertinent to note that correctness of the view taken by the Constitution Bench of the Hon’ble Supreme Court in **Kesoram Industries**

Limited (supra) was doubted vide order dated 30.03.2011 passed in Civil Appeal Nos.4056-4064 of 1999 **(Mineral Area Development Authority vs. M/s.Steel Authority of India)** in view of the divergence of views of the decisions of the Hon'ble Supreme Court in **India Cement Limited** (supra) and **Kesoram Industries Limited** (supra).

46. A nine-Judge Bench of the Hon'ble Supreme Court in **MADA** (supra) has overruled the judgment rendered by the Hon'ble Supreme Court in **Kesoram Industries Limited** (supra) to the extent of conclusions mentioned in paragraph 365 of its decision. Therefore, it is apposite to read paragraph 129 of **Kesoram Industries Limited** (supra) in juxtaposition with paragraph 365 of the nine-Judge Bench decision of the Hon'ble Supreme Court in **MADA** (supra):

Para 129 of **Kesoram Industries Limited (supra)**	Para 365 of **Mineral Development Authority** (supra)
(1) In the scheme of the lists in the Seventh Schedule, there exists a clear distinction between the general subjects of legislation and heads of taxation. They are separately enumerated. (2) Power of "regulation and control" is separate and distinct from the power of taxation and so are the two fields for purposes of legislation. Taxation may be capable of being comprised in the main subject of general legislative head by placing an extended construction, but that is not the rule for deciding the appropriate legislative field for taxation between List I and List II. As the fields of taxation are to be found clearly enumerated in Lists I and II, there can be no overlapping. There may be overlapping *in fact* but there would be no overlapping *in law*. The subject-matter of two taxes by reference to	**365.1.** Royalty is not a tax. Royalty is a contractual consideration paid by the mining lessee to the lessor for enjoyment of mineral rights. The liability to pay royalty arises out of the contractual conditions of the mining lease. The payments made to the Government cannot be deemed to be a tax merely because the statute provides for their recovery as arrears; **365.2.** List II Entry 50 does not constitute an exception to the position of law laid down in *M.P.V. Sundararamier* [*M.P.V. Sundararamier& Co.* v. *State of A.P.*, (1958) 9 STC 298 : 1958 SCC OnLine SC 22 : AIR 1958 SC 468 : 1958 SCR 1422] . The legislative power to tax mineral rights vests with the State Legislatures. Parliament does not have legislative competence to tax mineral rights under List I Entry 54, it being a general

the two lists is different. Simply because the methodology or mechanism adopted for assessment and quantification is similar, the two taxes cannot be said to be overlapping. This is the distinction between the *subject* of a tax and the *measure* of a tax. (3) The nature of tax levied is different from the measure of tax. While the subject of tax is clear and well defined, the amount of tax is capable of being measured in many ways for the purpose of quantification. Defining the subject of tax is a simple task; devising the measure of taxation is a far more complex exercise and therefore the legislature has to be given much more flexibility in the latter field. The mechanism and method chosen by the legislature for quantification of tax is not decisive of the nature of tax though it may constitute one relevant factor out of many for throwing light on determining the general character of the tax. (4) Entries 52, 53 and 54 in List I are not heads of taxation. They are general entries. Fields of taxation covered by Entries 49 and 50 in List II continue to remain with State Legislatures in spite of the Union having enacted laws by reference to Entries 52, 53 and 54 in List I. It is for the Union to legislate and impose limitations on the States' otherwise plenary power to levy taxes on mineral rights or taxes on lands (including mineral-bearing lands) by reference to Entries 50 and 49 in List II, and lay down the *limitations* on the States' power, if it chooses to do so, and also to define the *extent and sweep of such limitations*. (5) The entries in List I and List II must be so construed as to avoid any conflict. If there is no conflict, an occasion for deriving assistance from non obstante clause "subject to" does not arise. If there is conflict, the correct approach is to find an answer to three questions step by step as under: One — Is it still possible to effect reconciliation between two entries so as to avoid conflict and overlapping?	entry. Since the power to tax mineral rights is enumerated in List II Entry 50, Parliament cannot use its residuary powers with respect to that subject-matter; **365.3.** List II Entry 50 envisages that Parliament can impose "any limitations" on the legislative field created by that entry under a law relating to mineral development. The MMDR Act as it stands has not imposed any limitations as envisaged in List II Entry 50; **365.4.** The scope of the expression "any limitations" under List II Entry 50 is wide enough to include the imposition of restrictions, conditions, principles, as well as a prohibition; **365.5.** The State Legislatures have legislative competence under Article 246 read with List II Entry 49 to tax lands which comprise of mines and quarries. Mineral-bearing land falls within the description of "lands" under List II Entry 49; **365.6.** The yield of mineral-bearing land, in terms of the quantity of mineral produced or the royalty, can be used as a measure to tax the land under List II Entry 49. The decision in *Goodricke* [*Goodricke Group Ltd.* v. *State of W.B.*, 1995 Supp(1) SCC 707] is clarified to this extent; **365.7.** List II Entries 49 and 50 deal with distinct subject-matters and operate in different fields. Mineral value or mineral produce can be used as a measure to impose a tax on lands under List II Entry 49; **365.8.** The "limitations" imposed by Parliament in a law relating to mineral development with respect to List II Entry 50 do not operate on List II Entry 49 because there is no specific stipulation under the Constitution to that effect; and **365.9.** The decisions in *India Cement* [*India Cement Ltd.* v. *State of T.N.*, (1990) 1 SCC 12], *Orissa Cement* [*Orissa Cement Ltd.* v. *State*

Two — In which entry the impugned legislation falls by finding out the pith and substance of the legislation? and Three — Having determined the field of legislation wherein the impugned legislation falls by applying the doctrine of pith and substance, can an incidental trenching upon another field of legislation be ignored? (6) "Land", the term as occurring in Entry 49 of List II, has a wide connotation. Land remains land though it may be subjected to different user. The nature of user of the land would not enable a piece of land being taken out of the meaning of land itself. Different uses to which the land is subjected or is capable of being subjected provide the basis for classifying land into different identifiable groups for the purpose of taxation. The nature of user of one piece of land would enable that piece of land being classified separately from another piece of land which is being subjected to another kind of user, though the two pieces of land are identically situated except for the difference in nature of user. The tax would remain a tax on land and would not become a tax on the nature of its user. (7) To be a tax on land, the levy must have some direct and definite relationship with the land. So long as the tax is a tax on land by bearing such relationship with the land, it is open for the legislature for the purpose of levying tax to adopt any one of the well-known modes of determining the value of the land such as annual or capital value of the land or its productivity. The methodology adopted, having an indirect relationship with the land, would not alter the nature of the tax as being one on land. (8) The primary object and the essential purpose of legislation must be distinguished from its ultimate or incidental results or consequences, for determining the character of the levy. A levy essentially in the nature of a tax and within the power of the State	*of Orissa*, 1991 Supp (1) SCC 430, para 36] , *Federation of Mining Associations ofRajasthan* [*Federation of Mining Associations of Rajasthan* v. *State of Rajasthan*, 1992 Supp (2) SCC 239] , *Mahalaxmi Fabric Mills* [*State of M.P.* v. *Mahalaxmi Fabric Mills Ltd.*, 1995 Supp (1) SCC 642] , *Saurashtra Cement* [*Saurashtra Cement & Chemical Industries* v. *Union of India*, (2001) 1 SCC 91] , *Mahanadi Coalfields* [*State of Orissa* v. *Mahanadi Coalfields Ltd.*, 1995 Supp (2) SCC 686] , and *P. Kannadasan* [*P. Kannadasan* v. *State of T.N.*, (1996) 5 SCC 670] are overruled to the extent of the observations made in the present case.

Legislature cannot be annulled as unconstitutional merely because it may have an effect on the price of the commodity. A State legislation, which makes provisions for levying a cess, whether by way of tax to augment the revenue resources of the State or by way of fee to render services as *quid pro quo* but without any intention of regulating and controlling the subject of the levy, cannot be said to have encroached upon the field of "regulation and control" belonging to the Central Government by reason of the incidence of levy being permissible to be passed on to the buyer or consumer, and thereby affecting the price of the commodity or goods. Entry 23 in List II speaks of regulation of mines and mineral development subject to the provisions of List I with respect to regulation and development under the control of the Union. Entries 52 and 54 of List I are both qualified by the expression "declared by Parliament by law to be expedient in the public interest". A reading *in juxtaposition* shows that the declaration by Parliament must be for the "control of industries" in Entry 52 and "for regulation of mines or for mineral development" in Entry 54. Such control, regulation or development must be "expedient in the public interest". Legislation by the Union in the field covered by Entries 52 and 54 would not like a magic touch or a taboo denude the entire field forming the subject-matter of declaration to the State Legislatures. Denial to the State would extend only to the extent of the declaration so made by Parliament. In spite of declaration made by reference to Entry 52 or 54, the State would be free to act in the field left out from the declaration. The legislative power to tax by reference to entries in List II is plenary unless the entry itself makes the field "subject to" any other entry or abstracts the field by any limitations imposable and permissible. A tax or fee levied by the State with the object of augmenting its finances and in reasonable limits does not *ipso facto* trench upon regulation, development or control of the subject. It is different if the tax or fee sought to be levied by the State can itself be called regulatory, the primary purpose whereof is to	

regulate or control and augmentation of revenue or rendering service is only secondary or incidental. (9) The heads of taxation are clearly enumerated in Entries 83 to 92-B in List I and Entries 45 to 63 in List II. List III, the Concurrent List, does not provide for any head of taxation. Entry 96 in List I, Entry 66 in List II and Entry 47 in List III deal with fees. The residuary power of legislation in the field of taxation spelled out by Article 248(2) and Entry 97 in List I can be applied only to such subjects as are not included in Entries 45 to 63 of List II. It follows that taxes on lands and buildings in Entry 49 of List II cannot be levied by the Union. Taxes on mineral rights, a subject in Entry 50 of List II, can also not be levied by the Union though as stated in Entry 50 itself the Union may impose *limitations* on the power of the State and such limitations, if any, imposed by Parliament by law relating to mineral development to that extent shall circumscribe the States' power to legislate. Power to tax mineral rights is with the States; the power to lay down limitations on exercise of such power, in the interest of regulation, development or control, as the case may be, is with the Union. This is the result achieved by homogeneous reading of Entry 50 in List II and Entries 52 and 54 in List I. So long as a tax or fee on mineral rights remains in pith and substance a tax for augmenting the revenue resources of the State or a fee for rendering services by the State and it does not impinge upon regulation of mines and mineral development or upon control of industry by the Central Government, it is not unconstitutional.	

47. From the ratio rendered in the case of **MADA** (supra) it is thus clear that the State has the legislative competence under Article 246 of the Constitution of India read with List II Entry 49 to tax lands which comprise of mines and quarries. Similarly, it has been laid down that the legislative power to tax mineral rights

under Entry 50 of List II vests with the State Legislatures. Parliament does not have legislative competence to tax mineral rights under List I Entry 54, it being a general entry. MMDR Act as it stands has not imposed any limitations as envisaged under List II Entry 50. List II Entries 49 and 50 deal with distinct subject matters and operate in different fields. Mineral value or mineral produce can be used as a measure to impose a tax on lands under List II Entry 49. Therefore, the question of legislative power to levy tax on lands under Entry 49 and on mineral rights under Entry 50 is settled. The challenge thereto therefore has to fail.

48. From the order of remand passed by the Hon'ble Supreme Court, it is also noteworthy that this Court has been asked to take note of the decision of the Hon'ble Supreme Court in **Federation of Andhra Pradesh Chamber of Commerce and Industries** (supra). In the aforesaid decision, the Hon'ble Supreme Court has already modified the decision rendered by a five-Judge Bench in **Mahabaleswarappa and Sons** (supra) insofar as it pertains to interpretation of word 'used' in Section 3 of the NALA Act and it has been held that for the word 'used' under the NALA Act, it is only the land which is actually in use for industrial purposes which can be assessed to non-agricultural assessment at the rates specified for the land used for industrial purposes.

49. In other words, the remaining conclusions of the five-Judge Bench of the erstwhile High Court of Andhra Pradesh have been upheld which is binding on us.

Therefore, after careful perusal of the decision of the nine-Judge Bench in **MADA** (supra) and **Federation of Andhra Pradesh Chamber of Commerce and Industries** (supra), we record our conclusions, as under:

(i) The decision of the Full Bench of the erstwhile High Court of Andhra Pradesh in **S.V.Cement Limited** (supra) does not lay down the correct principle of law and stands overruled;

(ii) Sections 3, 8 and the Schedule to the NALA Act are not *ultra vires* Articles 14 and 19 of the Constitution;

(iii) Under Section 3, only the land which is actually in use for industrial purpose, as defined under the NALA Act can only be assessed to non-agricultural assessment tax at the rates specified for land used for industrial purposes;

(iv) Section 2(d), insofar as it relates to the lands covered by 'mining operations' is concerned, has to be read down by empowering the State Government to levy and collect assessment only in accordance with the terms of the lease as contemplated under Rule 27(d) of the Mineral Concession Rules, 1960;

(v) 'Waste lands', which are unfit for use are not liable for assessment under the NALA Act and this aspect has to be decided by the Revenue Inspector under Section 4 of the NALA Act;

(vi) There is an obligation on the Revenue Inspector to issue notice in Form I before making assessment, failing which it would be in violation of Rules 3 and 4 of the Andhra Pradesh Non-Agricultural Lands Assessment Rules, 1960 and Section 4 of the NALA Act;

(vii) The Demand notices and orders of distraint impugned in the writ petitions are quashed. However, liberty is reserved to the respondents to proceed afresh to levy non-agricultural assessment tax on the land actually in use for industrial purpose at the rates specified for land used for industrial purposes, in accordance with law, within six months; and

(viii) The claim of refund, if any, would be processed and sanctioned after determination of the levy of non-agricultural assessment tax on the land actually in use by the petitioners in accordance with law as directed above.

50. The plea raised by the learned Advocate General on grounds of unjust enrichment does not merit acceptance in a case like this, where the tax on non-agricultural land is of such a nature which could not be passed on to the end consumer like in cases tax on sale of goods or services or manufacture.

51. The petitioners have taken a plea that since the demand notices have to be quashed, no levy can be made for a period prior to 01.04.2025 in view of the judgment of the Hon'ble Supreme Court in **Mineral Area Development Authority vs. Steel Authority of India [(2024) 10 SCC 257].**

52. This plea does not hold good in the present case, which is being decided in the light of the governing law applicable to the case of the parties, i.e., NALA Act.

The reference made to the Full Bench is answered accordingly.

APARESH KUMAR SINGH, CJ

P.SAM KOSHY, J

K.LAKSHMAN, J

B.VIJAYSEN REDDY, J

N.TUKARAMJI, J

06.08.2026

Note: LR copy be marked.
(By order)
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