
CASE ANALYSIS OF DHULABHAI AND OTHERS VS THE STATE OF MADHYA PRADESH AND ANOTHER

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ABSTRACT

The Supreme Court's ruling in *Dhulabhai v. State of Madhya Pradesh* (1968) stands as a watershed moment in the development of Indian procedural and constitutional law. The case dealt with a fundamental question: when can civil courts exercise jurisdiction despite statutory bars imposed by special legislation? At its core lay the tension between the jurisdictional exclusion created under Section 17 of the Madhya Bharat Sales Act and the broader constitutional mandate safeguarding free trade under Articles 301 and 304(a). The appellants, tobacco traders subjected to discriminatory taxation, sought refund of taxes collected under notifications that differentiated between imported and locally produced tobacco. Their challenge brought into sharp focus the boundaries between specialized tax authorities and civil courts, particularly on issues of constitutional validity.

The Supreme Court, while overturning the High Court, clarified that statutory tribunals cannot adjudicate on the constitutionality of provisions enacted under the very statutes they administer. It emphasized that civil courts retain residual jurisdiction where constitutional rights or ultra vires claims are in play, and where statutory remedies are inadequate. In doing so, the Court laid down guiding principles on when exclusionary clauses will or will not preclude access to civil courts. Yet, the judgment, while path-breaking, left unresolved several gray areas: it failed to provide a clear test for "adequacy" of alternative remedies, blurred the distinction between the jurisdiction of civil courts and writ courts under Article 226, and created uncertainty about the proper forum for constitutional challenges.

This paper critically examines these dimensions of *Dhulabhai*, situating it within the broader discourse on judicial review, statutory finality, and federal economic integration. While the decision affirms the civil court's protective role in safeguarding constitutional freedoms, its ambiguities continue to influence how courts and litigants navigate the overlap between specialized tribunals and general jurisdiction.

Equivalent Citation - (1968) 22 STC 416**Introduction**

The Supreme Court's decision in *Dhulabhai* represents a critical moment in Indian legal history, addressing the complex interaction between civil court jurisdiction and specialized tribunals in taxation matters. By overturning the Bombay High Court's ruling, the Court clarified when civil courts can intervene despite statutory exclusions, focusing on issues of constitutional validity and the adequacy of alternative remedies. This landmark judgment delineates the boundaries of tax authorities' powers and the role of civil courts in resolving constitutional and statutory challenges. While providing important guidance, the decision also leaves some ambiguities that will shape future legal interpretations and procedural approaches.

Facts

The Appellants in this suit are tobacco dealers who conduct their business in Ujjain. Their trade includes selling and purchasing tobacco that is either produced locally in Madhya Bharat (currently known as Madhya Pradesh) or imported from other Indian States or both. In the year 1950, the government introduced the Madhya Bharat Sales Act (Act 30 of 1950)¹ [referred to as 'Act' hereinafter] which also dealt with levying of tax upon traders. Under Section 3 of the said Act, every dealer whose business in the previous year in respect of sales or supplies of goods exceeded in the case of an importer or manufacturer Rs.5000 and in other instances, Rs.12,000 had to pay tax in respect of sales or supplies of goods. Therefore, implying that an importer or manufacturer exceeding the set limit on the sale or supply of goods would attract taxation. Further, Section 5 of the Act stipulated that the tax enforced was a single-point tax and that the government may by way of a notification specify the point of the sale at which the tax was payable. It could fix a minimum and maximum rate of taxation (actual rate) at its own discretion which would be informed through a notification.

After the enactment of the Act, the government of Madhya Bharat issued multiple notifications between 30th April 1950 and 21st January 1954, imposing tax at different rates but applicable only to traders of imported tobacco (goods). The Appellants paid the taxes imposed at the specified rates for different quarters but were unhappy with the system of taxation. Aggrieved

¹ Madhya Bharat Sales Tax Act (30 of 1950)

by the taxing structure that solely enforced tax at different rates on the sale and purchase of imported tobacco but not on locally produced tobacco, they filed a civil suit. However, the Appellants were not the first to bring up the issue. In *Bhailal Bhai vs. State of Madhya Pradesh*² (on 1st November 1956, Madhya Bharat became Madhya Pradesh) a case was filed under Article 226 of the Constitution in the High Court of Madhya Pradesh. They argued the tax levied on importers by the tax authorities was illegal since the same was never levied on the sale and purchase of locally produced tobacco. They contended it was unconstitutional to marginally differentiate tax rates based on the source of the tobacco. The Court, thereafter, did find the tax levied to be illegal and ordered the State to refund the tax amount paid. They decreed the notifications issued by the tax authorities to be ultra vires, contrary to Article 301³, and that they could not be saved by Article 304(a)⁴. However, due to an issue of limitation, the decree of this particular case was later overturned in *State of Madhya Pradesh vs. Bhailal Bhai*⁵ and the order for refund was set aside.

The Appellants herein chose not to file a writ under Article 226 of the Constitution and instead served the State notices under Section 80 of the Civil Procedure Code which mandates the serving of notices if a case is being filed against the government or public officer to claim relief from mishaps caused by the government or public officer in its official capacity. After the notices were served, on 21st December 1957, the Appellants filed their suit against the State of Madhya Pradesh and Another before the District Judge.

Procedural Posture

The suit brought before the District Judge by the Appellants was opposed by the State who argued that the suit was barred by the provisions of Section 17 of the Madhya Bharat Sales Act. The said section relays the Bar to certain proceedings which stipulate that any assessments made, or orders passed under the Act or rules made by either the assessing authority or the Commissioner cannot be challenged before any Court. Further, it states that except what is expressed in Sections 11 and 12 of the same Act, the Court shall also not entertain any appeal or application requesting revision of such assessments or orders. The State argued the Plaintiffs (Appellants herein) were not entitled to file the suit because appeals against the assessments

² *Bhailal Bhai v. State of Madhya Pradesh*, AIR 1956 SC 781.

³ Constitution of India art. 301.

⁴ Constitution of India art. 304.

⁵ *State of Madhya Pradesh v. Bhailal Bhai*, AIR 1964 SC 1006.

were already pending before the Sales Tax Appeal Judge. The Court upon hearing both sides chose to favor the Appellants. The Court did not find any necessary connection to the appeal before the Sales Tax Appeal Judge; thus, no case of Res Sub Judice under Section 10 of the Civil Procedure Code was found. It did not, however, delve into the point of unconstitutionality brought up in relation to the Act itself. The District Judge relied on the following judgements:

- (i). State of Tripura vs. The Province of East Bengal⁶
- (ii). Bhailal Bhai Gokul Bhai vs. State of Madhya Pradesh

The State thereafter appealed the decision of the District Judge before the High Court of Madhya Pradesh, who reversed the decision reasoning that the bar placed by the Act was well supported by authority. The Court chose to favour the State's arguments regarding the bar imposed by the Act and cancelled the order for the refund of tax. They also did acknowledge the issue of constitutionality to some extent but still chose to favour imposition of the statutory bar. Some cases relied upon by the High Court were:

- 1. Raleigh Investment Co. vs. Governor-General in Council⁷
- 2. Secretary of State vs. Mask⁸
- 3. Firm of Illuri Subbayya Chetty and Sons vs. State of Andhra Pradesh⁹
- 4. State of Andhra Pradesh vs. Firm of Illuri Subbayya Chetty and Sons

The Appellants (traders) again aggrieved by the outcome chose to appeal before a Divisional Bench of the Supreme Court but given the complexity of the matter, the Appeals were referred to the Constitutional Bench of the Apex Court consisting of a five-judge bench. The point of constitutional contention raised by the Appellants revolved around the violation of Article 301 of the Constitution which enshrines there shall be freedom of trade, commerce and intercourse. The Defendants (State, herein) argued that such freedom was subject to the restriction of Article 304 (a) and thereby there was no unconstitutionality. The Supreme Court after much deliberation on the matter allowed the Appeals stating such non-uniform tax offends Article

⁶ *State of Tripura v. Province of East Bengal*, AIR 1951 SC 23.

⁷ *Raleigh Investment Co. Ltd. v. Governor-General in Council*, AIR 1947 PC 78.

⁸ *The Secretary of State v. Mask & Co.*, (1940) 42 BOMLR 767.

⁹ *Firm of Illuri Subbayya Chetty & Sons v. State of Andhra Pradesh*, AIR 1964 SC 322.

301 and cannot be saved by Article 304 (a) and hence, the Apex Court decided to overturn and set aside the judgement of the High Court. The cases relied on by the Apex Court apart from the above-mentioned are as follows:

1. Wolverhampton New Waterworks Co. vs. Hawkesford¹⁰
2. Circo's Coffee Co. vs. State of Mysore¹¹
3. C. T. Senthilathan Chettiar vs. State of Madras¹²
4. Venkataraman and Co. vs. State of Madras¹³
5. Commissioner of Income-tax vs. Straw Products¹⁴
6. Pabbojan Tea Co. Ltd. vs. Deputy Commissioner, Lakhimpur¹⁵
7. Pyx Granite Co. Ltd. Vs. Ministry of Housing and Local Govt
8. Gannon Dunkerly and Co. vs. State of Madras¹⁶
9. Commissioner of Income-tax, Punjab, North West Frontier and Delhi Provinces, Lahore vs. Tribune Trust, Lahore¹⁷
10. Raja Bahadur Kamakshya Narain Singh of Ramgargh vs. Commissioner of Income-tax¹⁸
11. State of Tripura vs The Province of East Benga
12. Bharat Kala Bhandar Ltd. Vs. Municipal Committee, Dhamangaon¹⁹

¹⁰ (1859) 6 CB (NS) 336; 141 ER 48

¹¹ 1966 AIR 1966 SC 1966

¹² [1968] 67 ITR 102 (SC)

¹³ AIR 1966 SC 1089.

¹⁴ [1987] 165 ITR 225 (Cal)

¹⁵ AIR 1957 SC 667.

¹⁶ 1958 AIR 560

¹⁷ 1948 AIR 102

¹⁸ 1943 AIR 153

¹⁹ 1966 AIR 249

13. M/s. Kamala Mills Ltd. Vs. The State of Bombay²⁰
14. Deputy Commercial Tax Officer, Madras vs. Rayalseema Constructions
15. Provincial Government vs. J. S. Basappa²¹
16. State of Kerala vs. Ramaswami Iyer and Sons²²
17. Bengal Immunity Co. Ltd. Vs State of Bihar and Others²³

Parties to the Suit

The Civil Appeal to the Supreme Court was initiated by several parties, with Dhulabhai, a tobacco trader, being the primary representative party. The appeal was filed against the Taxing Authorities under the Madhya Bharat Sales Act and the State of Madhya Pradesh.

Legal Issues

The legal issues in this case can be categorized into three parts. The first issue is that of Maintainability of Indirect Taxation. The primary contention here was whether a differential tax rate could be validly imposed between the Appellants (importers) and manufacturers under Articles 301 and 304(a) of the Constitution. Article 301 confers upon traders the freedom to carry on free trade and commerce throughout the territory of India. Whereas, Article 304 allows the government to place reasonable restrictions on this freedom. However, sub-clause (a) of Article 304 requires that the government impose on imported goods the same tax that of manufactured goods if they are similar in nature. Herein, the taxes imposed on tobacco imported and manufactured were different and thus the question of maintainability arose.

The second issue questions the Maintainability of the Suit itself. The Madhya Bharat Sales Act under Section 17 places a bar on the jurisdiction of courts to question the provisions of the Act. In this context of this bar, it then becomes a point of contention as to whether the Appellants can institute a suit before a civil court despite a bar of subject-matter jurisdiction. A subset of this question brings up the doubt regarding the sufficiency and adequacy of the remedies

²⁰ 1965 AIR 1942

²¹ 1964 AIR 187

²² 1966 AIR 187

²³ 1955 AIR 661

provided in the Madhya Bharat Sales Act. Does the Act have the sought remedies to satisfy the legal requests of the Appellants and if they do not, what becomes of the maintainability of the Appellants' suit?

The third issue concerns the Validity of the Bar on Jurisdiction. This contention can further be seen through three distinct parameters. First, whether despite the bar placed by Section 17 of the Madhya Bharat Sales Act, the relief of repayment can be sought by the Appellants through a suit in a civil court? Second, if the taxing authorities have the jurisdiction to go beyond merely categorizing the transaction and delve into determining the real nature and character (including substance) of the transaction? Can they address issues of adequacy of remedies or even issues questioning the validity of the Act? Third and last, who has the subject-matter jurisdiction to decide on the unconstitutionality of any provision or the entirety of the Madhya Bharat Sales Act? And, whether such would include the ability to grant a refund or relief. Therefore, such was the spectrum of issues brought before the Supreme Court.

Primary Rules

This case, in substance, deals with the following provisions of law:

Constitution:

1. Article 301: Freedom of trade, commerce and intercourse.
2. Article 304: Restriction on trade, commerce and intercourse among states.

Madhya Bharat Sales Act:

1. Section 3: dealers must pay tax if their sales exceed Rs.5000 (for importers/manufacturers) or Rs.12,000 (for others) in the previous year.
2. Section 5: establishes that the tax is a single-point tax, applied at a specified sale point, with the government having the discretion to decide tax rate for importers vide notifications.
3. Section 17: Bar to certain proceedings.

Save as is provided in Section 13, no assessment made and no order passed under

this Act or the Rules made thereunder by the assessing authority, appellate authority or the Commissioner shall be called into question in any Court, save as is provided in Sections 11 and 12 no appeal or application for revision shall lie against any such assessment or order.

Civil Procedure Code:

1. Section 9: Courts to try all civil suits unless barred.²⁴
2. Section 10: Stay of Suit.²⁵
3. Section 80: Notices.²⁶

Arguments Advanced by Parties

Appellants' Arguments: The Appellants sought a refund of the tax that was wrongfully collected from them. They argued the notifications were ultra vires and thus they cannot be charged tax under it. The scope and nature of their arguments did not extensively evolve from the initial suit instituted in the district level, rather, they only become more prominent and organised. In fact, in the Civil Appeal to the Supreme Court level, they put extra emphasis on the unconstitutionality of the provisions and the decree of the High Court.

Respondents' Arguments: The State continued to argue that the suit was not maintainable under Section 17 of the Madhya Bharat Sales Act as civil jurisdiction is barred. The stood by their belief that the finality of assessment under the Statute lies with the authorities under the Statute and no court should have any jurisdiction therefore to interfere or question any provision of the Act.

Interpretation of Laws

Before discussing any further, at this juncture, it is imperative to first try and understand the procedural concepts of law and their scope and interpretation. It would be very apt to first try and understand Section 9 of the Civil Procedure Code. Many Courts have previously attempted to interpret Section 9 of CPC and they have very aptly done so. In the landmark case of ABC

²⁴ Civil Procedure Code, 1908, § 9 (India).

²⁵ Civil Procedure Code, 1908, § 10 (India).

²⁶ Civil Procedure Code, 1908, § 80 (India).

Laminart Pvt. Ltd vs. AP Agencies²⁷ where the Supreme Court opined that explicit language excluding the jurisdiction of other courts is a mandate and they also emphasized more on the literal interpretation of the provision. However, this scope was widened in the case of Swastik Gases Pvt. Ltd. vs. Indian Oil²⁸, where the Supreme Court held that exclusion can also be inferred even without explicit term, therefore, taking a more purposive approach, focusing more on the intention behind the existence of the provision itself.²⁹

The second significant provision within the CPC is Section 80. The interpretation of this provision has evolved to highlight the importance of providing a fair opportunity to the government and public to address their grievances.³⁰ In the case of Atibari Tea Co. vs. Automobile Transport, the Supreme Court beautifully illustrates this approach.³¹

A very central piece of legislation recurring throughout the case is the Constitution of India, specifically Articles 301 and 304(a). The inclusion of a provision like Article 301 is very interesting it reflects India's commitment to free trade between states, reflecting a quasi-federal structure where states are integral to national sovereignty. This contrasts with Western countries like the US, where inter-state trade can be restricted by tariffs and quotas. India's approach underscores its intention to ensure unfettered trade within its states, diverging from the more autonomous state model seen in countries like the US. Coming to Article 304(a), it ensures that this freedom is not abused and that the government still has some modicum of control. It provides a balance much required for economic unity with the interests of state autonomy.

Judgement of the Supreme Court

The Supreme Court after much deliberation allowed the Appeals. It decided to overturn and set aside the judgement of the Bombay High Court by relying on Venkataraman and Co. vs. State of Madras read with Circo's Coffee Co. vs. State of Mysore and Pabhojan Tea Co. Ltd. vs. Deputy Commissioner, Lakhimpur. The Court found that the Appellants were taxed under a

²⁷ A.B.C. Laminart Pvt. Ltd. & Anr. v. A.P. Agencies, Salem, (1989) 2 S.C.C. 163.

²⁸ M/S Swastik Gases P. Ltd. v. Indian Oil Corp. Ltd., (2013) 9 S.C.C. 32.

²⁹ Anshita Sethi, Exclusive Jurisdiction Clauses: Meaning, Limitations, and Problems in Its Interpretation, 1 JUS CORPUS L.J. 86 (June-August 2021).

³⁰ Aditi Saumya, Suits by or against Government or Public Officers in Their Official Capacity, 3 INDIAN J.L. & LEGAL RSCH. 1 (December 2021 - January 2022).

³¹ H. M. Seervai, The Freedom of Trade and Commerce in the Indian Constitution: The Atiabari Case and After, 21 Cambridge L.J. 54 (1963), available at <http://www.jstor.org/stable/4504845>.

deficient charging provision, impacting the jurisdiction of the tax authorities who were thus unable to properly assess the Appellants. Further, it held validity of taxing provisions, including questions of whether they are ultra vires, falls outside the jurisdiction of tax authorities. Tax authorities are not empowered to address such constitutional or statutory validity issues; similarly, these questions cannot be entertained by the High Court or Supreme Court on revision or referral of the same.

Analysis

The Supreme Court dealt with various complexities while discussing the present case. Its judgement highlights significant points on the jurisdiction of civil courts, constitutional freedom and taxation laws. More significantly, they explored the meaning and scope of jurisdictional exclusionary provisions. Section 9 of the Civil Procedure Code permits civil courts to adjudicate all civil matters unless such jurisdiction is explicitly excluded by a specific legal provision or by necessary implication from the relevant legislation. As established before, Section 17 of the Madhya Bharat Sales Act of 1950 explicitly precludes civil courts from questioning any provisions within the Act. The Appellants regardless filed a civil suit for refund of tax before the Civil Court. At that point, the Apex Court opined that when a statute expressly excludes the jurisdiction of civil courts, it then becomes essential to assess whether the statute provides adequate or sufficient remedies within its framework.

The tax imposed under the Act was prima facie non-uniform and offensive to Article 301 of the Constitution. This standing was clearly promulgated to be discriminatory in *Bhailal Bhai vs. State of Madhya Pradesh* where the notifications were deemed unconstitutional. Consequently, the Court found that tax was imposed upon the Appellants under a deficient charging provision and the tax authorities would hence lack jurisdiction to assess the Appellants. The reasoning for this was explored via the scrutinization of various case laws. The Court noted that taxing authorities can only assess the categorization of the tax (whether correctly imposed or not) but do not have the jurisdiction to assess or determine the nature or character of the transaction. In *Venkataraman and Co. vs State of Madras*, it was ordained that questions surrounding the validity of taxing provisions, including whether they are ultra vires, are beyond the jurisdiction of taxing authorities. Tax authorities cannot delve into the ascertainment of adequacy and sufficiency of remedies postulated under the Act. Such concerns of constitutional and statutory validity will have to be taken up with the civil courts.

The Supreme Court thereafter deliberated conditions wherein despite exclusionary provisions civil courts may still be allowed to have jurisdiction. Of the many conditions, it narrowed down the following two that applied to the present matter.

- (i) The provision of a particular Act has been challenged to be ultra vires. Such challenges cannot be addressed by a tribunal established under that Act. The High Court or Supreme also cannot entertain such questions on a revision or reference from the tribunal decisions since the original decision's jurisdiction is inherently flawed.
- (ii) The provision of a particular Act is either already declared unconstitutional or is contested on grounds of unconstitutionality. A suit then becomes open in such cases and the statutory bar does not apply. Additionally, a writ of certiorari can therein include directions for a refund, provided that the claim adheres to the time limits prescribed by the Limitation Act.³²

The Court found that the Act did have provisions of appeal, revision, rectification and reference to the High Court. However, with issues of constitutional and statutory validity coming up, the barring provisions will not exclude the jurisdiction of civil courts.

Critique

The decision in *Dhulabhai* is a landmark and attempts to explain the jurisdiction of civil courts in matters involving special statutes, particularly taxation. However, for all its reasoning, the judgment leaves substantial gray areas open to attack, particularly in its approach to basic principles such as alternative remedies, ultra vires challenges and the relationship between civil suits and writ petitions.

The first drawback that is apparent is the Court's position with regards to exclusion of civil courts itself. The Court's judgment outlined seven principles on civil court jurisdiction despite statutory exclusions, providing useful guidance but lacking precision. Specifically, it mentioned that civil courts can have residual jurisdiction if alternative remedies are inadequate,

³² *Limitation Act*, 1963, Act No. 36 of 1963.

but did not define what constitutes an "adequate" remedy.³³ This lack of clear benchmarks may lead to unpredictable outcomes, suggesting that a more detailed test for adequacy would offer better guidance for lower courts and litigants.

Another drawback is that the Court ruled that administrative tribunals cannot address constitutional questions, reserving these for the civil courts. While this upholds the judiciary as the protector of constitutional rights, the judgment lacks clarity on the scope of ultra vires challenges. It does not specify whether all statutory challenges or only those involving fundamental constitutional issues fall under civil court jurisdiction. This ambiguity may lead to inconsistent decisions and uncertainty about civil courts' roles in taxation matters.

In continuance to the above point, the judgment creates further confusion regarding where to challenge the constitutionality of statutes. Traditionally, such challenges are made under Article 226³⁴ before High Courts, but the Dhulabhai judgment suggests they might sometimes be addressed in lower civil courts. This ambiguity complicates the choice between a civil suit and a writ petition, leading to potential jurisdictional conflicts and procedural uncertainty for litigants.

Moreover, the Court's neutral attitude towards precedents like *Raleigh Investment Co. Ltd.* and *Secretary of State v. Mask & Co.* where the ruling leads that civil courts should not interfere where statutes grant finality to special tribunals has led to confusion. The Supreme Court partially accepted and partially rejected these cases, creating ambiguity. A clearer stance on these precedents would have provided better guidance and reduced potential confusion for future cases.

The judgment also lacks clarity on subject-matter jurisdiction. The Court held that a civil court could entertain a suit challenging the constitutionality of statutory provisions, but it did not opine on the hierarchy to deal with such challenges between the District Court and the High Court. This is all the more important in cases where a refund or relief is claimed based on the constitutional and statutory validity of taxing statutes. Thus, significant issues are raised regarding the potential overlap in jurisdiction between lower courts and High Courts, particularly when both are conferred with the power to grant similar remedies. This confusion

³³ M.P. Jain, *Judicial Response to Privative Clauses in India*, 22 **J. Indian L. Inst.** 1 (1980), <http://www.jstor.org/stable/43950670>.

³⁴ Constitution of India art. 226.

could lead to a jurisdictional conflict and the lack of clarity about when a plaintiff should approach a lower court versus the High Court exacerbates this issue, as litigants may be unsure of the correct forum for seeking their remedy.

In the context of the guidelines themselves, the Court fails to provide a mechanism to navigate redressal to a higher court in cases where the lower court has been deemed competent to grant the remedy. This can lead to procedural uncertainty, as a challenge to the lower court's decision might overlap with issues under consideration elsewhere, complicating the right to appeal or seek further redress from the High Court. This is especially concerning as such could offend the doctrine of *res sub judice*.

The judgement creates risks of procedural inefficiencies by overburdening civil courts, particularly in complex taxation cases where specialized tribunals are more appropriate. The ruling lacks guidance on how civil courts, without expertise in taxation, will handle such matters. This could result in slower proceedings and less effective resolution, potentially discouraging litigants with valid claims.

Even the Court's discussion on alternative remedies under the Madhya Bharat Sales Act is problematic as it lacks any definition and guidance on assessing their adequacy. This is a serious omission because the adequacy of alternative provisions goes to the root of the question of jurisdiction in a civil court and can result in varied decisions and increased litigation.

To put it in perspective, the Supreme Court's judgement in this case on one hand allows civil courts to grant refunds or relief in tax validity cases but on the other fails to outline how such relief would be coordinated with the existing mechanisms or how it should be navigated in the scheme of vague guidelines.

Outcome

The Dhulabhai judgment clarifies civil court jurisdiction in statutory matters but leaves many key questions unresolved. It fails to define alternative remedies, creates uncertainty about the proper forum for constitutional claims, and ambiguously handles precedents. Consequently, its impact is significant but imperfect, and future courts will need to revisit and refine its principles, especially regarding judicial review and specialist tribunals.

Conclusion

This landmark judgement by the Supreme Court, despite its shortcomings, does succeed in contemplating a very interesting angle to the bar on jurisdiction. Rather than discussing when civil courts can and cannot have jurisdiction, it opines and infers on the unique point of when even with statutory bar to jurisdiction, civil courts may still have power to exercise their jurisdiction over legal matters. In fact, there are many takeaways from this case. Firstly, civil courts have the jurisdiction and the ability to provide a remedy, the orders of the tribunal decreed under that particular Statute cannot interfere with the jurisdiction. Secondly, issues of constitutional and statutory validity cannot be raised before tribunals founded under the same Act. Taxing authorities do not have such authority. Such matters fall within the jurisdiction of civil courts. Thirdly, when a provision's constitutionality is challenged, a suit becomes open and therefore cannot be barred by an exclusionary provision. And finally, civil courts can ordain questions of adequacy and sufficiency of remedies and they can order relief of refund if found appropriate. Taxing authorities can only assess the categorization of transactions, not the character or nature of the transaction.