IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 3036 of 2025

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE A.S. SUPEHIA
and
HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI

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Approved for Reporting	Yes	No
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ALSTOM TRANSPORT INDIA LIMITED
Versus
UNION OF INDIA & ORS.

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Appearance:
MR ANAND NAINAWATI(5970) for the Petitioner(s) No. 1
PARAM V SHAH(9473) for the Respondent(s) No. 1,2,3

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CORAM:**HONOURABLE MR. JUSTICE A.S. SUPEHIA**
and
HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI

Date : 02/07/2026
ORAL JUDGMENT
(PER : HONOURABLE MR. JUSTICE A.S. SUPEHIA)

1. Rule returnable forthwith. Learned Senior Standing Counsel Mr.Param V. Shah waives service of notice of Rule for and on behalf of the respondents.

2. At the outset, learned advocates appearing for the respective parties submitted that the issue raised in the present writ petition is no more *res integra* in view of judgment of this court in the case of *M/s. JJ Plastalloy Private Limited Vs. Union of India & Ors.*, *2025 (12) TMI 311 – Gujarat High Court*,

dated 20.11.2025 followed by the judgment dated 28.11.2025 passed in Special Civil Application No.12321 of 2023 and allied matters.

3. In the present writ petition, the petitioner has prayed for the following reliefs:

> *"(a) That this Hon'ble Court may be pleased to call for all papers and proceedings of the Petitioner's case pertaining to the Impugned SCN issued by the Respondent No.2 (Exhibit-1), and after examining the validity, legality and propriety thereof, be pleased to issue a Writ of Mandamus or any other appropriate writ, order or direction to quash the Impugned SCN and proceedings arising thereof; (Exhibit-1).*
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> *(aa) That this Hon'ble Court be pleased to issue a writ of Mandamus or a writ in the nature of Mandamus or a writ in the nature of Certiorari or any other writ, order or direction under Article 226 of the Constitution of India calling for the records pertaining to the Petitioners' case and after going into the validity and legality thereof to quash and set aside the Order - in - Original No.55/VDR-II/JC-NKS/ADJ/Alstom/GST/2024-25 dated 29.04.2025(Exhibit – 11).*
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> *(b) That this Hon'ble Court be pleased to issue a Writ of Mandamus, or any other appropriate writ, order or direction that since Rule 89(4B) of the CGST Rules, 2017 has been omitted vide Notification No.20/2024 - Central Tax dated 08.10.2024 without any saving clause, all the proceedings/ investigation for denial of refund based on Rule 89(4B) should be treated as non-est and should not be continued or initiated: (Exhibit-2)*
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> *(bb) That pending the hearing and final disposal of this petition, this Hon'ble Court may be pleased to stay the operations of the Order - in - Original No. 55/VDR-II/JC-NKS/ADJ/Alstom/GST/2024-25 dated 29.04.2025 and direct the Respondent No. 2 to not to take any coercive recovery against the Petitioner; (Exhibit – 11).*
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> *(c) That this Hon'ble Court be pleased to issue a Writ of Mandamus, or any other appropriate writ, order or direction that Rule 89(4B) of the CGST Rules, 2017, being entirely silent on the methodology / computation for calculation of refund amount, is ultra vires of Section 54 of the CGST Act, 2017 and also violative of Articles 14 and 19(1) (g) of the Constitution of India;*
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> *(d) That pending the hearing and final disposal of this petition, this Hon'ble Court may be pleased to direct the Respondent No. 2 to not to proceed with adjudication of the impugned SCN and to not take any coercive measures against the Petitioner in respect of the impugned SCN (Exhibit-1).*

(e) For ad-interim ex-parte reliefs) in terms of prayer clause (a) to (d) above;

(f) For any other ad interim relief as this Hon'ble Court may deem fit over and above the relief prayed for at clause (a) to (d) above;

(g) For costs of the Petition; and

(h) For such other and further order or orders as may be deemed just and proper in the facts and circumstance of the present case."

3.1 It appears that during the pendency of the writ petition, the order in original dated 29.04.2025 has been passed by the respondents, which is also assailed in the writ petition.

4. In the similar fact and on an analogous issue, the Coordinate Bench of this Court, in a group of matters being Special Civil Application No.3081 of 2025 and allied matters, vide judgment dated 20.11.2025, while dealing with the Notification No.20/2024 dated 08.10.2025, repealing Rule 89(4B) and 96(10) of the Central Goods and Services Tax Rules, 2017 without any saving clause, has held as under:

"5. *It is not in dispute that the Coordinate Bench of this Court, in a group of matters being Special Civil Application No.22519 of 2019, vide judgment dated 13th June, 2025, has dealt with the issue with regard to Notification No.20/2024 dated 8th October, 2025, repealing Rule 96(10) of the Rules without any saving clause, and has held as under :*

"203. *In view of above conspectus of law, it appears that the recommendations of the GST Council to omit Rule 96(10) prospectively would apply to all the pending proceedings and cases. However, the contention on behalf of the Revenue that the petitioners have filed these petitions challenging the validity of Rule 96(10) cannot be said to be pending proceedings is without any basis because the petitioners have also challenged the show cause notices as well as orders-in-original passed by the respondents by invoking Rule 96(10) for rejecting the refund claims of the petitioners and therefore, it can be said that these petitions are nothing but pending proceedings before the Court which has not achieved finality when the Notification No.20/2024 came into force with effect from 8th October, 2024.*

204. By Notification No.20/2024 Rules, 2024 have been notified and as per Rule 10 of the said Rules, Rule 96(10) of the CGST Rules has been omitted with prospective effect. This would give rise to three situations, firstly, whether the same would be applicable retrospectively, or secondly, prospectively or thirdly, same would be applicable prospectively but also to "pending proceedings". As discussed here-in-above, Rule 10 of Rules, 2024 is applicable prospectively and the same also would be applicable to pending proceedings.

205. Therefore, we are of the opinion that Notification No.20/2024 dated 8th October, 2024 would be applicable to all the pending proceedings/cases meaning thereby that Rule 96(10) would stand omitted prospectively but applicable to pending proceedings/cases where final adjudication has not taken place.

206. Therefore, in view of foregoing reasons, the omission of Rule 96(10) would apply to all the proceedings/cases/petitions which are pending for adjudication either before this Court or before the respondent adjudicating authority and no further proceedings are required to be carried forward and petitioners would be entitled to maintain refund claims of IGST paid on export of goods.

207. In view of above findings, as Rule 96(10) would not be applicable to the pending proceedings, in view of omission of Rule 96(10) by Notification No.20/2024 with effect from 8th October, 2024, the question of challenge to the vires and validity of rule 96(10) is not required to be considered at this stage.

208. The petitions therefore succeed in view of applicability of Notification No.20/2024 whereby Rule 96(10) is omitted and the said Notification would be applicable to all the pending proceedings/cases as on 8th October, 2024. The impugned show cause notices and the orders-in-original are therefore, quashed and set aside. The petitioners are therefore, entitled to maintain refund claims for IGST paid for the export of goods as per Rule 96 of the CGST Rules, 2017 in accordance with law."

6. We may, at this stage, refer to the decision of the Bombay High Court in the case of ***Hikal Limited & Ors. (supra****), wherein the Bombay High Court, while considering the Notification dated 8th October, 2024 and the provisions of Rules 89(4B) and 96(10) of the Rules, and the analogous issue, has held thus:*

"59. From the above, it is indisputable that the impugned rules stand deleted. The only dispute revolves around the scope of such omission or repeal. The Petitioners contend that any savings clause did not back such omission or repeal, and therefore, the common law principle regarding repeals obliterating the repealed provision from the statute book or rule book would apply. The Respondents admit the omission or repeal but contend that the common law rule would not apply because pending proceedings have been expressly saved.

60. Justice G P Singh, in his "Principles of Statutory Interpretation", 15th edition, has explained that under the common law, the consequences of the repeal of a statute are very drastic. Except as to transactions past and closed, a statute after its repeal is treated as completely obliterated as if it had never been enacted. The effect is to destroy all inchoate rights and all causes of action that may have arisen under the repealed statute. Therefore, leaving aside the cases where proceedings were commenced, prosecuted and brought to a finality before the repeal, no proceeding under the repealed statute can be commenced or continued after the repeal (See Keshvan Vs State of Bombay31, State of Punjab Vs Mohar Singh32, Qudrat Ullah Vs Municipal Board, Bareilly33, State of Rajasthan Vs Mangilal Pindwal34 and Mohan Raj Vs Dimbeswari Saikia & Anr35).

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68. In Keshavan Menon Vs State of Bombay (supra), the expression and concept of "transactions past and closed" was explained in the context of repeal of an Act in paragraph Nos. 11, 12 and 14, which are transcribed below for the convenience of reference: -

> *"11. This statement of law by Craies was referred to with Approval and adopted by the F. C. in J. K. Gas, Plant Manufacturing Co., (Rampur), Ltd. v. Emperor, (1947) F.C.R. 141 at p. 166: (A. I. R. (34) 1947 F.C. 38:48 Cr. L. J. 886). As to the effect of the repeal of an Act, the following passage from Craies' book seems to sum up the legal position as it obtained in England before the enactment of the Interpretation Act of 1889 :*
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> > *"When an Act of Parliament is repealed," said Lord Tenterden in Surtees v. Ellison, (1829) 9 B. and C. 750 at p. 752: (7 L. J. K. B. 335), "it must be considered (except as to transactions past and closed) as if it had never existed. That is the general rule." Tindal C. J. states the exception more widely. He says (in Kay v. Goodwin, (1830) 6 Bing. 576: (8 L.J.C.P. 212): "The effect of repealing a statute is to obliterate it as completely from the records of the Parliament as if it had never been passed; and it must be considered as a law that never existed except for the purpose of those actions which were commenced, prosecuted and concluded whilst it was an existing law." (p. 350)"*
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> *12. Again, Crawford in his book on "Statutory Construction"dealing with the general effect of the repeal of an Act states the law in America to be as follows: "A repeal will generally, therefore, divest all inchoate rights which have arisen under the repealed statute, and destroy all accrued causes of action based thereon. As a result, such a repeal, without a saving clause, will destroy any proceeding, whether not yet begun, or whether pending at the time of the enactment of the repealing Act, and not already*

prosecuted to a final judgment so as to create a vested right" (pp. 599-600).

14. The author then proceeds to quote the following passage from Wall v. Chesapeake and Ohio Ry. Co., (125 N. E. 20) :

"It is well settled that if a Statute giving a special remedy is repealed without a saving clause in favour of pending suits all suits must stop where the repeal finds them. If final relief has not been granted before the repeal went into effect, it cannot be after. If a case is appealed, and pending the appeal the law is changed, the appellate Ct. must dispose of the case under the law in force when its decision was rendered. The effect of the repeal is to obliterate the Statute repealed as completely as if it had never been passed, and it must be considered as a law which never existed, except for the purposes of those actions or suits which were commenced, prosecuted and concluded while it was an existing law. Pending judicial proceedings based upon a Statute cannot proceed after its repeal. This rule holds true until the proceedings have reached a final judgment in the Ct. of last resort, for that Ct., when it comes to announce its decision, conforms it to the law then existing, and may, therefore, reverse a judgment which was correct when pronounced in the subordinate tribunal from whence the appeal was taken, if it appears that pending the appeal a Statute which was necessary to support the judgment of the lower Ct. has been withdrawn by an absolute repeal." (p. 601).

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RELIEFS

122. Upon comprehensive review of all the above aspects, we hold that, following the omission or repeal of the impugned Rules, i.e., Rules 89(4B) and 96(10) of the CGST Rules via Notification dated 08 October 2024, and in the absence of any saving clauses or the benefit of Section 6 of the General Clauses Act, all pending proceedings—such as undisposed show cause notices, orders disposing of show cause notices issued after 08 October 2024, or even orders made before 08 October 2024 but not yet finalised due to appeals before the Appellate Authorities or challenges before this Court, thus not constituting “transactions past and closed”—are not preserved and will stand lapsed.

7. A combined reading of the aforesaid judgments, which have dealt with Notification No.20/24 dated 8th October, 2024, repealing the provisions of Rules 89(4B) and Rule 96(10), of the Rules exposit that the repealing of the provisions of the Rules without a saving clause renders the provisions redundant, right from the inception. The omission of the Rules would apply to all the proceedings/ cases/ petitions which are pending for adjudication either before this Court or *before the respondent-adjudicating authority, or even to orders made before 8th October, 2024 but not yet finalized due to appeals before the Appellate Authorities or challenges before this Court, since the same will not constitute "transactions past and closed", and do not get preserved and will stand lapsed. We may also further clarify that the remedy of filing an appeal before the Appellate Tribunal is not available to the petitioners, since the Tribunal is not yet constituted, and hence they are constrained to file the writ petitions. Thus, since the petitioners have no remedy of filing an appeal because of the non-constitution of the Tribunal, it cannot be said that the OIAs have become final, and hence such orders will not constitute "transactions past and closed". The orders which are challenged in the writ petitions will stand lapsed in view of the aforementioned decisions.*

7.1. Thus, all writ petitions are allowed; the impugned action of the respondents is quashed and set aside. The petitioners are entitled to refund. All the pending applications for refund shall be processed. In case the applications are rejected and the refund is refused, the same shall stand restored and shall be further processed. Needful shall be done within a period of 12 (twelve) weeks from the date of receipt of the writ of the present order. Rule is made absolute. No order as to costs.

8. In view of above, learned advocate for the applicant does not press Civil Application (For Amendment) No.2 of 2025 in R/Special Civil Application No.10569 of 2025. Hence, the present Civil Application stands disposed of as not pressed."

5. Thus, the present writ petition is ***allowed*** and the impugned order in original and the subsequent action are hereby quashed and set aside in terms of the judgment and order dated 20.11.2025 passed in Special Civil Application No.3081 of 2025 and allied matters. Rule is made absolute. No order as to costs.

(A. S. SUPEHIA, J)

(VAIBHAVI D. NANAVATI,J)

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