MAJESTY LEGAL
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EXPORTERS CAN CLAIM IGST REFUND WITHOUT RESTRICTION AFTER OMISSION OF RULE 96(10): APEX COURT

“M/S GOODLUCK INDIA LIMITED & ANR. VERSUS UNION OF INDIA & ORS.”

Hon’ble Apex Court in case of ***M/s Goodluck India Limited & Anr. Versus Union of India & Ors.,***[1] has held that exporters whose refund applications were pending when Rule 96(10) of the CGST Rules was omitted are entitled to claim refund of Integrated Goods and Services Tax (IGST) paid on exported goods without the restrictions earlier imposed under the said provision. Rule 96(10) had restricted exporters from claiming IGST refunds where they had availed benefits under specified exemption schemes, including the Advance Authorisation and Export Promotion Capital Goods (EPCG) schemes. Hon’ble Court noted that Rule 96(10) was omitted pursuant to a recommendation that the provision was causing “unnecessary complications” without serving any intended benefit. It further observed that no saving clause or sunset clause was introduced by the legislature while omitting the provision. The recommendation that the omission should operate prospectively was advisory in nature and did not bind the rule-making authority.

Accordingly, Hon’ble Apex Court held that exporters whose claims were pending at the time of omission of Rule 96(10) could not be denied IGST refunds on the basis of the erstwhile restriction. The Court expressed hope that its ruling would bring an end to the controversy, particularly in view of the several pending proceedings and conflicting decisions before various High Courts.

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[1] SPECIAL LEAVE PETITION (C) No.24550 OF 2025

[2] Majesty legal is a LAW FIRM established in 2013 by Ms. Mahi Yadav. Objective of this legal update is to provide insights on law, statutes and is personal in nature, not to be deemed as legal advice.

2026 INSC 821

Non-Reportable

IN THE SUPREME COURT OF INDIA
EXTRAORDINARY/CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (C) No.24550 OF 2025

M/s Goodluck India Limited & Anr.

...Petitioners

Versus

Union of India & Ors.

...Respondents

With

Special Leave Petition (C) No.26411 of 2026

And

Civil Appeal No...........of 2026
[@ Special Leave Petition (C) No. 26336 of 2026]

Civil Appeal No...........of 2026
[@ Special Leave Petition (C) No.26592 of 2026]

Civil Appeal No...........of 2026
[@ Special Leave Petition (C) No.26914-26915 of 2026]
[@ Diary No. 53310-2025]

Civil Appeal Nos..............of 2026
(@Special Leave Petition (C) Nos. 26350-26391/2026]

Civil Appeal No...........of 2026
[@ Special Leave Petition (C) No.26344 of 2026]

Civil Appeal No...........of 2026
[@ Special Leave Petition (C) No.26345 of 2026]

Civil Appeal No...........of 2026
[@ Special Leave Petition (C) No.10125 of 2026]

Civil Appeal Nos.................of 2026
[@ Special Leave Petition (C) Nos.26597-26681 of 2026]

Civil Appeal No.................of 2026
[@ Special Leave Petition (C) No.26346 of 2026]

Civil Appeal No.................of 2026
[@ Special Leave Petition (C) No.26337 of 2026]

Civil Appeal Nos...........of 2026
[@ Special Leave Petition (C) Nos.15317-15320 of 2026]

Civil Appeal Nos..................of 2026
[@ Special Leave Petition (C) Nos.26686-26687 of 2026]

Civil Appeal No...................of 2026
[@ Special Leave Petition (C) No.26930 of 2026]
[@ Diary No.18356 of 2026]

Civil Appeal No....................of 2026
[@ Special Leave Petition (C) No.26343 of 2026]

Civil Appeal No....................of 2026
[@ Special Leave Petition (C) No.26710 of 2026]

Civil Appeal No.................of 2026
[@ Special Leave Petition (C) No.26747-26749 of 2026]
[@ Diary No.20839 of 2026]

Civil Appeal Nos...................of 2026
[@ Special Leave Petition (C) Nos.19077-19078 of 2026]

Civil Appeal No....................of 2026
[@ Special Leave Petition (C) No.26339 of 2026]

Civil Appeal No.................of 2026
[@ Special Leave Petition (C) No.26341 of 2026]

Civil Appeal No...........of 2026
[@ Special Leave Petition (C) No.26858-26864 of 2026]

Civil Appeal No...............of 2026

[@ Special Leave Petition (C) No.26858-26864 of 2026]
[@ Diary No.21412 of 2026]

Civil Appeal No..............of 2026
[@ Special Leave Petition (C) No.23504 of 2026]

Civil Appeal No..............of 2026
[@ Special Leave Petition (C) No.26916-26928 of 2026]
[@ Diary No.35275 of 2026]

Civil Appeal No..............of 2026
[@ Special Leave Petition (C) No.26929 of 2026]
[@ Diary No.36240 of 2026]

Civil Appeal No..............of 2026
[@ Special Leave Petition (C) No.26878 of 2026]
[@ Diary No.16551 of 2026]

O R D E R

Special Leave Petition (C) No.24550 of 2025
And
Special Leave Petition (C) No.26411 of 2026 :

In the above batch, the challenge by the Union of India and the Department is against the impugned judgment having held the omission of Rule 96(10) of the Central Goods and Services Tax (CGST) Rules, 2017 to be applicable to every pending proceedings as on the date of its omission. In two SLPs by the assesses, numbered as SLP (C) No.24550 of 2025 and SLP(C) No.26411 of 2026 the challenge is against the very vires and validity of Rule 96(10), which the High Court had refused to consider, since it was applied to all pending proceedings. In the nature of the orders to be passed by us, the two SLPs referred to hereinabove are dismissed as infructuous.

2. Leave granted in the rest of the matters.

3. The issue arising is whether sub-rule (10) of Rule 96 as omitted by Notification No.20/2024 with effect from 08.10.2024 would inure to the benefit of the assessee in the pending proceedings, wherein there was a claim of refund of integrated tax paid on goods and services exported out of India, to be considered without the restriction under sub-rule (10) being applied. The sub-rule having been omitted, suffice it to notice that the applicability of refund under Rule 96 was without the rigor of the person claiming such refund, having received supplies after availing benefits available by virtue of the notifications specified in clause (a) or the benefits available under the notifications specified under clause (b). The sub-rule having been omitted without a saving clause it applies squarely to all the proceedings pending, is the contention of the assessees, which was sought to be resisted by the learned Additional Solicitor General appearing for the Union of India.

4. Sri S. Dwarakanath, learned ASG took us to the minutes of the 54th meeting of the GST Council held on 09th September, 2024 at New Delhi, fairly conceding that the recommendation is only advisory and it is not mandatory to accept it. In any event the recommendation reads as under, insofar as the omission of Rule 96(10) is concerned:

> *"The Law Committee observed that operation of rule 96(10) is leading to unnecessary complications without any intended benefit being served and therefore recommended that rule 96(10), rule 89(4A) & rule 89(4B) of the CGST Rules, 2017 may be omitted with prospective effect and that consequential amendments in clause (b) of sub-rule (4B) of rule 86, clause B, clause C and clause E of sub-rule (4) of rule 89 and Explanation (a) to sub-rule (5) of rule 89 of CGST Rules may be made."*

The emphasis on the recommendation is to persuade us to apply it prospectively only, as the Council visualised it, in so far as its application is concerned.

5. The learned Senior Counsel appearing for the respondents on the other hand, relies on ***Kolhapur Canesugar Works Ltd v. Union of India***[1]. Therein the question raised was the refund demanded under Rule 10A of the Central Excise Rules, 1944, which though prevalent at the time of issuance of show cause notice, before the final order was passed, it stood omitted. The newly brought in rule did not have provision for enforcing such refund. It was argued for the Department that the introduction of Section 11A, created a fiction by virtue of which proceedings under Rule 10 are deemed to be proceedings under Rule 11A of the Act. The trite principle in common law that the effect of repealing a statute or deleting a provision, is to obliterate it from the

[1] (2000) 2 SCC 536

statute book, as completely as if it had never existed was highlighted by this Court. An exemption, as engrafted by the provisions of Section 6 of the General Clauses Act; though Section 6 was held to be not applicable in the given circumstances of omission of a rule, should have been incorporated as a saving clause to facilitate continuance of pending proceedings despite the omission, failing which all actions would come to a stop when the omission is given effect. It was held so under paragraph 36

> *"36. In the case in hand Rule 10 or Rule 10-A is neither a "Central Act" nor a "regulation" as defined in the Act. It may be a Rule under Section 3(51) of the Act. Section 6 is applicable where any Central Act or regulation made after commencement of the General Clauses Act repeals any enactment. It is not applicable in the case of omission of a "rule".*

6. It was held by the Constitution Bench that if on omission of a rule, there was a provision for continuance of the proceedings already initiated or if by incorporation of a provision in the statute there was a legal device adopted, creating a fiction by virtue of which proceedings under the omitted rule could be continued; only then proceedings initiated under the omitted rule could be continued.

7. The Constitution Bench decision applies squarely in the above case. We may also observe that even going by the recommendations

as extracted hereinabove, sub-rule (10) of Rule 96 was omitted because it was '*leading to unnecessary complications without any intended benefit being served' (sic)*. As fairly submitted by the learned ASG the legislature has not brought in any saving clause or a sunset clause, when sub-rule (10) of Rule 96 was omitted. The recommendation that the omission should be prospective is also advisory in nature and does not bind the rule making authority. The intention to omit the rule without any saving clause was to bring to an end, the unnecessary complications once and for all and the intention cannot be to keep alive the unnecessary complications insofar as the pending proceedings are concerned.

8. We find no good reason to interfere with the well-reasoned judgment of the High Court. We are told that there are many proceedings pending before the various High Courts and conflicting decisions have also been passed. We hope that such proceedings would get closure with this judgment.

9. The Registry is directed to send a copy of this order to all the High Courts. The Registry of the High Courts will ensure that the cases relating to the subject issue of omission of Rule 96(10) would be placed before the Courts having roster, after taking appropriate orders from the Hon'ble Chief Justice of the respective High Courts, expeditiously

to bring quietus in the subject litigation.

10. The appeals are dismissed.

11. Pending application(s), if any, shall stand disposed of.

.. J.
(J.B. PARDIWALA)

... J.
(K. VINOD CHANDRAN)

NEW DELHI
AUGUST 06, 2026.