



CNR: KAHC010375062026

NC: 2026:KHC:52862-DB
WA No. 1523 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH 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. 1523 OF 2026 (T-RES)

BETWEEN:

1. THE ASSISTANT COMMISSIONER
OF CENTRAL TAX
EAST DIVISION - 7
OLD AIRPORT ROAD
DOMMALURU
BENGALURU - 560 071
2. UNION OF INDIA
(REPRESENTED BY ITS SECRETARY)
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE
NEW DELHI - 110 001

...APPELLANTS

(BY SMT. TEJASWINI B.M., ADVOCATE AND
SRI UNNIKRISHNAN M., ADVOCATE)

AND:

1. BORG WARNER INDIA TECHNICAL CENTER
PRIVATE LIMITED
PLOT NO.18, 19A, 19B
PRIMECO UNION CITY 901, 9, G-01
WHITEFIELD MAIN ROAD
BENGALURU - 560 067
REPRESENTED BY ITS DIRECTOR

...RESPONDENT



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THIS WRIT APPEAL FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER DATED 18.12.2025 IN THE CASE OF IN W.P. NO. 8940/2025 AND PASS SUCH OTHER ORDER OR ORDERS AS THIS HON'BLE COURT MAY DEEM FIT, PROPER AND NECESSARY IN THE FACTS AND CIRCUMSTANCES OF THE CASE.

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.2/2026, the same is allowed. The delay of 139 days in filing the appeal is condoned.

2. The Revenue has filed the present appeal impugning the order dated 18.12.2025 passed by the learned Single Judge in WP.No.8940/2025 (T-RES). The respondent had filed the said writ petition, *inter alia*, impugning Rule 96(10) the Central Goods and Service Tax, Rules 2017 [**the CGST Rules**] as *ultra vires* of



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Section 16 and 22 of the Integrated Goods and Services Tax Act, 2017 [**IGST Act**] and violative of Article 14 of the Constitution of India.

3. The respondent filed an application in the prescribed form claiming refund of IGST amounting to ₹3,08,78,921/- under Section 16 of the IGST Act. In connection with the said application, the jurisdictional Assistant Commissioner issued a show cause notice dated 10.10.2024 proposing to reject the respondent's application for refund on the basis of Rule 96(10) of the CGST Rules. Thereafter on 14.11.2024, the Proper Officer passed an order rejecting the respondent's application for refund by referring to Rule 96(10) of the CGST Rules.

4. The respondent filed a petition, *inter alia*, impugning the said order as well as challenging Rule 96(10) of the CGST Rules. The learned Single Judge allowed the petition, following an earlier decision of this Court in **M/s Hikal Limited vs. Union of India and others**¹ and directed grant of refund.

¹ Writ Petition 15251/2020 dated 09.12.2025



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5. Rule 96(10) of the CGST Rules was repealed. However, the benefit of the same was denied to the respondent on the ground that the repeal is prospective.

6. The learned counsel appearing for the Revenue has 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 held 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 recommendation that the omission should be

² 2026 SCC OnLine SC 1523

³ (2000) 2 SCC 536



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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.”

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

8. The pending interlocutory application also stands disposed of.

**Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE**

**Sd/-
(K.S. HEMALEKHA)
JUDGE**

SD
List No.: 2 Sl No.: 12