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Analysis of Atibari Tea Company v/s State of Assam (AIR 1961, Supreme Court 232)

Introduction:

Part XII of the Indian Constitution containing provisions concerning to the Freedom of the Trade, Commerce and intercourse which was enshrined within the Article 301-307 of the Constitution. The concept of the Freedom, Trade and Commerce has been taken from the Australian Constitution. This case basically relates to the interpretation of the Article 301 of the constitution. Article 301 enacts a general rule in which trade, commerce, and intercourse throughout the territory of the India shall be free, this provision made the free flow of the goods between the various states or within a state. The main objectives are:

1. To break down the economic barrier between the various states and to create one economic unit.
2. It also encourages free movement and exchange of the goods throughout the country.

What is Article 301

Article 301 of the Indian Constitution provides that the trade, commerce, and intercourse within the country should be free throughout the Country. In trade- basically goods and services are exchanged between the potential buyers and the potential sellers and it includes transportation also. In commerce- most of the focus is towards the transmission of the goods also as of the men and the animals, therefore the profit motive isn't the main concerns. The word intercourse was included to get rid of the ambiguity of the constitutional makers. So, it has been used to express the intention of the free flow of goods throughout the country.

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Illustration

If Ajay, a seller lives within the Delhi wants to sell commodities to Bhavna who lives in Kerala then under the Article 301 of the Constitution, they have freedom to try to do so and can't be restricted from the selling or the buying of the goods.

Fundamental Right regarding to Freedom of Trade and Commerce under the Indian Constitution:

1. Article 19(1)(a) & e- It guarantees to every citizen the freedom of the movement and the residence throughout the territory of India.
2. Article 19(1)(g)- It guarantees the citizen right to practice any profession or the trade.

Main Objective for Article 301:

Article 301 is essentially included in the constitution to ensure that the unity of nation is maintained by removing unnecessary geographical barriers which exists in the various parts of the country and also removes the restrictions to make sure free flow of goods throughout the country. The main rationale behind Article 301 was to bring the feeling of One Nation among all Indians which may not possible if the economic activities face any barriers.

Facts of the Case

The Legislative Assembly passed the Assam Taxation Act 1954 (On the goods transported through roads or waterways) Act (No XIII),1954 with the approval of Governor and enforced it with the effect from 1-06-1954, This act provided for the imposition of the tax on the commodities transmitted through Inland Waterways and therefore the roads. Under Section 7 of the Act, The Tax Commissioner issued certain notifications requiring assesses to submit certain statements. The petitioner within the present case carried on the business of transporting tea to Calcutta (now Kolkata) via Assam from where the tea is sold for consumption in the country or is exported for the sale out of the country. Basically, the sale of tea inside Assam bears a very small proportion to the tea produced and manufactured by the appellants. So, the bulk of tea produced and manufactured is either carried out for internal consumption in India itself or for export in the abroad. Now while passing through Assam for the aim of transportation to Calcutta, the tea was susceptible to tax under said Act. Taxes were levied on

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the tea in the chests carried by the roads or inland waterways pursuant to the provisions of the act.

Issues:

The rationality of the Assam Taxation Act of 1954 was discussed on the ground that whether the particular act was violative of Article 301 or not? And whether it might be protected by making it fall under ambit of the Article 304(B) or not. The most important question to be determined was whether the impugned Act infringes the provision of the Part XIII of the Constitution with the particular reference to the Article 301.

Appealed in High Court

The appellants presented a petition in the High Court Under Article 226 of the Constitution challenging the validity of the Assam Taxation Act. The appellants challenged on the ground that the Assam Taxation Act 1954 itself and the act, notifications, rules under this act was ultra vires to the Constitution of India because this act was repugnant, It had been alleged that the Act was against the provisions of Article 301 of the Constitution as tax on carriage of the tea through the state of Assam had the effect of interfering with the freedom of trade and commerce so because due to the imposition of the tax on the goods transported, the trade tea would have been adversely affected and It had been also held within the petition that only the Central Government has right to manage the production, distribution and import and export of the tea was under the provisions of the Tea Act XXIX of 1953 and this work was out of the jurisdiction of the Assam Legislature. It was also held that the tax under this act was nothing but an excise duty was thus an encroachment on the Central Legislative field within the meaning of the entry 84 of the Union List, so this impugned Act was challenged on the ground that it had been a discriminatory and was thus void under Article 14 of the Constitution. Basically, the competence of the Assam Legislature to legislate on the subjects was also being questioned.

The main case of the respondents was that the act was in doctrine of pith and substance, so a legislation to levy taxes on certain classes and the types of goods was within entry no 56 of the State List. It was also asserted by the respondents that the Act was within the Legislative Competence of the Assam Legislature so the Assam Act was not within the prohibitions mentioned in the Article 301 of the constitution.

Decision of High Court:

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The Honorable Judges of the High Court, observed that under than the Constitution, the Freedom of Trade, Commerce and Intercourse throughout the whole country is conferred. The court held that the previous sanction of the president was not obtained for moving the bill which was enacted as the impugned act. So even though The assam Legislature has only 56 items in the seventh schedule of the legislative assembly to impose the tax but the state did not have the power to exercise the tax without the previous sanctions of the president as this impugned act did not have the assent of the president, (i.e. president assent not taken before passing the act in the assam legislature) Under these circumstances the Assam Taxation Act 1954 contravened the assurance of the freedom of trade and commerce under the Article 301 of the Constitution, Also the impugned bill which moved in the Assembly also did not have the assent required under the Article 304(B) and it also this Act has not been validated by the assent of the president under the Article 255(C). The Honorable Judges therefore not considering it necessary to think over the other arguments in this case on the basis of the majority of the options admitted the appeal and the petition with the costs. This decision was challenged by the respondents in the Supreme Court.

Decision of Supreme Court

The Supreme Court upheld the decision of the High Court saying that the taxes which hampers the free flow of the trade and the commerce and also these taxes violate Part XII of the constitution, so the tax (Assam Taxation Act 1954) which was passed by the Assam Legislature was declared unconstitutional by the Supreme court as it contravenes so many provisions which is defined in the constitution of the India. In the end the Supreme Court qualified the decision of the High Court in Atibari Case saying that this act was not within the purview of the Article 301.

Principles of Law Laid Down:

1. Any act obstructing the freedoms which is conferred under the Constitution of the India is invalid.
2. No act can't be made in the Legislature without the permission of the president and are often treated as invalid until it is approved by the President only.

Conclusion

The fundamental rights are guaranteed by the Indian Constitution. If any rights are violated, we are able to appeal in the High Court and Supreme Court for violation of our basic rights.

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The taxes can be levied only after it fulfils the conditions which are mentioned in the Article 304(B) of the constitution as it states that the sanction by the president is necessary required before that State can't enact such law. During this case basically assent wasn't taken from the President to implement the Assam Taxation Act 1954 so this act was declared invalid till the assent was taken from the President itself. This case was taken in the Supreme Court in which the honorable supreme court upheld the decision of the high court saying that this Act was not within the provisions of the Article 301 The freedom of trade hence in this case is not an absolute right as we can only enforce it with certain restrictions. If our articles are violated there will be no scope for the fundamental rights as given by the constitution. So, people need to be aware about their rights and can go to the Supreme Court under the Article 32 and High Court under 226 for the violation of their rights.