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Taxation by Executive? Lessons for India from US Supreme Court Decision in Trump Tariff Matter



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1. Introduction

In an era where fiscal measures increasingly intersect with executive action, the boundaries of delegated authority assume critical importance. The recent landmark decision of the US Supreme Court in *Learning Resources, Inc., Et Al., Petitioners 24–1287 v. Donald J. Trump, President Of The United States, Et Al.* presents a compelling constitutional moment—one that revisits first principles governing taxation, delegation, and separation of powers and the special place that tax statutes hold even under the US Constitution.

At its core, the dispute raises a deceptively simple yet profoundly significant question: can broad statutory language empowering the executive to "regulate" economic activity be stretched to include the sovereign power of taxation? The answer, as the Court emphatically reiterates, lies not merely in textual interpretation but in preserving the constitutional architecture itself—a concern equally central to Indian constitutional jurisprudence wherein time and again challenge is made before the constitutional Courts to quash the levy introduced by the executive specially through Circulars which is not supported by parent statute.

This article seeks to discuss the important constitutional concepts emerging from the judgment and their conceptual applicability in the Indian context, particularly in light of established principles governing taxation and delegated powers which are common to both jurisdictions (USA and India).

2. Constitutional Foundations of Taxing Power: A Comparative Perspective (USA & India)

The controversy must be appreciated against the backdrop of how taxation powers are constitutionally structured in the United States and India. Under Article I, Section 8 of the US Constitution, the power "to lay and collect Taxes, Duties, Imposts and Excises" is vested exclusively in Congress. This placement reflects the foundational principle that taxation, being the most coercive attribute of sovereignty, must remain under the control of the elected legislature. The historical experience of "taxation without representation" in the United States shaped this specific allocation, ensuring that the executive branch is denied any independent authority to impose taxes unless clearly authorised by Congress in United States.

The Indian constitutional scheme adopts a strikingly similar approach, though expressed through a more explicit limitation. Article 265 of the Constitution of India mandates that "no tax shall be levied or collected except by authority of law." This provision has consistently been interpreted by the Supreme Court to mean that the entire charge of taxation—including its essential components such as subject, rate, and measure—must be traceable to a validly enacted law. In the locus classicus *Govind Saran Ganga Saran v. CST AIR 1985 SC 1041*, the Court emphasised that any ambiguity in these elements would render the levy unsustainable.

Further, the distribution of taxing powers between the Union and the States under Articles 246 and 246A (for GST) and the Seventh Schedule reinforces that taxation is a strictly legislative function. Unlike regulatory powers, which may admit of broader delegation, taxing powers are subject to stricter constitutional discipline. The Indian Supreme Court has repeatedly held that delegated legislation cannot be used to create or expand a tax liability in the absence of clear statutory authority, thereby echoing the same structural concern that underlies the US Supreme Court's reasoning.

Thus, both constitutional frameworks—though differing in form—converge on a common principle: the power to tax is a core legislative function, incapable of being assumed by the executive through implication, inference, or broad interpretative expansion of statutory language.

3. Factual Background

Shortly after taking office, President Trump sought to address two foreign threats: the influx of illegal drugs from Canada, Mexico, and China, and "large and persistent" trade deficits. The President determined that the drug influx had "created a public health crisis" and that the trade deficits had "led to the hollowing out" of the American manufacturing base and "undermined critical supply chains."

The President declared a national emergency as to both threats, deeming them "unusual and extraordinary," and invoked his extra ordinary authority under the US law namely the International Emergency Economic Powers Act ("**IEEPA**") to respond. He imposed tariffs to deal with each threat. As to the drug trafficking tariffs, the President imposed a 25% duty on most Canadian and Mexican imports and a 10% duty on most Chinese imports.

As to the trade deficit ("**reciprocal**") tariffs, the President imposed a duty "on all imports from all trading partners" of at least 10%, with dozens of nations facing higher rates. Petitioners challenged these actions before the United States District Court and the United States Court of International Trade (CIT), contending that IEEPA does not authorize such tariffs.

Enacted in 1977, IEEPA permits the President to address "unusual and extraordinary threats" by taking measures including to "investigate, block... **regulate**... prevent or prohibit... **importation** or exportation." However, both lower forums held that such language does not extend to imposition of tariffs.

4. Issue before the US Supreme Court

The central question before the Court was whether the International Emergency Economic Powers Act (IEEPA) authorizes the President to impose tariffs and, more fundamentally, what interpretative scope ought to be ascribed to the expressions "**regulate**" and "**importation**" as employed in the statute. The issue was not merely one of textual construction, but one that went to the heart of constitutional allocation of powers, the historical difference between delegation of taxation and other powers, taxation as a special subject under the constitutional scheme--whether such general words could be construed as encompassing within their ambit the sovereign and distinct power of taxation.

In essence, the Court was called upon to determine whether the authority to "regulate importation" could be stretched to include the power to impose tariffs of wide amplitude, including duties of varying rates, duration, and coverage across products and countries. This required an examination of whether taxation could be treated as a subset of regulatory power, or whether it constitutes a separate and constitutionally distinct field demanding explicit legislative sanction. The interpretative exercise thus involved reconciling statutory language with constitutional principles governing separation of powers and legislative supremacy over fiscal matters.

The controversy also raised a deeper question of statutory interpretation—whether broad and seemingly flexible terms such as "regulate" can be read expansively to confer extraordinary economic powers, or whether such terms must be construed in a limited manner, especially when their expansion would result in transferring core legislative functions to the executive. Accordingly, the Court's inquiry extended beyond semantics to the structural limits of delegation, requiring it to assess whether Congress had, through IEEPA, clearly and unmistakably intended to authorize the imposition of tariffs, or whether the Government's reading amounted to attributing to the statute a power that was never expressly conferred.

5. Proceedings before the US Supreme Court

The Court rejected the President's reliance on the words "regulate" and "importation" to justify sweeping tariff powers which is nothing but an exercise of sovereign taxation power. It emphasised that such interpretation would amount to transferring the core legislative function of taxation to the executive—something constitutionally impermissible unless expressly stated in the delegating statute.

Relying on Article I, Section 8 of the U.S. Constitution, the Court reaffirmed that the power to levy taxes, including tariffs, lies exclusively with the Congress i.e., the legislature. Tariffs were recognised as "very clear[ly] . . . a branch of the taxing power," and therefore incapable of being assumed through vague statutory language.

5.1 On Delegation and the Need for Clear Authorization

The Court reiterated that **extraordinary powers require clear and express delegation**. It refused to read sweeping fiscal authority into ambiguous statutory text, particularly where such authority pertains to the "power of the purse."

This reasoning closely mirrors Indian constitutional jurisprudence under Article 265 of the Constitution of India, which mandates that "**no tax shall be levied or collected except by authority of law.**" The Indian Supreme Court on multiple occasions has held that there can be no taxation by delegation unless expressly stated and the power to tax cannot be left to inference or administrative discretion.

5.2 On "Regulation" versus Taxation

The Court categorically held that the power to "regulate" does not include the power to tax, emphasising that taxation is a distinct constitutional function requiring explicit legislative sanction. In arriving at this conclusion, the Court undertook a careful examination of the ordinary and legal meaning of the term "regulate," noting that it ordinarily connotes control, direction, or governance by rules. However, what is conspicuously absent from this understanding is the power to impose a tax—an exaction that directly raises revenue for the State and operates as an exercise of sovereign fiscal authority.

The Court further observed that **while taxes may, in certain contexts, have regulatory effects, the converse does not hold true**—namely, that a regulatory power inherently includes the power to tax. This distinction is critical. Taxation is not merely a tool within the regulatory spectrum but stands on an entirely different constitutional footing. The statutory framework across jurisdictions consistently treats these powers separately, often using distinct terminology such as "duty," "levy," or "tax" when conferring fiscal authority. The absence of such language in IEEPA was therefore not incidental, but indicative of a deliberate legislative choice.

The reasoning also drew strength from structural interpretation. If the term "regulate" were to be construed so broadly as to include taxation, it would render other specific statutory powers redundant and effectively collapse well-established constitutional distinctions. The Court noted that even in statutes where wide regulatory powers are granted, there is no precedent for interpreting such powers as including the authority to impose taxes. This reinforced the conclusion that the President's interpretation was not only textually strained but constitutionally untenable.

This distinction finds strong resonance in Indian jurisprudence as well. The Indian Supreme Court in a plethora of judgements has time and again recognised this basic principle that power to "regulate" does not include the power to "tax". Reliance can be safely placed on *M.P. V. Sundararamier & Co. v. State of A.P.* ((AIR 1958 SC 468)), *State of W.B. v. Kesoram Industries Ltd.* [2004] 10 SCC 201 and *State of Karnataka And Another Appel v. State Of Meghalaya And Another* [2023] 4 Supreme Court Cases 416 to name a few.

These principles are ultimately rooted in clear distribution of taxation power between the Centre and States in VII Schedule to the Constitution of India as also in Article 265 of the, which mandates that no tax shall be levied or collected except by authority of law. The expression "authority of law" has consistently been interpreted to mean a clear, unambiguous, and specific statutory mandate. Thus, just as the US Supreme Court refused to read the power to tax into the term "regulate," Indian courts have equally guarded against any attempt to derive taxing authority from general or ambiguous statutory language.

Accordingly, the judgment reinforces a fundamental proposition of fiscal jurisprudence: the power to regulate and the power to tax operate in distinct constitutional domains, and one cannot be used as a substitute for the other in the absence

of clear legislative authorization.

5.3 On the Major Questions Doctrine and Separation of Powers

The Court's reliance on the major questions doctrine underscores a foundational interpretative principle: the greater the power claimed, the clearer must be its statutory delegation. Where the executive asserts authority of vast economic and political significance—such as the power to impose tariffs of unlimited scope, duration, and quantum—the Court requires unmistakable Congressional authorization. Vague or general expressions are insufficient to sustain such a claim, particularly when the asserted power trenches upon core legislative functions like taxation.

Drawing from its reasoning, the Court emphasised that it has long been "reluctan[ce] to read into ambiguous statutory text" extraordinary delegations of Congress's powers. This reluctance is grounded in both separation of powers principles and a practical understanding of legislative intent. Congress, being the repository of legislative power, would not ordinarily be presumed to have delegated "highly consequential power" through indirect or ambiguous language. If such a delegation were intended, a "reasonable interpreter" would expect Congress to speak clearly and explicitly.

The judgment further highlights the institutional risks of accepting broad and indeterminate delegations. Once a court interprets a statute as conferring expansive authority upon the executive, the ability of the legislature to reclaim that authority becomes severely constrained in practice. The executive, vested with such power, may resist legislative attempts at curtailment, including through veto mechanisms available with the President in United States. Over time, this leads to a gradual and often irreversible concentration of power—what the Court cautions against as the "continual and permanent accretion of power in the hands of one man." It is precisely to guard against such outcomes that doctrines like the major questions principle assume critical importance.

The Court also contextualised this doctrine within the broader constitutional framework. Article I vests legislative power in Congress, while Article II mandates that the executive faithfully execute the laws. In this scheme, the executive is an agent of the legislature, not its substitute. Therefore, any interpretation that effectively transfers essential legislative functions—particularly the power of taxation—to the executive must be approached with the highest degree of caution and supported by clear statutory language.

This reasoning finds a close parallel in Indian constitutional jurisprudence on excessive delegation. In *In re Delhi Laws Act ((MANU/SC/0010/1951))*, the Supreme Court laid down the seminal principle that while delegation of ancillary functions is permissible, essential legislative functions cannot be delegated. The determination of legislative policy and its essential features must remain with the legislature.

Seen in this light, both jurisdictions converge on a common constitutional concern: preventing the erosion of legislative supremacy through vague, open-ended, or overly broad delegations of power. Whether articulated through the major questions doctrine in the United States or the doctrine of excessive delegation in India, the underlying objective remains the same—to ensure that fundamental policy choices, especially those involving taxation and economic control, remain with the legislature and are not assumed by the executive under the guise of interpretative expansion.

6. Broader Implications for Indian Tax Jurisprudence

The principles emerging from this decision hold significant persuasive value in the Indian context. With increasing reliance on delegated legislation, circulars, and administrative directions under GST and other fiscal laws, the risk of executive overreach is real.

This judgment reinforces three core propositions equally applicable in India:

First, taxation powers cannot be **inferred** from general regulatory provisions.

Second, **ambiguous** statutory language cannot be used to justify extraordinary fiscal measures or imposition of taxes.

Third, **constitutional safeguards** like Article 265 act as a bulwark against executive assumption of taxing powers.

These principles are particularly relevant in contemporary GST disputes involving interpretation of charging provisions, scope of delegated powers, and validity of executive clarifications.

7. Conclusion

The decision in **Trump** is not merely a ruling on the limits of executive authority—it is a reaffirmation of the constitutional supremacy that underpins fiscal governance. It brings into sharp focus a principle too fundamental to be diluted: the power to tax is not just another regulatory tool, but a core legislative function that must be exercised with precision, accountability, and explicit authority of law.

What the judgment decisively rejects is the tendency to blur constitutional boundaries through expansive interpretation of general statutory language. In doing so, it restores the discipline that taxation demands—that every levy must trace its origin to a clear legislative mandate, and not to inference, convenience, or perceived necessity. This is particularly significant in modern regulatory states where economic exigencies often tempt a stretch of statutory language to achieve policy outcomes.

For India, the relevance is immediate and compelling. In a tax ecosystem shaped by GST, delegated legislation, and frequent executive clarifications, the risk of incremental expansion of taxing powers is real. The judgment serves as a principled reminder that Article 265 is not a mere formality, but a substantive constitutional safeguard—ensuring that no burden is cast upon the taxpayer without clear authority of law enacted by the legislature.

Ultimately, the ruling reinforces a deeper constitutional equilibrium. While the executive may be entrusted with implementation and regulation, the power to impose, define, and structure a tax must remain where the Constitution places it—with the legislature. Any departure from this balance, however well-intentioned, risks unsettling the very foundation of democratic accountability. In that sense, the judgment does more than resolve a dispute—it preserves the integrity of the constitutional order itself.

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