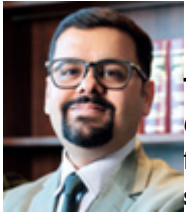




## Legislative Competence and the Limits of State Excise Department

APRIL 15, 2026

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### 1. Introduction

**THE** decision of the Chhattisgarh High Court in *Kedia Trading & Ors. Vs State Of Chhattisgarh & Ors.* - [2026-TIOL-511-HC-CHHATTISGARH-CX](#) is a timely reminder of a foundational principle that cuts across all branches of law-**legislative competence is the starting point of any valid exercise of power, whether primary or delegated.** In an era where regulatory reach often expands in the name of control and compliance, the judgment re-centres the discourse on constitutional limits and statutory discipline.

The ruling is particularly instructive for students and practitioners of constitutional and tax law, as it revisits core doctrines such as the scope of entries in the Seventh Schedule, the limits of delegated legislation, and the doctrine of pith and substance. This article attempts to distil the key legal principles emerging from the judgment, while maintaining a balance between analytical depth and readability.

### 2. Factual Background

The petitioners were engaged in the trade of molasses, purchasing it from sugar mills and supplying it to manufacturers of cattle feed and Gudakhu. Molasses, being a by-product of sugar production, finds extensive industrial and commercial use, including in chemicals, fodder, and other non-intoxicant applications.

Crucially, molasses in its natural form is neither fit for human consumption nor does it possess intoxicating properties. It becomes capable of producing alcohol only upon undergoing a process of fermentation. Historically, molasses was subject to Central Excise by the Union; however, under the GST regime, it stands subsumed within taxable supply of goods, while intoxicating liquor remains outside GST.

The controversy arose when the State of Chhattisgarh sought to regulate molasses through the Chhattisgarh Molasses Control and Regulation Rules, 2022, thereby subjecting even non-intoxicant trade to the rigours of state excise law.

### 3. Issue before the High Court

The primary challenge before the High Court was to the constitutional validity of the Rules of 2022, insofar as they sought to regulate, license, and control trade in molasses used for non-intoxicant purposes.

The petitioners contended that molasses does not qualify as an "*intoxicant*", "*liquor*", or "*excisable article*" under the Chhattisgarh Excise Act, 1915, and therefore falls outside the legislative competence of the State under Entries 8 and 51 of List II of the Seventh Schedule. The challenge also extended to the imposition of licensing requirements on ordinary traders having no nexus with the manufacture or sale of alcohol.

### 4. Submissions of the Petitioner

The petitioners argued that the impugned Rules were ultra vires the Constitution and imposed an unreasonable restriction on their fundamental right under Article 19(1)(g). They emphasised that their

activities were confined to non-intoxicant uses and bore no connection with liquor manufacture.

It was further contended that by treating all molasses traders as part of the excise chain, the State had overstepped its legislative field. The attempt to regulate molasses merely because it could be used for producing alcohol was argued to be constitutionally impermissible. Additionally, the levy of excise duty on molasses-already taxed under GST-was highlighted as an instance of impermissible overlap and double taxation.

## 5. Submissions of the Revenue

The State, on the other hand, relied upon Entries 8 and 51 of List II to assert its authority over all inputs capable of being used in liquor manufacture. It was argued that molasses, being a key raw material, required strict regulatory control to prevent diversion and revenue leakage.

The State also invoked principles of constitutional interpretation, contending that entries in the Seventh Schedule must be given the widest amplitude, and that no artificial limitations should be read into them. The Rules of 2022 were justified as a necessary regulatory mechanism to prevent misuse and abuse by miscreants.

## 6. Discussion & Findings of the High Court

### 6.1 Nature of Molasses and Scope of State Excise Law

The Court began by examining the intrinsic nature of molasses and noted that it is a by-product of sugar manufacture, not an intoxicant in itself. It categorically held that molasses does not fall within the definitions of "excisable article", "intoxicant", or "intoxicating drug" under the Excise Act.

The Court further clarified that while molasses used for distillation may fall within the excise domain, its use in industrial, agricultural, or other non-intoxicant activities lies outside the scope of the Act.

### 6.2 Limits of Delegated Legislation

A significant portion of the judgment deals with the limits of rule-making power. The Court held that Section 62 of the Excise Act empowers the State to frame rules only for carrying out the provisions of the Act. It cannot be used to expand the scope of the parent statute.

By extending regulatory control to non-intoxicant uses of molasses, the Rules of 2022 were found to travel beyond the legislative intent and were therefore ultra vires. The Court reiterated that **delegated legislation cannot override or enlarge the parent statute.**

### 6.3 Interpretation of Entries in the Seventh Schedule

In addressing the State's reliance on constitutional entries, the Court reaffirmed settled principles of interpretation:

- An exclusionary clause in any entry must be strictly construed.
- No entry should be interpreted so as to render it otiose.
- The Constitution must be read harmoniously as an organic document.
- The doctrine of pith and substance must guide resolution of overlaps.

Importantly, the Court observed:

*"It is well settled that widest amplitude should be given to the language of the entries in three Lists but some of these entries... may appear to be in direct conflict... then and then only comes the duty of the court to find the true intent..."*

Thus, while endorsing a **wide and expansive interpretation of entries**, the Court cautioned against using such interpretation to justify legislative overreach into fields not constitutionally assigned.

#### **6.4 Legislative Competence and Excise Power**

The Court drew a clear distinction between *"intoxicating liquor"* and *"alcoholic liquor for human consumption"*, noting that Entries 8 and 51 operate in distinct spheres. It held that molasses, not being covered under the entry, cannot be brought within the excise net merely on account of its potential use.

Accepting the State's argument, the Court observed, would lead to an absurd situation where any fermentable substance-fruits, grains, sugar-could be subjected to excise regulation, which is constitutionally untenable.

#### **7. Final Findings of the Court**

The Court conclusively held that molasses, in its raw form, is not an intoxicant and does not fall within the ambit of the Excise Act. The attempt of the State to regulate it through the Rules of 2022 was held to be an over-extension of legislative power.

It was further held that the expression *"any other base"* in Section 8(c) cannot be stretched to include molasses in its natural form. The Rules, insofar as they sought to regulate non-intoxicant uses, were declared ultra vires the Constitution.

#### **8. Applicability in GST Regime**

The judgment has important implications in the GST context as well. It reinforces the principle that classification and taxability must align with the true nature of the goods, and not on hypothetical or potential use. In GST disputes, particularly those involving classification, rate, or ITC restrictions, similar arguments often arise where authorities seek to expand the scope of provisions based on possible end-use.

This ruling strengthens the taxpayer's position that jurisdictional competence and statutory limits cannot be stretched merely on apprehensions of misuse or revenue considerations. It also underscores that once a product is brought within the GST net as a taxable good, parallel regulatory assertions under other statutes must withstand strict constitutional scrutiny.

#### **9. Conclusion**

The decision in Kedia Trading is a reaffirmation of constitutional discipline in fiscal legislation. It reminds us that the power to regulate is not the power to overreach and power to levy tax, and that legislative competence remains the bedrock upon which all statutory and delegated actions must stand.

At a broader level, the ruling serves as a cautionary tale against the tendency to conflate possibility with legality. Just because a substance can be used for a regulated activity does not bring it within the regulatory fold. The Constitution draws clear boundaries, and it is the duty of both the legislature and the executive to operate within them.

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