

Interstate Trade and Commerce under Indian Constitution

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Abstract: *The Concept of Inter State Trade, Commerce and Intercourse has occupied an important position for the free movement of trade between two states and within the States. Under Part XIII Articles 301 to 307 of the Indian constitution deals with interstate trade, commerce and intercourse. The Seventh Schedule which consists of three Lists deals with tax provisions under central List entries 89 and 92A in List I, entries 52,54,56 to 60 in List II of state and entry 35 in concurrent List confers power to levy tax on centre and state. To reconcile the freedom of trade and commerce and the power of taxation, the Supreme Court has evolved the concept of regulatory and compensatory tax which is not hit by Art. 301. Further the concept of Compensatory and Regulatory tax imposed by the State is to provide various facilities for the transport of the goods in the form of maintenance of roads, lighting, water, traffic signals, construction of bridges and other infrastructural facilities which lead to the free movement of goods and the tax imposed is not a barrier to the free movement of goods. Imposition of tax on goods from other states is also said to be a Regulatory and compensatory measure which is upheld by the Supreme Court, thereby clearing the constitutional deadlock on Entry Tax In Jindal Stainless Steel Ltd vs. State of Haryana, (AIR 2016 SC, Haryana) upheld the validity of entry tax legislation. It laid down test of 'working proportionality' in determining 'compensatory' nature of In Atiabari Tea co v. State of Assam (AIR 1951 SC 232) In this case the validity of the Assam Taxation (On Goods carried by Roads or Inland Waterways) Act of 1954, under Entry 56, List II was challenged on the ground that it violated Article 301 of the Constitution and was not saved by Article 304(b). The court held that the impugned law undoubtedly levied a tax directly and immediately on the movements of goods and therefore came within the purview of article 301. In this case the validity of the Assam Taxation (On Goods carried by Roads or Inland Waterways) Act of 1954, under Entry 56, List II was challenged on the ground that it violated Article 301 of the Constitution and was not saved by Article 304(b). tax. In order to overcome the hurdle presented by Part XIII, the Supreme Court in Automobile Transport (Rajasthan) Ltd. vs State of Rajasthan propounded a judicial doctrine of "compensatory taxes". The court held that this imposition is not hit by Article 301 as it is not in the nature of a "tax", but rather a "compensatory levy" which is nothing but a regulatory measure for the use of trading facilities. Which does not violate Article 301 of the Constitution of India, and is also saved by Article 304. In this paper it is proposed to discuss imposition of tax with regard to inter-state and intra State trade in the form of Compensatory and regulatory measures with decided case laws which does not hit Art. 301.*

Keywords: Inter-State trade, Compensatory Tax, Commerce, Intercourse, Regulatory measures

1. Introduction

In Jindal Stainless Ltd. & Anr vs. State of Haryana & Ors[1]

The 9-judge bench, by a 7:2 majority, upheld the validity of the entry tax imposed by the States on goods imported from other States. It was held that taxes simpliciter are not within the contemplation of Part XIII of the Constitution of India and that the word 'Free' used in Article 301 does not mean "free from taxation".

In this case the majority view said that, States are well within their right to design their fiscal legislations to ensure that the tax burden on goods imported from other States and goods produced within the State fall equally. Such measures if taken would not contravene Article 304(a) of the Constitution. Only such taxes as are discriminatory in nature are prohibited by Article 304(a). It follows that levy of a non-discriminatory tax would not constitute an infraction of Article 301. A tax on entry of goods into a local area for use, sale or consumption therein is permissible although similar goods are not produced within the taxing state.

It was further explained that Clauses (a) and (b) of Article 304 have to be read disjunctively. A levy that violates 304(a) cannot be saved even if the procedure under Article 304(b) or the proviso there under is satisfied. It was held that Article 304 (a) frowns upon discrimination of a hostile nature in the protectionist sense and not on mere differentiation. Therefore, incentives, set-offs etc. granted to

a specified class of dealers for a limited period of time in a non-hostile fashion with a view to developing economically backward areas would not violate Article 304(a).

Facts: Jindal Strips Ltd is a part of a product manufacturing industry within the State of Haryana. It imports the raw materials for production purposes and exports the finished goods to other States. In this connection the Haryana Local Area Development Act, 2000 provides for levy and collection of entry tax which is supposed to be compensatory tax levied on the entry of goods in the states for the consumption or use therein. In 2003 the Act was amended, Section 22 of the Act provided for the collection of a tax for utilization and facilitating the nationwide free flow of trade and commerce. This section initially provided for utilization for the development of local areas instead of the utility above.

With this act of the State, the petitioner challenged the constitutional validity of the Haryana Local Area Development Act, 2000. The court laid the working test for deciding the validity of a compensatory tax laid down in Automobile Transport v. State of Rajasthan[2] to check the amount of tax paid and the facilities which the trader can use is proportional or not.

Thus according to the petitioners the working test laid in automobile case became a precedent which explained the principle of compensatory taxes which goes parallel to the Part-XIII of the Constitution. The essence of Compensatory tax is that the service rendered or facilities provided should

Volume 7 Issue 11, November 2018

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be more or less proportionate with the tax levied, even though some amount may not be used to provide any facility. With this view a tax law which does not serve its purpose of free trade and commerce cannot be designated as a compensatory tax. Thus, this can be taken as a correct test to differentiate a 'Compensatory tax' from a 'Regular Tax'.

In Bhagat ram case [3] holding eliminates the difference between a tax and a compensatory tax. In this case the court held that the imposition of the compensatory tax to be overruled as laid down in Automobile transport case [4].

On the other hand the respondents contended that a link between the services provided and the levy, it is not necessary that a quid pro quo rule should be maintained. Some link between facilities provided and the tax imposed are sufficient. But in case of fee a quid pro quo becomes essential, but taxes do not fall within that ambit. It is true that in the case of a compensatory tax the element of quid pro quo is there more than it is there in regular tax but not to the extent as in the case of a fee. The entry tax does not have a limited range of facility as the entries 56, 57, 59 of the Part-II of the schedule 7 which indicates a link to road, waterways, bridges, etc. On the other hand entry tax has link with local areas aims at enabling and facilitating local bodies in discharging their multiple functions.

The Court held that whenever an impugned law is brought under the purview of Article 301, courts need to examine the effect its provisions have on the inter-State and intra-State movement of goods as it is an integral part of a trade. The primary purpose of a tax law is collecting revenue while a regulation has to produce some regulative effects on trade and commerce. If a law charges a levy and in return seeks to control the conditions under which an activity such as trade must be carried on, then such law is in essence a regulatory one while if it operates to impede the activity, then the law is a restraint and is thus brought under the purview of Article 301.

The principle behind levy of a tax is "ability or capacity" of a tax payer for generating general revenue and common good. Thus, it does not have any measurable benefits. On the other hand in case of fees and compensatory taxes, the well-known "principle of equivalence" is to be applied. The cost paid by us for obtaining a facility becomes the basis of compensation for the provider of the facilities. Thus we pay for what we get. Thus there is a measurable advantage. Therefore compensatory tax is levied on a class of persons while fees are to be paid by individuals.

In the Automobile case, one had to check if there is any substantial or other link between the tax paid and facilities enjoyed by the traders. The Court held "the test of some connection' enunciated in Bhagatram's case is not only contrary to the working test propounded in Automobile Transport's case, but it obliterates the very basis of compensatory tax." therefore, the working test laid down by the Bhagatram case stood overruled while the automobile case's test holds fit. Thus to compete in the present era of globalisation, a unified tax system (Goods and services tax 2017) for interstate trade is much needed

By majority the Court answers the reference in the following terms:

- 1) Taxes simpliciter are not within the contemplation of Part XIII of the Constitution of India. The word 'Free' used in Article 301 does not mean "free from taxation".
- 2) Only such taxes as are discriminatory in nature are prohibited by Article 304(a). It follows that levy of a non-discriminatory tax would not constitute an infraction of article 301. Clauses (a) and (b) of Article 304 have to be read disjunctively.
- 3) A levy that violates 304(a) cannot be saved even if the procedure under Article 304(b) or the proviso there under is satisfied.
- 4) The compensatory tax theory evolved in Automobile Transport case and subsequently modified in Jindal's case has no juristic basis and is therefore rejected.
- 5) Decisions of this Court in Atiabari, Automobile Transport and Jindal cases (supra) and all other judgments that follow these pronouncements are to the extent of such reliance overruled.
- 6) A tax on entry of goods into a local area for use, sale or consumption therein is permissible although similar goods are not produced within the taxing state.
- 7) Article 304(a) frowns upon discrimination (of a hostile nature in the protectionist sense) and not on mere differentiation. Therefore, incentives, set-offs etc. granted to a specified class of dealers for a limited period of time in a non-hostile fashion with a view to developing economically backward areas would not violate Article 304(a). The question whether the levies in the present case indeed satisfy this test is left to be determined by the regular benches hearing the matters.
- 8) States are well within their right to design their fiscal legislations to ensure that the tax burden on goods imported from other States and goods produced within the State fall equally. Such measures if taken would not contravene Article 304(a) of the Constitution. The question whether the levies in the present case indeed satisfy this test is left to be determined by the regular benches hearing the matters.
- 9) The questions whether the entire State can be notified as a local area and whether entry tax can be levied on goods entering the landmass of India from another country are left open to be determined in appropriate proceedings.

The above judgement upheld the constitutional validity of entry tax. In all federations an attempt is made through constitutional provisions to create and preserve a national economic fabric to remove and prevent local barriers to economic activity, to remove the impediments in the way of inter-State trade and commerce and thus to make the country alone single economic unit so that economic resources of all the various units may be utilised to the common advantage of all[5]. Under Indian constitution Articles 301-307 deal with the concept of Interstate Trade, Commerce and Intercourse. The said provisions and case laws on interstate trade under Indian constitution are as follows:

- Article 301:** Freedom of trade, commerce and intercourse
- Article 302:** Power of Parliament to impose restrictions on trade, commerce and intercourse.
- Article 303:** Restrictions on the legislative powers of the Union and of the states with regard to trade and commerce.

Article 304: Restrictions on trade, commerce and intercourse among States.

Article 305: Saving of existing laws and laws providing for State Monopolies.

Article 306: Power of certain states in Part B of the first Schedule to impose restrictions on trade and commerce. (Repealed by the constitution (Seventh Amendment) Act, 1956 Section 29 and Sch (w.e.f.1.11.1956).

Article 307: Appointment of authority for carrying out the purposes of articles 301 to 304.

The word 'trade' means 'buying' or 'selling' of goods while the term 'commerce' includes all forms of transportation such as by land, air or water. The term 'intercourse' means movement of goods from one place to another place. Thus, the words 'trade, commerce and intercourse; covers all kinds of activities which are likely to come under the nature of commerce.

Trade, Commerce and intercourse may be domestic or foreign or international. Articles 301-305, deal with domestic trade and commerce, i.e., within the territory of India. Commerce may be of two types –Intra- state trade which is confined within the territory of a State, and Inter-State i.e. trade and commerce which overflows the boundary of one State and which extends to two or more States.

2. Comparative Provisions

In U.S.A. the 'Commerce Clause' provides to regulate commerce among the several States. 'Commerce among the states cannot stop at the external boundary line of each state, but may be introduced into the interior. The 'commerce clause' has also bestowed on the central government necessary power to regulate the country's economy.

In Canada, the provision has been deprived of the power to levy indirect taxes so that they may not be able to create interprovincial trade barriers.

In Australia section 92 which deals with trade, commerce and intercourse among the states shall be absolutely free. The clause applies only to interstate and not to intra-state commerce, and restricts both the States and the centre from interfering with trade and commerce.

In India

The Constitution desired to promote free flow of trade and commerce in India as they fully realised that economic unity and integration of the country provided the main sustaining force for the stability and progress of the political and cultural unity of the federal polity; and that the country should function as one single economic unit without barriers on internal trade.

Economic Unity of India is one of the constitutional aspirations and safeguarding is attainment and maintenance of that unity are objectives of the Indian constitution. In order to ensure that the State Legislatures subjected to local and regional pulls do not create trade barriers in future, Arts.301-505 have been incorporated into the constitution. These provisions deal with trade, commerce and intercourse

within the territory of India- Whether intra-State or inter-State. The main provision is art.301[6].

Interrelation Between Arts 19(1)(g) and 301:

Art. 19(1)(g), a fundamental right confers on the citizens the right to practise any profession or carry on any occupation, trade or business subject to reasonable restrictions in public interest. On the other Article 301 confers only a statutory right, the right under art. 19(1)(g) can only be claimed by citizens, but the right under art. 301 can be claimed by any one. A difference between Arts. 19(1) (g) and 301, it is said that Art.301 could be invoked only when an individual is prevented from sending his goods Across the State, or from one point to another in the same State. Across the State, or from one point to another in the same State, while Art.19(1)(g) can be invoked when the complaint is with regard to the right of an individual to carry on business unrelated to, or irrespective of, the movement of goods, i.e. while Art.301 contemplates the right of trade in motion. Art. 19(1)(g) secures the right at rest.

In some situations both provisions may become applicable and it may be possible to invoke them both. The three alternative situations are:

- (i) A provision may be valid under Arts. 301 to 304 as well; or
- (ii) It may be invalid under Arts. 301 to 304 as well; or
- (iii) It may be invalid under Arts. 301 -304, but not under Art. 19(1)(g) situations

Art. 32 petition will lie in situation (i) and (ii), but not in situation (iii).

Regulatory and Compensatory tax:

The concept of regulatory and compensatory taxation has been applied by the Indian courts to the State taxation under entries 56 and 57 of List II, 7th Schedule. Measures which impose compensatory or distinction taxes, or are purely regulatory, do not fall within the purview of restrictions contemplated in Art.301. The reason is that they facilitate, rather than hamper, the flow of trade and commerce[7].

A purely regulatory and compensatory law cannot be regarded as violative of freedom of trade and commerce. The concept of regulatory and compensatory tax has been applied by the Indian courts mainly to the State taxation under Entries 56 and 57 of List II[8]. The word 'free' in Article 301 does not mean freedom from laws or regulations. There is a clear distinction between laws interfering with freedom to carry out the activities constituting trade and law imposing rules of proper conduct or other restraints for the due and orderly manner of carrying out the activities. The distinction is known as regulations.

The Compensatory and regulatory laws are intended merely to regulate trade and commerce, they facilitate free trade and do not restrict or restrain freedom of trade. For example the measures as traffic regulations, licensing of vehicles, charging for the maintenance of roads, marketing and health regulations, price control, economic and social planning, and prescribing minimum wages are purely regulatory measures. Likewise, a law which levies a tax or toll for the use of a road or bridge is not a barrier or burden on a trade

but helps in free-flow of trade. It is a compensatory tax which is no hindrance to any such freedom of trade so long as they are within reasonable limits. Therefore we need to know the distinction between 'freedom' in article 301 and 'restriction' in article 302 and 304.

In Atiabari Tea co v. State of Assam[9]

In this case the validity of the Assam Taxation (On Goods carried by Roads or Inland Waterways) Act of 1954, under Entry 56, List II was challenged on the ground that it violated Article 301 of the Constitution and was not saved by Article 304(b). In this case the petitioner carried on the business of growing tea and exporting it to Calcutta via Assam. While passing through Assam the tea was liable to tax under the said Act. The court held that the impugned law undoubtedly levied a tax directly and immediately on the movements of goods and therefore came within the purview of article 301. The object of state law was "to collect taxes on goods solely on the ground that they are carried by road or by inland waterways within the area of the State. That being so the restriction placed by the Act on the free movement of the goods is writ large on its face"[10].

Further the Court held by majority took the view that the freedom guaranteed by Art. 301 would become illusory if the movement, transport, or the carrying of goods were allowed to be impeded, obstructed or hampered by the taxation without satisfying the requirements of which by no means was excessive. Simply because the tax was levied on 'movement of goods, from one place to another, it was held to offend Art.301. The State could have by majority passed the Act in question by following the procedure laid down in art. 304(b).

In State of Mysore v. Sanjeeviah [11]

In this case the Government made a rule under the Mysore forest Act, 1900, banning movement of forest produce between sunset and sunrise. The Supreme Court held the rule void as it was not a 'regulatory' but 'restrictive' measure which infringed the right guaranteed under article 301.

In Automobile Transport Ltd. v. State of Rajasthan [12]

In this case the appellant challenged the validity of the Rajasthan Motor Vehicles Taxation Act, 1951, as violating Article. 301. The State government imposed a tax on all motor vehicles used and kept within the State of Rajasthan. The Court held the tax valid as they were only regulatory measures imposing compensatory taxes-for facilitating trade, commerce and intercourse. The direct and immediate effect-laid down in Atiabari's case was affirmed by the court with a clarification that regulatory measures imposing compensatory tax do not come within the purview of the restrictions contemplated in Art.301 and therefore such measures need not comply with the requirement of provisions of Article 304(b). The majority judgement held that a compensatory tax is not a restriction upon the movement part of trade and commerce.

The majority judgement in Atiabari tea co.'s case read with a majority judgement in the automobile's case lead to the following principle relating of article 301:

- 1) Article 301 assures freedom of inter-State as well as intra-State trade, commerce and intercourse.
- 2) Trade, commerce and intercourse have the widest connotation and take in movement of goods and persons.
- 3) The Freedom is not only from laws enacted in the exercise of the powers conferred by the legislative entries relating to trade and commerce or production, supply and distribution of goods, but also to all laws including tax laws.
- 4) Only those laws whose direct and immediate effect to inhibit or restrict freedom of trade or commerce will come with the mischief of Article 301.
- 5) Laws which are merely regulatory or which impose purely compensatory taxes, and hence intended to facilitate freedom of trade, are outside the scope article 301.

In Khyerbari Tea co., v. State of Assam[13]

The Supreme Court held the Assam tax on movement of tea as being both reasonable and in public interest. The Court suggested that when the President gives his assent it can be presumed that the Central Government has applied its mind and come to the conclusion that the proposed tax constitutes a reasonable restriction is required to be imposed in public interest.

State of Bihar v. Bihar Chamber of Commerce[14]

In this case the Court held that the entry tax as compensatory. The levy held in the interest as the revenue was needed to compensate the loss arising out of the invalidations of a States tax and the revenue arising from the tax was to be spent on public welfare.

In G.K. Krishna v. State of Tamil Nadu[15]

The petitioner challenged the validity of a government Notification under the Madras Motor Vehicles taxation act, 1931. The act enhanced motor vehicles tax on omnibuses from Rs.30 per seat per quarter to Rs. 100 per seat per quarter on the ground inter alia that the tax imposes restriction on the freedom guaranteed by Art.301. He claimed that the tax was neither compensatory nor regulatory in character and therefore it was a restriction on the freedom of the trade, commerce in character and not saved by Article 304 (b).

Further the court held- the tax on contract carriages was compensatory in nature and therefore violative to the freedom guaranteed in Art. 301. Further collection of toll and tax for the use of roads, bridges or Aerodromes, etc. do not operate as barriers or hindrance of trade. For a tax to become a prohibited one should have direct tax which effect the movement of the trade. But if the tax is compensatory or regulatory it cannot operate as a restriction on movement of trade. The contention of the petitioners is that the impugned tax was not a compensatory tax as it included the cost of construction of new roads also. According to them for the use of the roads only tax could be levied. The Court held that a compensatory tax is based on the nature and the extent of the use made of the roads, for example, a mileage charge or the like, and if the proceeds are devoted to the repair, upkeep, maintenance and depreciation of the relevant roads and the collection of the exaction involves no substantial interference with the movement. The very idea of a

compensatory tax is service more or less commensurate with the tax levied. The users of the public motor vehicles stand in a special and direct relation to such roads and derive a special and direct benefit from them and therefore the enhanced tax is valid.

In Bhagatram Rajiv Kumar v. Commissioner of Sales Tax (BhagatRam Case)[16]

In this case has liberalised the concept of a 'compensatory and regulatory' tax. The court held '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.'

In Indian Cement v. State of A.P.[17]

In this case the State of Andhra Pradesh and Karnataka issued a Notification under section 8 (5) of the central Sales Tax Act, 1956, reducing the rate of tax on the sale of cement by local cement manufacturers to manufacturers of cement products in the state as violative of Part III of the constitution. The benefits of tax reduction was not available to the manufacturers of cement of other states having their sales officers in the State of A.P. So demand made to quash the Notification issued by two States of Andhra Pradesh and Karnataka.

In State of Bihar v Harihar Prasad Debuka[18]

In this case the Bihar government issued notification requiring a person to carry permits for transporting goods through the State of Bihar on goods carrier or vessel. It was challenged as violative of Arts. 301 and 304. The respondents purchased 165 bags of mustard from the State of Rajasthan and was transporting the same to Jamshedpur in the state of Bihar by a truck they challenged the notification and the court held that the Notification was a regulatory measure and constitutional. It did not impede or restrict inter-state trade and hence not violative of Arts. 301 and 304 of the Constitution. There is no prohibition to transport goods and permit was intended to prevent evasion and to facilitate assessment of sales tax. Further the court said the permit is required to enable the carrier to cross the State territory by producing if needed rather than impede inter-state trade.

In Video Electronics Pvt.Ltd v. State of Punjab[19]

In this case the State of Uttar Pradesh under U.P. Sales Tax Act, 1948 and the Central Sales Tax Act, 1956, was issued exempting new units of manufactures in respect of various goods for different periods ranging from 3 to 7 years from payment of sales tax was not violative of art.301 of the constitution. The petitioners contended that manufacturers of local goods were entitled to exemption while the manufacturers of other States selling the same goods in the state of U.P. were liable to pay sales tax and therefore imposition of sales-tax was discriminatory and violative of Art.301. The challenge on the basis of Art. 304 was negated as it is an exemption to Art.301. The need for exemption will arise only if the impugned tax is hit by Arts. 301 and 303.

In State of Tamil Nadu v. M/s. Sanjeeth Trading Co.[20]

In this case the validity of Clause 3 of Tamil Nadu (Movement Control) Order, 1982 was challenged as

violative of art. 301. By this notification timber was declared to be an essential article and imposed total ban on its movement from the State of Tamil Nadu to outside the State. The court held that it was a regulatory measure for ensuring the availability of timber to a common man at a reasonable price, authorised under Art. 301 and 304(b)

In M/s. B.R. Enterprises v. State of U.P.[21]

In this case the parliament passed the Lotteries (Regulation) Act, 1998. The State of Uttar Pradesh had passed an order banning lotteries of other States by virtue of power entrusted under section 5 of the impugned act. The petitioners challenged that Section 5 of the Act and the U.P. Order was violative of Arts. 301, 302, and 303 of the constitution and hence invalid. The Supreme Court held that lotteries contains an element of chance and cannot, therefore, be trade and commerce as contemplated by Art. 301 of the constitution. This element of chance makes lottery a gambling and could not be construed to be trade and commerce under Article 301. Hence the act is not violative of Arts. 301 and 302 of the constitution and valid.

Lottery which is res-extra-commercium does not become commercial merely by putting under state authority. On the other 'Trade' is exchange of any article for consideration, barter or service. Therefore, the Lotteries (Regulation) Act under which power is conferred on States to ban sale of lotteries of other States does not violate arts. 301 to 303 of the constitution and is, therefore, valid.

Restrictions on Trade and Commerce – Article 301 is subject to the restrictions imposed under Arts. 302 to 305.

Parliament's power to regulate trade and commerce in the public interest:

Under A.302 authorises Parliament to impose restrictions on the freedom of trade, commerce or intercourse between one state and another state or within any part of the territory of India as required in the public interest. It is held that restrictions imposed under Defence of India Rules on the movement of grain are in the interest of general public.[22]

3. Exceptions

The power of Parliament under Article 302 is limited by Art.303 (1):

Article 303(1) provides that parliament shall not have power to make any law giving any preference to any one State over another by virtue of any entry relating to trade and commerce in any one of the List in the Seventh Schedule. Under 303(2) of this Article the Parliament may, however discriminate among states if it is declared by a 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. Scarcity of goods is decided by Parliament.

2. State's power to regulate trade and commerce:

Article 304(a) empowers the State to impose any tax on goods imported from other States if similar goods in the State are subject to similar tax so as not to discriminate between goods so imported and goods manufactured or produced in the State.

In State of Madhya Pradesh v. Bhailal Bhai[23]

A State of Law imposed sales tax on imported tobacco but locally produced tobacco was not subject to such sales tax. The Court invalidated the tax as discriminatory.

Under Article 304 (b): the State has power to impose reasonable restrictions on the freedom of trade, commerce and intercourse in the public interest, provided it should satisfy the following conditions: 1. Previous sanction of the president must be obtained, (2) the law must be in the public interest; and (3) restrictions imposed by such a law must be reasonable. In *Ataibari Tea co v. State of Assam*[24] the tax on movement of goods was held invalid on the ground that it was imposed without previous sanction of the President.

3. Saving of Existing Laws:

Article 305, saves existing laws and laws providing for State Monopolies in so far as the president may by order otherwise direct.[25]

4. Conclusion

In conclusion the problems concerning trade and commerce are more economic in content than legal. Article 307 authorises parliament to appoint by law such authority for carrying out the purposes of Arts 301 – 304.

Thus the Inter State sale will be governed by IGST (Integrated Goods and Services Tax) Act, 2017. Integrated Goods and Service Tax (IGST) is the sum of CGST and SGST which will get imposed on the goods and services in Inter State supply. It is destination based and will accrue to the importing state.

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- [8] Lawmann’s *Constitution of India*, 2018, at page 212, List II, Entry 56, Taxes on goods and passengers carried by road or on inland water ways. List II, Entry 57, Taxes on vehicles, whether mechanically propelled or not, suitable for use on roads, including tram-cars subject to the provisions of Entry roads or Inland Waterways) Act of 1954 was challenged on the ground that it i35 of List III (Concurrent List)
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