HC-KAR

NC: 2026:KHC:50005-DB
WA No. 1524 of 2026

CNR: KAHC010375032026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15TH DAY OF SEPTEMBER, 2026

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MRS. JUSTICE K.S. HEMALEKHA

WRIT APPEAL NO. 1524 OF 2026 (T-RES)

BETWEEN:

1. UNION OF INDIA
THROUGH THE SECRETARY
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE
NO.137, NORTH BLOCK
NEW DELHI - 110 001

2. THE STATE OF KARNATAKA
THROUGH THE PRINCIPAL SECRETARY
FINANCE DEPARTMENT
VIDHANA SOUDHA, BENGALURU - 560 001

3. THE CENTRAL BOARD OF INDIRECT TAXES
AND CUSTOMS
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)
CENTRAL REVENUE BUILDING
L.P. ESTATE, ITO
NEW DELHI - 110 001

4. COMMISSIONER OF CENTRAL TAX (APPEALS)
GST COMMISSIONERATE
BENGALURU APPEALS - 1
4TH FLOOR, TRAFFIC AND
TRANSIT MANAGEMENT CENTRE
BMTC BUS STAND, HAL AIRPORT ROAD
DOMMALURU,BENGALURU - 560 071

...APPELLANTS

(BY SRI UNNIKRISHNAN M, ADVOCATE)

AND:

1. M/S ABB GLOBAL INDUSTRIES AND
SERVICES PRIVATE LIMITED
HAVING OFFICE AT PLOT NO.33-34-36
BRIGADE SOUTHFIELD
DODDANEKUNDI II PHASE
INDUSTRIAL AREA, HOODI VILLAGE
KRISHNARAJAPURAM HOBLI
BENGALURU - 560 048
COMPANY REGISTERED UNDER
COMPANIES ACT,1956
REPRESENTED BY MR. PRANESH T.N.
DIRECTOR, TAXATION
PLOT NO.4A, 5 & 6
2ND PHASE, PEENYA IND AREA
BENGALURU - 560 058

…RESPONDENT

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER DATED 09.12.2025 PASSED BY THE LEARNED SINGLE JUDGE IN THE CASE OF WP No. 23839/2023 AND ETC.

THIS APPEAL, COMING ON FOR PRELIMINARY HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE
and
HON'BLE MRS. JUSTICE K.S. HEMALEKHA

ORAL JUDGMENT

(PER: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE)

1. For the reasons stated in the application, I.A No.2/2026, the same is allowed. The delay of 148 days in filing the appeal is condoned.

2. The Revenue has filed the present appeal, impugning an order dated 09.12.2025 passed by the learned Single Judge in Writ Petition No. 23839/2023 (T-RES). The respondent filed the said writ petition, *inter alia,* impugning Rule 96(10) of the Central Goods and Services Tax Rules, 2017 [**CGST Rules**]. Additionally, the respondent challenged the order-in-appeal dated 28.08.2023, passed by the Commissioner, Central Tax (Appeals) [**CCT(A)**], rejecting the respondent's appeal. The respondent had appealed against an order rejecting its application for a refund of ₹29,57,43,039/- on account of the Integrated Goods and Services Tax [**IGST**] paid on the export of services during the month of December 2019. The respondent's application for refund was rejected by virtue of Rule 96 of the CGST Rules read with Section 54 of the CGST Act.

3. It is stated that during the course of the writ petition, Rule 96(10) of the CGST Rules was deleted by a notification dated 08.10.2024. However, the Revenue argues that the said notification is prospective and does not affect refunds claimed for the earlier period.

4. The learned Single Judge, following an earlier decision of this Court in **M/s Hikal Limited vs. Union of India and others**[1] directed grant of refund.

5. The learned counsel appearing for the Revenue handed over a recent decision of the Supreme Court in **Goodluck India Limited and Another vs. Union of India and others**[2], whereby the said issue stands authoritatively settled. The Supreme Court following the Constitution Bench decision in **Kolhapur Canesugar Works Ltd. v. Union of India**[3] held that the proceedings under an omitted rule could not be continued. The Supreme Court found that since there was no savings clause or a sunset clause in respect of Rule 96 (10) of the CGST Rules proceedings, the said rule could not be kept alive. Paragraph 7 of the said decision is set out below:

> "**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

[1] Writ Petition 15251/2020 dated 09.12.2025
[2] 2026 SCC OnLine SC 1523
[3] (2000) 2 SCC 536

> 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."

6. In view of the above, we find no ground to interfere with the impugned order. The appeal is, accordingly, dismissed.

7. The pending interlocutory application also stands disposed of.

Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE

Sd/-
(K.S. HEMALEKHA)
JUDGE

AHB
List No.: 2 Sl No.: 10