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Article 286: Restrictions on State Taxation of Interstate Trade

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Article 286: Restrictions on State Taxation of Interstate Trade

In 1955, seven Supreme Court judges split 4-3 over a simple question. Can two States tax the very same sale?

Their answer in Bengal Immunity v. State of Bihar gave Article 286 its teeth.

One inter-State sale is taxed once, not twice. And never by a State acting on its own.

Article 286, at a glance

- **Rule:** no State law may tax a supply outside the State, or in the course of import or export.
- **Bengal Immunity, 6 Sept 1955:** decided 4-3 by seven judges.
- **101st Amendment, 2016:** “sale” became “supply” and clause (3) was omitted.

Supply: what GST taxes, goods or services or both. **Inter-State sale:** goods move from one State to another. **Declared goods:** goods of special importance, on which States had to cap tax. **IGST:** Integrated GST on inter-State supply.

What Article 286 Bars Today

What does clause (1) say?

Article 286 sits in Part XII of the Constitution, which deals with finance, property, contracts and suits. It does not sit in Part XIII.

Clause (1) says no State law may tax the supply of goods or services in two cases.

The first is a supply that takes place outside the State. The second is a supply made in the course of import into, or export out of, India.

So a State may tax what happens inside it. It may not reach outside.

Sources: indiankanoon.org

What can Parliament do under clause (2)?

Clause (2) lets Parliament make a law. That law sets the principles for deciding when a supply falls in these two cases.

So the boundary is drawn at the centre, not by each State.

This keeps the national market in one piece.

Sources: indiankanoon.org

Why does the bar exist?

Without it, two or more States could each tax one transaction. That would choke trade between States.

A supply truly outside a State has no link with it. Taxing it would overreach.

Goods in foreign trade should not carry the tax of one State alone.

Intra-State sales are not barred. States do tax them.

Sources: indiankanoon.org

Quick check 1. Article 286 lets each State decide when an inter-State sale is taxable. *(True or False?)* See answer ↓

The 2016 GST Rewrite

What did the 101st Amendment change?

The Constitution (One Hundred and First Amendment) Act, 2016 was published in the Gazette on 8 September 2016.

It replaced the words “sale or purchase of goods” with “supply of goods or of services or both” in Article 286.

GST taxes supply, so the wording had to match.

It also omitted the old clause (3) on declared goods.

Sources: indiankanoon.org

What new articles came with it?

The same Act inserted Article 246-A. It gives Parliament and State Legislatures power to make laws on goods and services tax.

Parliament has exclusive power where the supply takes place in the course of inter-State trade or commerce.

It also inserted Article 269-A. The Government of India levies and collects GST on inter-State supplies. The tax is shared between the Union and the States.

Sources: indiankanoon.org

Quick check 2. The 101st Amendment kept the words “sale or purchase of goods” in Article 286(1). *(True or False?)* See answer ↓

Remember: Article 286 says what States cannot tax. Articles 246-A and 269-A say who makes the GST law and how inter-State GST is shared.

The Road to Bengal Immunity

What was the problem before 1950?

Before 1950, provinces often taxed sales that happened partly or wholly outside their territory.

That caused double taxation. It also fell on buyers in the end.

The Constitution makers wanted to stop it. So the original Article 286(1)(a) carried an Explanation.

The Explanation said when a sale counted as outside a State. It turned on where goods were delivered for consumption.

Sources: indiankanoon.org

What did the Court say in 1953?

In State of Bombay v. United Motors, a majority read the Explanation in a particular way.

It held that Article 286(1)(a) barred taxing inter-State sales by all States except one.

That one State was the State where goods were delivered for consumption. It could tax the sale.

Sources: indiankanoon.org

What did Bengal Immunity change?

In Bengal Immunity Co. v. State of Bihar, a Bench of seven judges heard the question again. It decided on 6 September 1955.

S.R. Das, Acting Chief Justice, delivered the lead judgment. Four judges agreed with the result. Three dissented.

The Court held it could depart from its own earlier decision. It did so.

Its order barred Bihar from taxing out-of-State dealers on inter-State sales. This held until Parliament by law provided otherwise.

Sources: indiankanoon.org

How did Parliament reply?

Parliament passed the Central Sales Tax Act in 1956. It laid down when a sale is inter-State and allowed its taxation.

The Sixth Amendment of 1956 also added clauses to Article 286.

The lasting idea is “one sale, one tax”. A State cannot tax an inter-State sale on its own.

Sources: indiankanoon.org

Quick check 3. Bengal Immunity (1955) was decided by a seven-judge Bench by a 4-3 majority. *(True or False?)* See answer ↓

Think it through: why did the Court say Parliament must act before a State could tax an inter-State sale?

Show the answer

The operative order bars the State until Parliament by law provides otherwise. Clause (2) gives Parliament the task of setting the principles. A State cannot take it over.

Year	Event	Effect
1950	Original Article 286 with Explanation	Rules on where a sale takes place
1953	United Motors	Consumption State may tax
1955	Bengal Immunity, 4-3	No State may tax until Parliament acts
1956	Sixth Amendment, CST Act	Centre sets the rules
2016	101st Amendment	Sale becomes supply

Declared Goods

What were declared goods?

The Sixth Amendment of 1956 added clause (3) to Article 286.

It covered goods Parliament declared to be of special importance in inter-State trade or commerce.

A State law taxing such goods had to follow limits set by Parliament. The limits covered the system of levy, rates and other incidents.

Parliament used it to cap State tax on key commodities so they could move freely.

Sources: indiankanoon.org

What did the 46th Amendment add?

The Forty-Sixth Amendment of 1982 changed clause (3).

It let Parliament set rules for tax on goods delivered under hire-purchase or other instalment systems.

The same change reached the right to use goods.

Sources: indiankanoon.org

Is clause (3) still there?

No. The 101st Amendment omitted clause (3).

The Act also lists “dispensing with the concept of declared goods” as one of its aims.

GST absorbed the scheme. Declared goods now matter as history, and for exam questions.

Sources: indiankanoon.org

> **Quick check 4.** Declared goods came from the 101st Amendment. *(True or False?)* See answer ↓

How GST Fits with Article 286

Who taxes an inter-State supply?

GST on inter-State supplies is levied and collected by the Government of India. This follows Article 269-A.

The tax is Integrated GST, or IGST. It is shared between the Union and the States.

So one supply is taxed once, but the revenue is shared.

That serves the purpose behind Article 286.

Sources: indiankanoon.org

Why does “where” still matter?

The tax treatment depends on whether a supply is inter-State or intra-State.

Intra-State supply carries CGST and SGST. Inter-State supply carries IGST.

So a clear rule on where a supply takes place is still needed. Article 286 and the place-of-supply law give that rule.

Sources: indiankanoon.org

Article	Role
286	Sets what States cannot tax
269-A	How inter-State supply is taxed and shared
246-A	Power to make GST laws

Think it through: why does “one sale, one tax” still matter after GST?

Show the answer

GST needs a clear rule on where a supply happens. That decides IGST or CGST plus SGST. The rule stops two States taxing one supply.

Quick check 5. Article 286 sets what States cannot tax. Article 269-A sets how inter-State supply is taxed and shared. *(True or False?)* See answer ↓

Must Know

- Article 286 bars State tax on supply **outside the State** or in **import and export**.
- It sits in **Part XII**.
- The **101st Amendment** replaced “sale” with “supply”.

Good to Know

- Bengal Immunity: **6 Sept 1955**, seven judges, **4-3**.
- It departed from **United Motors** (1953).
- Declared-goods **clause (3)** is gone since 2016.

Great to Know

- The **Sixth Amendment** (1956) added declared goods.
- The **46th Amendment** (1982) covered hire-purchase.
- **Article 269-A** shares inter-State GST.

Previous Year Questions

What does clause (1) of Article 286 bar a State from taxing? See this question.

Traps examiners set

- **Intra-State sales are barred.** Wrong. The bar is on outside-State and import-export supply.
- **Bengal Immunity was unanimous.** Wrong. It was 4-3.
- **Article 285 taxes supply.** Wrong. Article 285 is about Union property. Article 286 is about tax on supply.
- **Part XIII.** Wrong. Article 286 sits in Part XII.

Quick Q&A

- Which Part? Part XII.
- Bengal Immunity year? 1955, by 4-3.
- Amendment for GST? 101st, 2016.
- Who added declared goods? The Sixth Amendment, 1956.

Practice MCQs

1. Article 286 of the Constitution is placed in which Part?

A. Part XI

B. Part XII

C. Part XIII

D. Part X

See answer ↓

2. The 101st Amendment replaced the words "sale or purchase of goods" in Article 286(1) with:

A. Transfer of goods only

B. Movement of goods

C. Supply of goods or of services or both

D. Sale of goods and services

See answer ↓

3. Bengal Immunity Co. v. State of Bihar (1955) was decided by:

A. A seven-judge Bench, by 4-3

B. A five-judge Bench, unanimously

C. A nine-judge Bench, by 5-4

D. A three-judge Bench

See answer ↓

4. Which clause of Article 286 on declared goods was omitted by the 101st Amendment?

A. Clause (1)

B. Clause (2)

C. Clause (1)(a)

D. Clause (3)

See answer ↓

5. Which amendment added the clause on declared goods to Article 286?

A. First Amendment, 1951

B. 101st Amendment, 2016

C. Forty-Sixth Amendment, 1982

D. Sixth Amendment, 1956

See answer ↓

6. Under Article 269-A, GST on inter-State supplies is levied and collected by:

A. The Government of India

B. The GST Council

C. The State of origin

D. The State of destination

See answer ↓

Answer Key

1. **B.**
   Part XII deals with finance, property, contracts and suits.
   ↑ Q1
2. **C.**
   Section 13 of the 101st Amendment Act made this change.
   ↑ Q2
3. **A.**
   Seven judges heard it. Four agreed with the result and three dissented.
   ↑ Q3
4. **D.**
   Section 13 of the 101st Amendment Act says clause (3) shall be omitted.
   ↑ Q4
5. **D.**
   The Sixth Amendment of 1956 added clause (3).
   ↑ Q5
6. **A.**
   Article 269-A gives levy and collection to the Government of India, with the tax apportioned.
   ↑ Q6

Quick-check answers

1. **False.** Parliament, not each State, sets the principles. ↑ 1
2. **False.** It replaced them with "supply of goods or of services or both". ↑ 2
3. **True.** Seven judges heard it and it was 4-3. ↑ 3
4. **False.** The Sixth Amendment of 1956 added them. The 101st omitted them. ↑ 4
5. **True.** Both statements are correct. ↑ 5

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