REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CA NO. 9178 OF 2012

UNION of INDIA & ORS. APPELLANT (s)

VERSUS

M/S. TATA TEA CO. LTD. & ANR. RESPONDENT(s)

WITH

CA NO. 9179 OF 2012

M/s GEORGE WILLIAMSON (ASSAM)LTD. APPELLANT (s)

VERSUS

UNION OF INDIA & ORS RESPONDENT(s)

WITH

CA NO. 9180 OF 2012

UNION OF INDIA & ORS. APPELLANT (s)

VERSUS

M/S. APEEJAY SURRENDRA CORPORATE SERVICE LTD. RESPONDENT(s)

J U D G M E N T

ASHOK BHUSHAN, J.

The constitutional validity of Section 115-O of the Income Tax Act, 1961 (hereinafter referred to as

'1961, Act') as inserted by Finance Act, 1997 is in issue in these appeals. The Civil Appeal No. 9178 of 2012 and Civil Appeal No. 9180 of 2012 have been filed by the Union of India against the common judgment dated 28.07.2006 of Calcutta High Court by which judgment although, Calcutta High Court has upheld the constitutionality of Section 115-O, but a rider has been put that additional income tax to be charged under Section 115-O can only be on 40 per cent of income which is taxable under Income Tax Act. The Civil Appeal No. 9179 of 2012 has been filed by the writ petitioner who had also challenged the constitutional validity of Section 115-O before the Gauhati High Court which writ petition has been dismissed *vide* judgment and order dated 22.06.2007. The Gauhati High court had also noted the judgment of Calcutta High Court dated 28.07.2006 as referred to above. All the appeals have been heard together and are being decided by this common judgment.

2. The facts giving rise to Civil Appeal No. 9178 of 2012 and 9180 of 2012 needs to be briefly noted.

Several writ petitions were filed before the Calcutta High Court questioning the *vires* of Section 115-O of the 1961 Act. The petitioner's case in the writ petition is that the petitioner is a Tea Company which cultivate tea in gardens and processes it in its own factory/plants for marketing the same. The cultivation of tea is an agricultural process although, the processing of tea in the factory is an industrial process. The agricultural income is within the legislative competence of the State and not in the legislative competence of the Parliament. Section 115-O imposes tax on the dividend distributed by the company which is nothing but imposing the tax on agricultural income of the writ petitioner. The petitioner M/s Tata Tea Company Ltd. and others filed a Writ Petition No. 1699 of 2000 where the *vires* of Section 115-0 was challenged. The writ petition was dismissed by learned Single Judge *vide* its judgment dated 20.9.2001 against which judgment, appeals were filed before the Division Bench of the Calcutta High Court. Division Bench

vide its judgment dated 28.7.2006 disposed of the appeals, setting aside the judgment of the learned Single Judge. Operative portion of the judgment of the Division Bench is as follows:

> *"We are, however, in agreement with Dr. Pal on a limited issue. We are of the view that Rs. 50/- as a whole could not be taxes at the prescribed rate of additional tax. Such additional tax would be levied on Rs. 20/- being 40% of Rs. 50/-. Hence, at the end of the day the company would have to pay income tax at the prescribed rate on Rs. 40/- as well as additional income tax at the prescribed rate on Rs. 20/-.*
>
> *Result*
>
> *The judgment and order of the learned Single Judge is set aside. We hold that the provision of section 115-O is constitutional and we have given the proper interpretation of the subject section as observed hereinafter.*
>
> *The appeals are disposed of accordingly without any order as to costs."*

3. Union of India questioning the said judgment has come up in Civil Appeal No. 9178 of 2012 and

Civil Appeal No. 9180 of 2012.

4. In Writ Petition(C)No.3827 of 2000, the writ petitioner has been carrying on the business of growing green tea leaves in its tea gardens and manufacturing black tea out of the same and thereafter selling the black tea in India and also outside India. The writ petitioner challenged the constitutional validity of Section 115-O sub clause (1) and sub clause (3) in so far as it purports to levy the income tax on the profit which is decided to be distributed as dividend thereby imposing an additional income-tax even on the portion of the composite income which represents agricultural income and which is also to be made available for the distribution of dividend and, therefore, transgresses the limits of legislative power. The Parliament has no competence to levy income tax on agricultural income.

5. The writ petition has been dismissed by the Division Bench of the Gauhati High Court vide

judgment dated 22.06.2007 against which, the Civil Appeal No. 9179 of 2012 has been filed by the writ petitioner.

6. We have heard, Shri S. Ganesh, learned senior counsel for the appellant in Civil Appeal No. 9179 of 2012. Shri Arijit Prasad, learned counsel has appeared on behalf of the Union of India. We also heard learned counsel appearing for the respondent in Civil Appeal No. 9178 of 2012 and Civil No. 9180 of 2012. The parties shall hereinafter be referred to as described in the respective writ petitions.

7. Learned counsel appearing for the writ petitioners submitted that Section 115-O imposes additional tax on the dividend distributed by the Company which distribution arises out of the income received from agriculture, 60 per cent of the income is the agricultural income which is exempt from tax. The Parliament has no legislative competence to tax the agricultural income and Section 115-O of the 1961 Act transgresses the legislative field which is

assigned to the State Legislature under List II Entry 46 of Seventh Schedule of the Constitution. At the best, the amount of dividend distributed by the Company to the extent of 40 per cent on which income tax is charged can only be subject to additional tax. The Parliament cannot touch the agricultural income.

8. The above submission has been refuted by the learned counsel appearing for the Union of India. He submitted that dividend which is decided to be distributed by the Company to its shareholders no longer remains an agricultural income. The Company is being asked to pay additional tax on the amount of dividend distributed by it and not on its agricultural income. It is contended that the Parliament has full legislative competence to enact Section 115-O. Both, the Calcutta High Court and Gauhati High Court have rightly held that provisions of Section 115-O is *intra vires*.

9. We have considered the submissions and perused the records.

10. Finance Act, 1997 inserted a new Chapter XIID in the 1961, Act with heading "special provisions relating to tax on distributed profits on domestic companies". Section 115-O, sub-sections (1), (2) and (3) as it was inserted by Finance Act, 1997 is as follows:

> *"115-O. Tax on distributed profits of domestic companies.—(1) Notwithstanding anything contained in any other provision of this Act and subject to the provisions of this section, in addition to the income-tax chargeable in respect of the total income of a domestic company for any assessment year, any amount declared, distributed or paid by such company by way of dividends (whether interim or otherwise) on or after the 1st day of June, 1997, whether out of current or accumulated profits shall be charged to additional income-tax (hereafter referred to as tax on distributed profits) at the rate of ten per cent.*
>
> *(2) Notwithstanding that no income-tax is payable by a domestic company on its total income computed in accordance with the provisions of this Act, the tax on distributed profits under sub-section (1) shall be payable by such company.*
>
> *(3) The principal officer of the domestic company and the company shall*

be liable to pay the tax on distributed profits to the credit of the Central Government within fourteen days from the date of—

(a) declaration of any dividend;or

(b) distribution of any dividend;or

(c) payment of any dividend,

whichever is earliest."

11. The *vires* of the above provisions of the 1961, Act was challenged before the High Court. The main plank of attack of learned counsel for the writ petitioners is, lack of legislative competence in the Parliament to enact Section 115-O so as to impose additional income tax. The income out of which dividend is declared, distributed or paid is an agricultural income to the extent of 60%, tax on which can only be imposed by State legislature. The Parliament has transgressed its legislative power in enacting Section 115-O.

12. Part XI of the Constitution of India Chapter I contains provisions relating to distribution of legislative powers. Article 246 provides for subject-matter of laws made by the Parliament and by

the Legislatures of States. Article 246 of the Constitution of India is as follows:

> *"246. **Subject-matter of laws made by Parliament and by the Legislatures of States.-** (1) Notwithstanding anything in clauses (2) and (3), Parliament has exclusive power to make laws with respect to any of the matters enumerated in List I in the Seventh Schedule (in this Constitution referred to as the "Union List")*
>
> *(2) Notwithstanding anything in clause (3), Parliament, and, subject to clause (1), the Legislature of any State also, have power to make laws with respect to any of the matters enumerated in List III in the Seventh Schedule (in this Constitution referred to as the "Concurrent List")*
>
> *(3)Subject to clauses (1) and (2), the Legislature of any State has exclusive power to make laws for such State or any part thereof with respect to any of the matters enumerated in List II in the Seventh Schedule (in this Constitution referred to as the 'State List')*

> *(4) Parliament has power to make laws with respect to any matter for any part of the territory of India not included in a State notwithstanding that such matter is a matter enumerated in the State List."*

13. Sub-clause (1) of Article 246 begins with *non obstante clause* that is "Notwithstanding anything in clauses (2) and (3), Parliament has exclusive power to make laws with respect to any of the matters enumerated in List I in the Seventh Schedule". The State as per clause (3) of Article 246 "Subject to clauses (1) and (2) of Article 246 has exclusive power to make laws for such State or any part thereof with respect to any of the matters enumerated in List II in the Seventh Schedule".

14. Entry 82 of List I reads:

> *"82. Taxes on income other than agricultural income."*

15. List II that is State List contains Entry 46 which reads:

> *"46.Taxes on agricultural income".*

16. Agricultural income has been defined in Article 366 of the Constitution of India, sub-clause (1) of which is to the following effect:

> *"(1) "agricultural income" means agricultural income as defined for the purposes of the enactments relating to Indian income-tax;"*

17. The definition of agricultural income was contained in Income-tax Act, 1922. In the Income-tax Act, 1961 agricultural income has now been defined in Section 2(1A). The words agricultural income as used in the legislative entries, thus, has to be given the meaning as contained in Income-tax Act, 1961. The entries in the Seventh Schedule are not powers but fields of legislature. The words in the respective entries have to be given the widest scope of their meaning, each general word should extend to ancillary or subsidiary matter which can be comprehended in it. As per Entry 82, Union/Parliament, thus, has full power to legislate in the field of "taxes on income". The subject excluded from its field are agricultural income. The

word income has also been defined in the Income-tax Act in Section 2(24) which is to the following effect:

"2(24) "income" includes-

(i) profits and gains;

(ii) dividend;

xxx xxx xxx xxx

18. The definition given in 1961, Act of the word 'income' is an inclusive definition. The pivotal question to be answered in these appeals is as to whether the provisions of Section 115-O which contains a provision imposing additional tax on the dividends which are declared, distributed or paid by a company are within the fold of legislative field covered by Entry 82 of List I or it relates to legislative field assigned to State legislature under Entry 46 List II that is tax on agricultural income.

19. For answering the above, we need to recapitulate the principles of statutory interpretation of the legislative entries contained

in Seventh Schedule of the Constitution. Prior to enforcement of the Constitution, the Government of India Act, 1935 contained the Seventh Schedule containing three legislative lists, namely, List I - Federal Legislative List, List II — Provincial Legislative List and List III- Concurrent Legislative List.

20. In ***A.L.S.P.P.L. Subrahmanyan Chettiar vs. Muttuswami Goundan, AIR 1941 FC 47,*** the Federal Court had considered the principles of statutory interpretation of legislative lists contained in the Government of India Act, 1935. Madras Agriculturists Relief Act, 1938 was enacted by Madras legislature. The 1938 Act applies to debts payable by an 'agriculturist' at the commencement of the Act. Debt was defined as any liability in cash or kind, whether secured or unsecured, due from an agriculturist, whether payable under a decree or order of a civil or revenue court or otherwise. The Federal Legislature had an exclusive power to legislate with respect to cheques, bills of

exchange, promissory notes and other like instruments (List I, No.28). The challenge was raised to 1938 Act before the Madras High Court by the appellant on the ground that State legislature has no competence to enact the legislation which had effect of discharging debt including the debts based on the promissory notes. The **Chief Justice, Gwyer** speaking for the Court held that, however, carefully and precisely lists of legislative subjects are defined, it is practically impossible to ensure that they never overlap. Laying down the principle to be adopted in a case where subject in one list, touches also on a subject in another list, following was held:

> "*It must inevitably happen from time to time that legislation, though purporting to deal with a subject in one list, touches also on a subject in another list, and the different provisions of the enactment may be so closely intertwined that blind adherence to a strictly verbal interpretation would result in a large number of statutes being declared invalid because the Legislature enacting them may appear to have legislated in a forbidden sphere. Hence the rule which has been evolved by the Judicial Committee whereby the impugned statute is examined*

to ascertain its "pith and substance", or its "true nature and character", for the purpose of determining whether it is legislation with respect to matters in this list or in that:(1881) 7 AC 96; (1882) 7 AC 829; (1899) AC 580; 1930 AC 111; 1940 AC 513. In my opinion, this rule of interpretation is equally applicable to the Indian Constitution Act. On this point I find myself in agreement with the Madras High Court, and I dissent from the contrary view which appears to have been taken in a recent case by the High Court at Patna: 3 FLJ HC 119.

It is clear that the pith and substance of the Madras Act, whatever it maybe, cannot at any rate be said to be legislation with respect to negotiable instruments or promissory notes; and it seems to me quite immaterial that many, or even most, of the debts with which it deals are in practice evidenced by or based upon such instruments. That is an accidental circumstance which cannot affect the question. Suppose that at some later date money-lenders were to adopt a different method of evidencing the debts of those to whom they lend money; how could the validity or invalidity of the Act vary with money-lenders' practice? I am of opinion therefore that the Act cannot be challenged as invading the forbidden field of List I, for, it was not suggested that it dealt with any item in that List other than No.28."

21. The Privy Council in ***Prafulla Kumar Mukherjee and others vs. Bank of Commerce, Limited Khulna, Vol.74 1946-47 Indian Appeals 23,*** had considered

principles of statutory interpretation and the doctrine of pith and substance. The *vires* of the Bengal Money Lenders Act, 1940 came for consideration. It was held that the provincial legislature was in pith and substance - “money lending and money lenders”. It held that legislature did not trench the legislative field earmarked for Federal legislation. The Privy Council referring to the observation of Sir Maurice Gwyer, C.J. held following:

> "*(2)....No doubt experience of past difficulties has made the provisions of the Indian Act more exact in some particulars, and the existence of the Concurrent List has made it easier to distinguish between those matters which are essential in determining to which list particular provisions should be attributed and those which are merely incidental. But the overlapping of subject-matter is not avoided by substituting three lists for two, or even by arranging for a hierarchy of jurisdictions. Subjects must still overlap, and where they do the question must be asked what in pith and substance is the effect of the enactment of which complaint is made, and in what list is its true nature and character to be found. If these questions could not be asked, much beneficent legislation would be stifled at birth, and many of the subjects entrusted to provincial*

legislation could never effectively be dealt with.

(3) Thirdly, the extent of the invasion by the provinces into subjects enumerated in the Federal List has to be considered. No doubt it is an important matter, not, as their Lordships think, because the validity of an Act can be determined by discriminating between degrees of invasion, but for the purpose of determining what is the pith and substance of the impugned Act. Its provisions may advance so far into Federal territory as to show that its true nature is not concerned with provincial matters, but the question is not, has it trespassed more or less, but is the trespass, whatever it be, such as to show that the pith and substance of the impugned Act is not money lending but promissory notes or banking? Once that question is determined the Act falls on one or the other side of the line and can be seen as valid or invalid according to its true content. This view places the precedence accorded to the three lists in its proper perspective....”

22. This Court has time and again emphasised that in the event of any overlapping is found in two Entries of Seventh Schedule or two legislations, it is the duty of the Court to find out its true intent and purpose and to examine the particular legislation in its pith and substance. In ***Kartar***

Singh vs. State of Punjab, 1994 (3) SCC 569, paragraphs 59, 60 and 61 following has been held:

> *"**59**....But before we do so we may briefly indicate the principles that are applied for construing the entries in the legislative lists. It has been laid down that the entries must not be construed in a narrow and pedantic sense and that widest amplitude must be given to the language of these entries. Sometimes the entries in different lists or the same list may be found to overlap or to be in direct conflict with each other. In that event it is the duty of the court to find out its true intent and purpose and to examine the particular legislation in its 'pith and substance' to determine whether it fits in one or other of the lists. [See : Synthetics and Chemicals Ltd. v. State of U.P.; India Cement Ltd. v. State of T.N."*
>
> ***60**. This doctrine of 'pith and substance' is applied when the legislative competence of a legislature with regard to a particular enactment is challenged with reference to the entries in the various lists i.e. a law dealing with the subject in one list is also touching on a subject in another list. In such a case, what has to be ascertained is the pith and substance of the enactment. On a scrutiny of the Act in question, if found, that the*

legislation is in substance one on a matter assigned to the legislature enacting that statute, then that Act as a whole must be held to be valid notwithstanding any incidental trenching upon matters beyond its competence i.e. on a matter included in the list belonging to the other legislature. To say differently, incidental encroachment is not altogether forbidden.

23. Further in ***Union of India and others vs. Shah Govedhan L. Kabra Teachers' College, 2002 (8) SCC 228*** in paragraph 7 following was laid down:

"7. It is further a well-settled principle that entries in the different lists should be read together without giving a narrow meaning to any of them. Power of Parliament as well as the State Legislature are expressed in precise and definite terms. While an entry is to be given its widest meaning but it cannot be so interpreted as to override another entry or make another entry meaningless and in case of an apparent conflict between different entries, it is the duty of the court to reconcile them. When it appears to the court that there is apparent overlapping between the two entries the doctrine of "pith and substance" has to be applied to find out the true nature of a legislation and the entry within

which it would fall. In case of conflict between entries in List I and List II, the same has to be decided by application of the principle of "pith and substance". The doctrine of "pith and substance" means that if an enactment substantially falls within the powers expressly conferred by the Constitution upon the legislature which enacted it, it cannot be held to be invalid, merely because it incidentally encroaches on matters assigned to another legislature. When a law is impugned as being ultra vires of the legislative competence, what is required to be ascertained is the true character of the legislation. If on such an examination it is found that the legislation is in substance one on a matter assigned to the legislature then it must be held to be valid in its entirety even though it might incidentally trench on matters which are beyond its competence. In order to examine the true character of the enactment, the entire Act, its object, scope and effect, is required to be gone into. The question of invasion into the territory of another legislation is to be determined not by degree but by substance. The doctrine of "pith and substance" has to be applied not only in cases of conflict between the powers of two legislatures but in any case where the question arises whether a legislation is covered by particular legislative power in

exercise of which it is purported to be made.”

24. As noted above Entry 82 of List I embraces entire field of “tax on income”. What is excluded is only tax on agricultural income which is contained in Entry 46 of List II. Income as defined in Section 2(24) of the 1961, Act is the inclusive definition including specifically “dividend”. Dividend is statutorily regulated and under the article of association of companies are required to be paid as per the Rules of the companies to the shareholders. Section 115-O pertains to declaration, distribution or payment of dividend by domestic company and imposition of additional tax on dividend is thus clearly covered by subject as embraced by Entry 82. The provisions of Section 115-O cannot be said to be directly included in the field of tax on agricultural income. Even if for the sake of argument it is considered that the provision trenches the field covered by Entry 46 of List II, the effect is only incidental and the legislation cannot be annulled on the ground of such incidental

trenching in the field of the State legislature. Looking to the nature of the provision of Section 115-O and its consequences, the pith and substance of the legislation is clearly covered by Entry 82 of List I.

25. We, thus, repel the argument of the learned counsel for the writ petitioners that provision of Section 115-O is beyond the legislative competence of the Parliament.

26. As noticed above, the Guahati High Court has dismissed the writ petition whereas the Calcutta High Court while upholding the *vires* of Section 115-O has put a rider that the additional tax as levied by Section 115-O on the dividend declared, distributed or paid additional tax shall be only to the extent of 40% which is taxable income of the Tea Co. Learned counsel for the writ petitioners has referred to Rule 8 of the Income Tax Rules, 1962. Rule 8 deals on the subject "income from the manufacture of tea". Rule 8 is as follows:

"***Income from the manufacture of tea.***

> ***8.(1)****Income derived from the sale of tea grown and manufactured by the seller in India shall be computed as if it were income derived from business, and forty per cent of such income shall be deemed to be income liable to tax.*
>
> *(2)In computing such income an allowance shall be made in respect of the cost of planting bushes in replacement of bushes that have died or become permanently useless in an area already planted, if such area has not previously been abandoned, and for the purpose of determining such cost, no deduction shall be made in respect of the amount of any subsidy which, under the provisions of clause (30)of section 10, is not includible in the total income."*

27. There cannot be any dispute regarding computation of income of Tea Co., manufacture of tea, as provided in Rule 8. The question to be considered is as to when a company in its Annual General Meeting declares dividend which is distributed and paid to its shareholders whether on the dividend so declared tax liability shall be only upto 40% as has been held by the Calcutta High Court ?

28. This Court in ***Mrs. Bacha F. Guzdar, Bombay vs.***

Commissioner of Income Tax, Bombay,AIR 1955 SC 74, had occasion to consider the nature of an income in the hands of shareholders of company consequent to payment of dividend amount. The appellant in the above case was paid dividend by two Tea companies of which she was shareholder. The income received by the appellant was held taxable by the Revenue Authority which was also upheld by the High Court. In paragraph 2 of the judgment question referred to the High Court was noticed which was to the following effect:

> *"2. The question referred by the Tribunal to the High Court of Judicature at Bombay was stated thus :*
>
> > "*Whether 60% of the dividend amounting to Rs. 2,750 - received by the assessee from the two Tea companies is agricultural income and as such exempt under section 4(3)(viii) of the Act.*"
>
> *Chagla, C.J. and Tendolkar J., who heard the reference, answered the question in the negative by two separate but concurring judgments dated 28, March, 1952."*

29. In paragraph 6 of the following was stated by this Court

> *"6. In order, however, that dividend may be held to be agricultural income it will be incumbent upon the appellant to show that, within the terms of the definition, it is rent or revenue derived from land which is used for agricultural purposes. Mr. Kolah, for the appellant, contends that it is revenue derived from land because 60% of the profits of the company out of which dividends are payable are referable to the pursuit of agricultural operations on the part of the company. It is true that the agricultural process renders 60% of the profits exempt from tax in the hands of the company from land which is used for agricultural purposes but can it be said that when such company decides to distribute its profits to the shareholders and declares the dividends to be allocated to them, such dividends in the hands of the shareholders also partake of the character of revenue derived from land which is used for agricultural purposes ?*
>
> *Such a position if accepted would extend the scope of the vital words 'revenue derived from land' beyond its legitimate limits. Agricultural income as defined in the Act is obviously intended to refer to the revenue received by direct association with the land which is used for agricultural purposes and*

not by indirectly extending it to cases where that revenue or part thereof changes hands either by way of distribution of dividends or otherwise. In fact and truth dividends is derived from the investment made in the shares of the company and the foundation of it rests on the contractual relations between the company and the shareholder. Dividend is not derived by a shareholder by his direct relationship with the land.

There can be no doubt that the initial source which has produced the revenue is land used for agricultural purposes but to give to the words 'revenue derived from land' the unrestricted meaning apart from its direct association or relation with the land, would be quite unwarranted. For example, the proposition that a creditor advancing money on interest to an agriculturist and receiving interest out of the produce of the lands in the hands of the agriculturist can claim exemption of tax upon the ground that it is agricultural income within the meaning of section 4, sub-section (3) (viii), is hardly statable.

The policy of the Act as gathered from the various sub-clauses of section 2(1) appears to be to exempt agricultural income from the purview of Income-tax Act. The object appears to be not to subject to tax either the actual tiller of the soil or any other person getting land cultivated by others for deriving benefit

> *therefrom, but to say that the benefit intended to be conferred upon this class of persons should extend to those into whosoever hands that revenue falls, however remote the receiver of such revenue may be, is hardly warranted."*

30. In ***The Commissioner of Income-Tax, Calcutta vs. Nalin Behari Lal Singha, etc., 1969 (2) SCC 310,*** this Court held that dividend distributed by a company being a share of its profits declared as distributable among the shareholders, is not impressed with the character of the profits from which it reaches the hands of the shareholder. Following was stated in paragraph 3:

> *"3...Dividend distributed by a company being a share of its profits declared as distributable among the shareholders, is not impressed with the character of the profits from which it reaches the hands of the shareholder."*

31. Learned Single Judge of the Calcutta High Court relying on judgment of this Court in ***Mrs. Bacha F Guzdar (supra)*** has dismissed the writ petition. The

Division Bench of the Calcutta High Court, however, held that Single Judge's decision relying on ***Mrs. Bacha F Guzdar (supra)*** was not correct preposition of law.

32. This Court in ***Mrs. Bacha F Guzdar (supra)*** was considering the nature of dividend income in the hands of shareholders. Under the Income-tax Act, 1961 earlier the dividend was taxable at the hands of shareholder. By Finance Act, 1997 it was made taxable in the hand of company when additional tax was imposed.

33. This Court, however, while considering the nature of dividend in the above case held that although when the initial source which has produced the revenue is land used for agricultural purposes but to give to the words 'revenue derived from land', apart from its direct association or relation with the land, an unrestricted meaning shall be unwarranted. Again as noted above ***Nalin Behari Lal Singha (supra)*** observation was made that shares of

its profits declared as distributable among the shareholders is not impressed with the character of the profit from which it reaches the hands of the shareholder. We, thus, find substances in the submission of the learned counsel for the Union of India that when the dividend is declared to be distributed and paid to company's shareholder it is not impressed with character of source of its income.

34. The provisions of Section 115-O are well within the competence of Parliament. To put any limitation in the said provision as held by the Calcutta High Court that additional tax can be levied only on the 40% of the dividend income shall be altering the provision of Section 115-O for which there is no warrant. The Calcutta High Court having upheld the *vires* of Section 115-O no further order was necessary in that writ petition.

35. In view of the foregoing discussion, Civil Appeal Nos. 9178 and 9180 of 2012 are allowed and

Civil Appeal No.9179 of 2012 is dismissed.

.....J.
(A.K. SIKRI)

.....J.
(ASHOK BHUSHAN)

NEW DELHI,
SEPTEMBER 20, 2017.

ITEM NO.1501 COURT NO.6 SECTION XVI

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No. 9178/2012

UNION OF INDIA & ORS. Appellant(s)

VERSUS

M/S. TATA TEA CO. LTD. & ANR. Respondent(s)

WITH

C.A. No. 9179/2012 (XIV)

C.A. No. 9180/2012 (XVI)

Date : 20-09-2017 These appeals were called on for pronouncement of judgment today.

For parties Ms. Manik Karanjawala, AOR

Mr. Arijit Prasad, Adv.
Ms. Gargi Khanna, Adv.

Ms. Anil Katiyar, AOR

Mr. B. V. Balaram Das, AOR

Mr. S. Sukumaran, Adv.
Mr. Anand Sukumar, Adv.
Mr. Bhupesh Kumar Pathak, Adv.
Ms. Meera Mathur, AOR

Hon'ble Mr. Justice Ashok Bhushan pronounced the judgment of the Bench comprising Hon'ble Mr. Justice A. K. Sikri and His Lordship.

Civil Appeal Nos. 9178 and 9180 of 2012 are allowed and Civil Appeal No. 9179 of 2012 is dismissed in terms of the signed reportable judgment.

Application for deletion of respondent No.2 is allowed at the risk of the appellants.

(NIDHI AHUJA) (MALA KUMARI SHARMA)
COURT MASTER COURT MASTER

[Signed reportable judgment is placed on the file.]