IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 78 OF 2025

AMOL PREMNATH JADHAV
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Date: 2025.09.24 13:43:01 +0530

Hikal Limited
3rd and 6th Floor, The Great Eastern Chamber, Sector – 11, Plot No. 28, CBD Belapur, Navi Mumbai – 400614. … Petitioner

Versus

1. **Union of India,**
   through Ministry of Law & Justice, Branch Secretariat, Aaykar Bhavan, Annex Building, 2nd Floor, New Marine Line, Mumbai – 400 020.
2. **Central Board of Indirect Taxes and Customs**
   Ministry of Finance, Through its Chairman, Having its office at North Block New Delhi – 110 001.
3. **Office of the Commissioner,**
   CGST and Central Excise, 1st Floor, C.G.O., Complex, CBD Belapur, Navi Mumbai – 400 614.
4. **Joint Commissioner (Adjudication)**
   1st Floor, C.G.O. Complex, CBD Belapur Navi Mumbai – 400 614
5. **The Assistant Commissioner**
   CGST & C. Ex. Division – I Belapur Commissionerate 1st Floor, C.G.O. Complex, CBD Belapur Navi Mumbai – 400 614
6. **The Superintendent** … Respondents
   CGST & C. Ex. Range – V, Division – I, Belapur Commssionerate 1st Floor,

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C.G.O. Complex, CBD Belapur Navi
Mumbai – 400 614.

WITH
WRIT PETITION NO. 465 OF 2021

Yasho Industries Limited, is a Public Limited Company having its office at 101-102, Peninsula Heights, C.D., Wing A, CD Barfiwala Road, Juhu Lane, Ganga Vihar, Andheri West, Mumbai, Maharashtra 400058.
Through Shri Yayesh Jhaveri who is the Director of Petitioner Company, having his address at 1 Ashirwad, 21, Hatkesh Society, JVPD Scheme Road-6, Vileparle (West), Mumbai, Maharashtra 400056. … Petitioner

Versus

1. **Union of India,**
   through Secretary Ministry of Finance (Department of Revenue), No.137, North Block, New Delhi-110 001.
2. **Central Board of Indirect Tax and Customs,**
   through Chairman, Department of Revenue, Ministry of Finance, North Block, New Delhi-110 001
3. **The GST Council**
   through the Secretary, 5th Floor Tower, II, Jeevan Bharati Building, Janpath Road, Connaught Place, New Delhi – 100 001.
4. **The Assistant Director,**
   Directorate of Revenue Intelligence, Kolkata Zonal Unit-8, Ho Chi-Minh Sarani, Kolkata – 700 071. … Respondents

This Judgment & Order is corrected in terms of suo motu speaking to the minutes of order dated 23.09.2025

WITH
WRIT PETITION NO. 2828 OF 2021

Prashi Pharma Private Limited
Having office at Surya House 503, 5th Floor, Shri Golvalkar Guruji Marg, RD. No.7, near Vidyavihar Station, Vidyavihar (E) – 400 077, through Its Authorized Representative Shri Sunil K. Desai ... Petitioner

Versus

1. **Union of India,**
   through Secretary Ministry of Finance Department of Revenue, North Block, New Delhi-110 001.
2. **Goods and Service Tax Council**
   GST Council Secretariat, 5th Floor Tower II, Jeevan Bharati Building, Janpath Road, Connaught Place, New Delhi – 100 001.
3. **Central Board of Indirect Taxes and Customs (erstwhile CBEC)**
   Department of Revenue, Ministry of Finance, North Block, New Delhi – 110001.
4. **Directorate of Revenue Intelligence,**
   8, Ho Chi-Minh Sarani, Kolkata – 700 071.
5. **The State of Maharashtra**
   through the Secretary Mantralaya, Madam Kama Road, Nariman Point, Hutatma Raj Guru Chowk, Mumbai 400021.
6. **Commissioner of Central Goods and Service Tax, Mumbai**
   Commissionerate - Mumbai East Division, Division-IX, Ravne-IV (Jurisdictional Office).

This Judgment & Order is corrected in terms of suo motu speaking to the minutes of order dated 23.09.2025

7. **Commissioner of State Goods and Service Tax, Mumbai**
State-Maharashtra Zone, Mumbai North-West, Division-Ghatkopar, Charge-Kurla-702. … Respondents

WITH
WRIT PETITION NO. 3691 OF 2021

M/s. Alkem Laboratories Ltd.
Having his office at Alkem House, Senapati Bapat Marg, Lower Parel, Mumbai 400013. … Petitioner

Versus

1. **Union of India,**
through the Secretary Ministry of Finance, Department of Revenue, North Block, New Delhi-110 001.
2. **Goods and Service Tax Council**
through its Additional Secretary, 5th Floor Tower II, Jeevan Bharati Building, Janpath Road, Connaught Place, New Delhi – 100 001.
3. **Central Board of Indirect Taxes and Customs (erstwhile CBEC)**
Department of Revenue, Ministry of Finance, North Block, New Delhi – 110001.
4. **Directorate of Revenue Intelligence,**
Zonal Unit 8, Ho Chi-Minh Sarani, Kolkata – 700 071.
5. **The State of Maharashtra**
through the Secretary Mantralaya, Madam Kama Road, Nariman Point, Hutatma Raj Guru Chowk, Mumbai 400021.

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6. **Commissioner of Central Goods and Service Tax, Mumbai**, Mumbai Central GST Bhavan, 4th Floor, Opp. Churchgate Railway Station, Maharshikarve Road, Mumbai-400020.

7. **Commissioner of State Goods and Service Tax, Mumbai**
7 Nasbit Road, Mazgaon, Tadwadi, Maharani Pratap Chowk, Mumbai-400 010. … Respondents

WITH
WRIT PETITION NO. 405 OF 2021

Undercarriage and Tractor Parts Pvt Ltd.
is a Private Limited Company having its factory & Registered office at Plot No D-4, D- 4/1, Five Star Industrial area, Kagal Dist. Kolhapur- 416236, through Annasaheb Laxman Patil who is the whole time Director of the Petitioner Company, having his address at Mauli Niwas, A/P- Halasawade, Tal- Karvir, Dist. Kolhapur, 416 202 … Petitioner

Versus

1. **Union of India,**
through Secretary Ministry of Finance (Department of Revenue), No.137, North Block, New Delhi - 110 001.

2. **Central Board of Indirect Tax and Customs**, through Chairman, Department of Revenue, Ministry of Finance, North Block, New Delhi 110 001.

3. **The GST Council**
through the Secretary, 5th Floor Tower

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II, Jeevan Bharti Building Janpath Road, Connaught Place, New Delhi 1100 001

4. **The Assistant Director**
   Directorate of Revenue Intelligence Kolkata Zonal Unit 8, Ho Chi-Minh Sarani Kolkata-700 071 … Respondents

WITH
WRIT PETITION NO. 2044 OF 2022

1. **Nevatia Steel & Alloys Pvt. Ltd.**
   a company registered under the Companies Act, 1956 having its registered office at 9th Floor, 904, Lodha Supremus, Dr. E. Moses Road, Worli, Mumbai-400018
2. **Nikhil Nevatia**,
   Director & Shareholder of Nevatia Steel & Alloys Pvt. Ltd., having his address at 1st Floor, Pitale Prasad, 85, Worli Sea face, Mumbai - 400 030. … Petitioners

Versus

1. **Union of India,**
   through the Secretary, Ministry of Finance, North Block, New Delhi.
2. **The GST Council,**
   Through the Joint Secretary, GST Council Secretariat, Tower – II, Floor, Jeevan Bharti Building, 124, Janpath, Connaught Circus, New Delhi – 110 001
3. **Central Board of Indirect Tax & Customs**
   Through Member (GST), North Block, New Delhi

4. **Directorate General of GST Intelligence**
   Through the Senior Intelligence Officer Mumbai Zonal Unit, 3rd Floor, NTC House, Ballard Estate, Mumbai … Respondents

WITH
WRIT PETITION NO. 3163 OF 2021

Augmont Enterprises Pvt. Ltd.
a company incorporated under the Companies Act, 1956 and having its registered office at 3rd Floor, Units B1/B2/B3, Bullion House, 115, Tambakatta Lane, Pydhonie, Mumbai - 400 003 … Petitioner

Versus

1. **The Union of India**
   Through: Secretary (Finance & Revenue) Ministry of Finance Department of Revenue North Block, New Delhi-110 001
2. **The Directorate General of GST**
   Intelligence, Mumbai Zonal Unit having its office at NTC House 3 Floor, 15, N. M. Road, Ballard Estate Mumbai 400 001.
3. **The State of Maharashtra**
   Through Government Pleader, High Court Bombay
4. **The Goods and Services Tax Council**
   Through: Additional Secretary, 5th Floor, Tower II, Jeevan Bharti Building Janpath Road, Connaught Place, New Delhi-110 001
5. **The Central Board of Indirect Taxes and Customs,**

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Through: Chairman Department of Revenue North Block, New Delhi 110 001

6. **The Commissioner of Goods and Services Tax,**
Mumbai Central having his office at 4th Floor, GST Building, 115, M. K. Road, Churchgate, Mumbai - 20 … Respondents

WITH
WRIT PETITION (L) NO. 8737 OF 2022

1. **Bharat Wire Ropes Limited**
Through its director Murarilal Ramsukh Mittal Age: 64 years, Male, Occupation- Business, A-701, 7th Floor, Trade World Building, Kamala Mills, SB Marg, Lower Parel (West), Mumbai - 400013

2. **Murarilal Ramsukh Mittal**
Age: 64 years, Male, Occupation- Business, A-701, 7th Floor, Trade World Building, Kamala Mills, SB Marg, Lower Parel (West), Mumbai - 400013 … Petitioner

Versus

1. **Union of India**
Through The Ld. Secretary, Ministry of Finance (Department of Revenue) No.137, North Block, New Delhi-110001.

2. **Central Board of Indirect Taxes and Customs**
Department of Revenue, Ministry of Finance North Block, New Delhi- 110 001

3. **Principal Additional Director General,**
   Directorate General of GST
   Intelligence,
   Mumbai Zonal Unit, 15, 3rd Floor,
   N.T.C. Tower, N. M. Road, Ballard
   Estate, Mumbai-400001
4. **Deputy Director,**
   Directorate General of GST
   Intelligence, Mumbai Zonal Unit, 15,
   3rd Floor, N.T.C. Tower, N. M. Road,
   Ballard Estate. Mumbai-400001
5. **Senior Intelligence Officer,**
   Directorate General of GST
   Intelligence, Mumbai Zonal Unit, 15,
   3rd Floor, N.T.C. Tower, N. M. Road,
   Ballard Estate, Mumbai-400001
6. **Deputy Commissioner of Customs,**
   DEEC Monitoring Cell, New Custom
   House, Ballard Estate, Mumbai-
   400001 … Respondents

WITH
WRIT PETITION NO. 1773 OF 2024

Kairav Chemofarbe Industries Limited,
a company incorporated under the
Companies Act 1956, and having its
registered office at 502, Filix, LBS Marg
Opposite Asian Paints, Bhandup (West),
Mumbai, Maharashtra – 400 078 … Petitioner

Versus

1. **Union of India,**
   through the Secretary, Ministry of
   Finance, Department of Revenue
   North Block, New Delhi – 110 001.

2. **Joint Director,**
   Directorate General of Goods &
   Services Tax Intelligence Third Floor,
   NTC House, 15, N. M. Road Ballard
   Estate, Mumbai 400001

3. **Additional Commissioner of Central Tax,**
   Division II, Range 1, Central Tax
   Commissionerate, Navi Mumbai … Respondents

WITH
WRIT PETITION NO. 4640 OF 2022
WITH
CHAMBER ORDER (CHOL) NO. 286 OF 2022
IN
WRIT PETITION NO. 4640 OF 2022

Kalp Overseas
504, CTS 26, Bldg. No.3, Chaitanya CHS
Ltd., Goregaon (West) Mumbai-400104,
Maharashtra Through Mr. Abhik Jain … Petitioner

Versus

1. **Union of India,**
   Through the Secretary Department of
   Revenue, Ministry of Finance, North
   Block, New Delhi – 110 001.

2. **State of Maharashtra**
   Through its Additional Chief
   Secretary (Finance) Secretaries
   Cabin, Main building, Mantralaya,
   Madam Kama Rd., Hutatma Rajguru
   Chowk, Mumbai - 400032

3. **Central Board of Indirect Taxes & Customs**
   Ministry of Finance, North Block,
   New Delhi – 110 001

4. **The Goods & Services Tax Council**

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Through The Secretary 5th Floor,
Tower II, Jeevan Bharti Building,
Janpath Road, Connaught Place, New
Delhi - 110001

5. **Commissioner of CGST, Mumbai West**
1st Floor, Mahavir Jain Vidyalaya, C D
Burfiwala Marg, Andheri (W),
MUMBAI-400058.

6. **The Deputy Commissioner of CGST**
Div.-IX, Mumbai West 1st Floor,
Takshashila Building Samant Estate,
Goregaon (East) Mumbai - 400063 … Respondents

WITH
WRIT PETITION (L) NO. 11740 OF 2025

Camlin Fine Sciences Limited
Plot No. D-2/3, MIDC Tarapur
Boisar, Dist: Palghar, Maharashtra - 401
506. … Petitioner

Versus

1. **Union of India,**
Through the Secretary, Ministry of
Finance Department of Revenue.

2. **Central Board of Indirect Tax and Customs, 1**
Department of Revenue, Ministry of
Finance, Through its Chairman,
Having his office at North Block, New
Delhi - 110 001.

3. **The Commissioner (Appeals - III),** … Respondents
CGST & Central Excise Floor, Piramal
Chambers Lalbaug Lower Parel
Mumbai - 400012
The Additional Commissioner,
CGST & Central Excise, Palghar
Commissionerate,

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Having his office at 5% Floor, Plot No.
C-24, Sector-E, Central GST Bhavan,
Bandra-Kurla Complex
Bandra (East), Mumbai - 400 051.

WITH
WRIT PETITION NO. 2745 OF 2025

1. **DD Cotton Pvt. Ltd.**
   A company registered under the
   Companies Act, 1956
   having its registered office at
   9th Floor, A 908, Dalamal Tower,
   Free Press Journal Marg,
   Nariman Point, Mumbai-400 021

2. **Mr. Mayank Arun Sekhsaria**,
   Director of DD Cotton Pvt. Ltd.
   having residence at Sekhsaria House,
   28, Babulnath Road, Babulnath
   Mandir Babulnath, Grant Road,
   Mumbai- 07

… Petitioner

Versus

1. **Union of India,**
   Through the Secretary,
   Ministry of Finance, North Block,
   New Delhi.
2. **The GST Council,**
   Through the Joint Secretary, GST
   Council Secretariat, Tower - II, 5th
   Floor, Jeevan Bharti Building, 124,
   Janpath, Connaught Circus, New
   Delhi 110 001
3. **Principal Commissioner of CGST** &
   Central Excise, 13th Floor, Air India
   Nariman Point, Mumbai- 400 021

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4. **Additional Commissioner, CGST** & Central Excise, 13th Floor, Air India Building, Nariman Point Mumbai-400 021 … Respondents

WITH

WRIT PETITION (L) NO. 15183 OF 2024

Tridev Resins India Private Limited
Through its Director Vinay Vinod Ojha Sex: Male, Age 37 Years Office at Plot No 136/E-1, 2nd Phase, GIDC Vapi, Valsad, Gujarat, 396195 … Petitioner

Versus

1. **Union of India**
   Through The Ld. Secretary, Ministry of Finance (Department of Revenue) No.137, North Block, New Delhi-110001.
2. **Central Board of Indirect Taxes and Customs**
   Department of Revenue, Ministry of Finance, North Block, New Delhi-110 001.
3. **Deputy Director,**
   Directorate General of GST Intelligence Mumbai Zonal Unit 3rd Floor, NTC House, 15 NM Road Ballard Estate, Mumbai -400001
4. **Intelligence Officer, Group A**
   Directorate General of GST Intelligence Mumbai Zonal Unit 1st Floor, NTC House, 15 N M Road Ballard Estate, Mumbai -400001
5. **Superintendent/ Appraiser/ Senior Intelligence Officer**
   O/o Pr. Additional Director General, Directorate General of GST

This Judgment & Order is corrected in terms of suo motu speaking to the minutes of order dated 23.09.2025

Intelligence, Mumbai Zonal Unit, 1st Floor, NTC House, 15 NM Road Ballard Estate, Mumbai -400001

6. **Additional Director General,**
Directorate General of GST Intelligence, Mumbai Zone Unit NTC House 1st Floor, 15 N M Road Ballard Estate, Mumbai -400001 … Respondents

WITH
WRIT PETITION NO. 2097 OF 2025

Astec LifeSciences Limited
having its registered office at 3rd Floor, Godrej One, Pirojshanagar, Eastern Express Highway, Vikhroli (East), Mumbai, Maharashtra - 400079
… Petitioner

Versus

1. **Union of India**
Through the Secretary, Department of Revenue Ministry of Finance, having his office at 128-A, North Block, New Delhi-110 001.
2. **Principal Additional Director General,**
Mumbai Zonal Unit, 3rd Floor, N.T.C. House, 15, N. M. Road, Ballard Estate, Mumbai - 400001
3. **Additional Director, DGGI,**
Mumbai Zonal Unit, 3rd Floor, N.T.C. House, 15, N.M. Road, Ballard Estate, Mumbai 400001
4. **Additional Commissioner of Central Tax,**
CGST & Central Excise, Navi Mumbai Commissionerate 16th Floor, Satara Plaza Palm Beach Road, Sector 19 -

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D, Vashi, Navi Mumbai, Maharashtra 400703

5. **Joint Commissioner of Central Tax,** CGST & Central Excise, Navi Mumbai Commissionerate 16th Floor, Satara Plaza Palm Beach Road, Sector 19 - D, Vashi, Navi Mumbai, Maharashtra - 400703 … Respondents

WITH
WRIT PETITION NO. 3522 OF 2024

Vidhi Specialty Food Ingredients Limited
Having its registered office at E27, 28, 29, 5th Commerce Centre, Plot-78, Pandit Madan Mohan Malviya Marg, Tardeo, Mumbai - 400034. … Petitioner

Versus

1. **The Union of India**
Through Secretary Department of Revenue Ministry of Finance North Block, New Delhi 110 001

2. **The Additional Commissioner**
CGST & Central Excise Mumbai Central Commissionerate having his office at 4th Floor, GST Bhavan, 115 Maharshi Karve Road Mumbai-400020.

3. **The Deputy Commissioner, Division-X, CGST & Central Excise Mumbai Central Commissionerate**
having his office at 8th Floor, Piramal Chambers, Jijibhoy Lane, Lalbaug Parel, Mumbai - 400012 … Respondents

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WITH
WRIT PETITION NO. 3013 OF 2023
WITH
INTERIM APPLICATION (L) NO. 31922 OF 2023
IN
WRIT PETITION NO. 3013 OF 2023

1. **Sarla Performance Fibers Ltd.**
   a Public Limited Company having its address at Amli Piparia Industrial Estate, Silvasa, Dadra and Nagar Haveli - 396230.
2. **Shri. Mukesh Deopura**
   Chief Financial Officer of Sarla Performance Fibers Ltd. having its address at Amli Piparia Industrial Estate, Silvasa, Dadra and Nagar Haveli - 396230, … Petitioner

Versus

1. **Union of India,**
   through the Secretary, Ministry of Finance, North Block, New Delhi.
2. **The GST Council,**
   Through the Joint Secretary, GST Council Secretariat, Tower - II, 5th Floor, Jeevan Bharti Building, 124, Janpath, Connaught Circus, New Delhi 110 001
3. **Central Board of Indirect Tax & Customs**
   Through Member (GST), North Block, New Delhi
4. **Joint Commissioner of CGST,**
   CGST and Central Excise, Daman Commissionerate G.S.T. Bhavan, RCP Compound, Vapi - 396191
5. **Assistant Commissioner of CGST,** … Respondents

CGST and Central Excise, Daman Commissionerate G.S.T. Bhavan, RCP Compound, Vapi - 396191

WITH
WRIT PETITION NO. 2052 OF 2025

Jindal Drugs Private Limited
a company incorporated under the Companies Act, 1956 and having its registered office at Office at 12A, Bakhtawar, 12th Floor, 229 Nariman Point, Mumbai-400021 … Petitioner

Versus

1. **The Union of India,**
   Through Secretary, Department of Revenue, Ministry of Finance North Block, New Delhi 110 001
2. **The Principal Commissioner/ Commissioner, CGST & Central Excise**
   Mumbai South Commissionerate having his office at 13th Floor Air India Building, Nariman Point Mumbai-400021
3. **The Additional Commissioner, CGST & Central Excise, Mumbai**
   South Commissionerate having his office at 13th Floor Air India Building, Nariman Point Mumbai-400021 … Respondents

WITH
WRIT PETITION (L) NO. 39729 OF 2022

1. **Supriya Lifescience Limited,** … Petitioners
   engaged in manufacture and sale of pharmaceuticals and chemicals, is a

Limited Liability Company having its office at 207/208, Udyog Bhavan, Sonawala Road, Goregaon (East) Mumbai 400063, India, through Shri Deepak Ganpat Chavan who is the Manager - Business Coordinator in the Petitioner Company, having his address at 5/362, M.G. Road, Sane Guruji Nagar, Goregaon West, Mumbai - 400 104

Versus

1. **Union of India,**
   through Secretary Ministry of Finance (Department of Revenue), No.137, North Block, New Delhi - 110 001.
2. **Central Board of Indirect Tax and Customs,** through Chairman, Department of Revenue, Ministry of Finance, North Block, New Delhi-110 001.
3. **The GST Council**
   through the Secretary, 5th Floor Tower II, Jeevan Bharti Building Janpath Road, Connaught Place, New Delhi 1100 001
4. **Senior Intelligence Officer/ Superintendent/ Appraiser**
   Additional Director General, DDGI, MZU, 1st Floor, NTC house, 15, N.M. Road, Ballard Estate, Mumbai-400001
5. **The Assistant Director**
   Directorate of Intelligence Revenue Kolkata Zonal Unit 8, Ho Chi- Minh Sarani, Kolkata – 700 071
6. **The Deputy Director** … Respondents
   Directorate General of GST Intelligence Mumbai Zonal Unit N.T.C

House, III Floor, 15, N. M. Road,
Ballard Estate, Mumbai 400001.

ALONG WITH

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6795 OF 2023

M/s Ashish Life Science Private Limited,
A Private Limited Company bearing GSTN 27AABCB4093N1ZC, having its registered address at J-137, MIDC Tarapur, Boisar, Dist. - Palghar, Maharashtra-401501 Through Shri Ashish Shah, Chief Financial Officer in the Petitioner Company, residing at C/502, Bhoomi Enclave, Mahavir Nagar, Kandivali (West) Mumbai 400067 ... Petitioner

Versus

1. **Union of India,**
   Through Secretary,
   Ministry of Finance, Department of Revenue No. 137, North Block, New Delhi - 110 001
2. **Central Board of Indirect Tax and Customs,**
   Through Chairman, Department of Revenue, Ministry of Finance, North Block, New Delhi - 110 001
3. **Goods and Services Tax Council,**
   Through Secretary, 5th Floor Tower II, Jeevan Bharti Building Janpath Road, Connaught Place, New Delhi-1100 001
4. **Superintendent of Customs, IGST (R) (X),**

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Office of the Commissioner of Customs (Export), Air Cargo Complex, Sahar, Andheri (East), Mumbai - 400 099

5. **Additional Commissioner, Office of the Commissioner of CGST &** Central Excise, Palghar Commissionerate, 5th Floor, GST Bhavan, C-24, Sector - 'E', BKC, Bandra (East), Mumbai – 400051

6. **Superintendent, Office of the Commissioner of CGST & Central Excise,** Palghar, 5th floor, GST Bhavan, C-24, Sector – 'E', BKC, Bandra East - Mumbai – 400051 … Respondents

WITH
WRIT PETITION NO. 1493 OF 2025

Unify Texturisers Private Limited
A company incorporated under the Companies Act, 1956, and having its registered office at, 139/140, Madhuban Dam Road, Karad Village, UT of Dadra Nagar Haveli and Daman and Diu-396230 … Petitioner

Versus

1. **The Union of India**
Through the Secretary, Ministry of Finance, Department of Revenue, North Block, New Delhi-110 001

2. **The GST Council,**
through the Secretary, 5th Floor, Tower-II, Jeevan Bharti Building, Janpath Road, Connaught Place, New Delhi-110001

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3. **The Central Board of Indirect Taxes and Customs**
   Departmentof Revenue, North Block, New Delhi - 110 001
4. **The Commissioner,**
   CGST & CX Daman Commissionerate, G.S.T. Bhavan, RCP Compound Vapi-396191
5. **The Joint Commissioner,**
   CGST &CX Daman Commissionerate, G.S.T. Bhavan, RCP Compound Vapi- 396191 … Respondents

WITH
WRIT PETITION NO. 1006 OF 2024
WITH
INTERIM APPLICATION NO. 7229 OF 2025
IN
WRIT PETITION NO. 1006 OF 2024

Enaltec Labs Private Limited,
a Pharmaceutical Company having its registered place of business at 1701,17th Floor, Kesar Solitare, Plot No.5, Sector – 19, Sanpada, Navi Mumbai – 400 705, Dist. Raigad, Maharashtra through its Authorised Representative … Petitioner

Versus

1. **Union of India,**
   through the Secretary, Ministry of Finance, Department of Revenue, No. 137, North Block, New Delhi – 110 001.
2. **The GST Council**
   through the Secretary 5th Floor, Tower II, Jeevan Bharati Building Janpath Road, Connaught Place, New Delhi –

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110 001.

3. **The Central Board of Indirect Taxes and Customs**
through the Chairman, North Block, New Delhi – 110 001.

4. **The Assistant/Deputy Commissioner (Anti-Evasion) CGST,** Central Excise Belapur Commissionerate, 1st Floor, CGO Complex, Sector – 10, CBD Belapur, Navi Mumbai – 100 614.

5. **The Assistant Commissioner**
Directorate of Revenue Intelligence, 8, Ho-Chi Min Sarani, Kolkata – 700 071. … Respondents

WITH
WRIT PETITION NO. 12927 OF 2022

1. **Electrolead (Pune) Pvt. Ltd.**
a Company registered under the Companies Act, 1956 having its address at Gat No. 146, Mahalunge, Chakan Industrial Area, Chakan Talegaon Road, Pune - 410501. … Petitioner

2. **Mr. Abhijit Mehta**,
Director & Shareholder of Electrolead (Pune) Pvt. Ltd. having his address at Gat No. 146, Mahalunge, Chakan Industrial Area, Chakan Talegaon Road, Pune - 410501.

Versus

1. **Union of India,**
through the Secretary, Ministry of Finance, North Block, New Delhi.

2. **The GST Council,**
Through the Joint Secretary, GST

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Council Secretariat, Tower - II, 5th Floor, Jeevan Bharti Building, 124, Janpath, Connaught Circus, New Delhi-110 001

3. **Central Board of Indirect Tax & Customs**
Through Member (GST), North Block, New Delhi

4. **The Directorate General of GST Intelligence** Through the Senior Intelligence Officer, Mumbai Zonal Unit, 3rd Floor,
NTC House, Ballard Estate, Mumbai

5. **The Deputy Commissioner of State Tax** (E-706), Pune 503,
GST Bhavan, Near Golf Club, Airport Road, Yerwada, Pune-411 006 … Respondents

WITH
WRIT PETITION NO. 739 OF 2025
WITH
INTERIM APPLICATION NO. 11291 OF 2025
IN
WRIT PETITION NO. 739 OF 2025

Phoenix Innovative Healthcare Manufacturers Pvt Ltd
A company duly registered under Companies Act, 1956 having its registered office at EL-209 Shil Mahape Road, Electronic Zone, MIDC Mahape, Navi Mumbai … Petitioner

Versus

1. **Union of India,**
through Secretary, Ministry of Finance, Dept of Revenue, Aaykhar Bhawan Marine Lines, Mumbai-400

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020.

2. **Commissioner of CGST**
   Belapur Commissionerate
   1st Floor, CGO Complex, CDB Belapur,
   Navi Mumbai-400614

3. **Dy Commissioner of CGST,**
   Division IV, Belapur 5th Floor, CGO
   Complex, CBD Belapur, Navi Mumbai-
   400614 … Respondents

WITH
WRIT PETITION NO. 674 OF 2024

Fiberweb India Limited
Having office at: S. No. 92-93/8, Near
Dalwada Sub Station, 100 Feet Coastal
Highway, Kadaiya – 396210
Through its Authorized Signatory … Petitioner

Versus

1. **Union of India**
   Through The Secretary, Ministry of
   Finance, North Block, New Delhi -
   110001

2. **Central Board of Indirect Taxes &**
   Customs Ministry of Finance, North
   Block, New Delhi-110 001

3. **The Goods & Services Tax Council**
   Through The Secretary
   5th Floor, Tower II, Jeevan Bharti
   Building, Janpath Road, Connaught
   Place, New Delhi-110001

4. **The Superintendent of CGST And**
   Central Excise,
   Range-III, Division IV, 3rd Floor, GST
   Bhavan, RCP Compound Daman
   Road, Vapi- 396 191

This Judgment & Order is corrected in terms of suo motu speaking to the minutes of order dated 23.09.2025

5. **The Assistant Commissioner**
CGST & C. Ex, Div IV, Daman 3rd Floor, GST Bhavan, RCP Compound, Daman Road, Vapi - 396 191. … Respondent.

WITH
WRIT PETITION NO. 1325 OF 2025

Unimax Chemicals Private Limited
Plot No.E-116, MIDC Tarapur, Boisar-401506 … Petitioner

Versus

1. **Union of India,**
(Through the Secretary, Ministry of Law and Justice, Department of Legal Affairs) Branch Secretariat, Aaykar Bhavan Annexe, 2nd floor, New Marine Lines, Mumbai - 400020
2. **Commissioner of CGST & Central Excise,**
Palghar Commissionerate
5th Floor, Central GST Bhavan, Plot No.C-24, Sector-E, Bandra Kurla Complex, Bandra (East), Mumbai - 400 051
3. **Additional Commissioner of CGST & Central Excise Palghar Commissionerate,**
5th Floor, Central GST Bhavan, Plot No.C-24, Sector-E, Bandra Kurla Complex, Bandra (East), Mumbai - 400 051 … Respondents

WITH
WRIT PETITION NO. 1614 OF 2025

1. **Keva Fragrances Private Limited**

a Company incorporated under the provisions of the Companies Act, 1956 and having its registered office at Devkaran Mansion, 36, Mangaldas Road, Mumbai - 400 002

2. **Mr. Kedar Ramesh Vaze**
having office at Keva Fragrances Pvt. Ltd. Devkaran Mansion, 36, Mangaldas Road, Mumbai 400 002

... Petitioners

Versus

1. **Union of India,**
2. **The Commissioner of CGST & Central Excise**,
Raigad, Plot No.1, Sector 17, Khandeshwar, Navi Mumbai 410206
3. **The Additional Commissioner of Central GST Commissionerate,**
Raigad, Plot No.1, Sector 17, Khandeshwar, Navi Mumbai 410206 ... Respondents

WITH
WRIT PETITION NO. 4658 OF 2025

M/s. Eastern Petroleum Private Limited,
Unit No. 1, Ground Floor, Riddhi Siddhi Corporate Park, V N Purav Marg, Sion Trombay Road, Chembur, Mumbai - 400 071 ... Petitioner

Versus

1. **Union of India**
(Through the Secretary), Ministry of Law and Justice, INDIA Department of Legal Affairs, Branch Secretariat, Aaykar Bhavan Annexe, 2nd floor, New Marine Lines, Mumbai - 400020

This Judgment & Order is corrected in terms of suo motu speaking to the minutes of order dated 23.09.2025

2. **Commissioner of CGST & Central Excise,**
   Navi Mumbai, 16th Floor, Sec - 19D, Palm Beach Road, Vashi, Navi Mumbai- 400 705.
3. **Additional Commissioner of CGST**
   Navi Mumbai, 16th Floor, Sector - 19D, Palm Beach Road, Vashi, Navi Mumbai- 400 705. … Respondents

WITH
WRIT PETITION NO. 5816 OF 2025

Axiom Cordages Limited
a company incorporated under the Companies Act, 1956 and having its registered office at Plot No. 114B & 120C Mahagaon Road, Betegaon Boisar- 401501 … Petitioner

Versus

1. **The Union of India,**
   Through Secretary, Department of Revenue, Ministry of Finance North Block, New Delhi 110 001
2. **The Commissioner**
   CGST & Central Excise, Palghar Commissionerate having his office at 5th Floor Central GST Bhawan, Plot No. C-24, Bandra Kurla Complex, Bandra (East), Mumbai- 400051
3. **The Additional Commissioner,**
   CGST & Central Excise, Palghar Commissionerate having his office at 5th Floor Central GST Bhawan, Plot No. C-24, Bandra Kurla Complex, Bandra (East), Mumbai - 400051

This Judgment & Order is corrected in terms of suo motu speaking to the minutes of order dated 23.09.2025

WITH
WRIT PETITION NO. 5815 OF 2025

Responsive Industries Limited
a company incorporated under the Companies Act, 1956 and having its registered office at Gut No. 120 Mahagaon Road, Betegaon Boisar-401501 … Petitioner

Versus

1. **The Union of India,**
   Through Secretary, Department of Revenue, Ministry of Finance North Block, New Delhi 110 001
2. **The Commissioner**
   CGST & Central Excise, Palghar Commissionerate having his office at 5th Floor Central GST Bhawan, Plot No. C-24, 1 Bandra Kurla Complex, Bandra (East), Mumbai-400051
3. **The Additional Commissioner,** CGST & Central Excise, Palghar Commissionerate having his office at 5th Floor Central GST Bhawan, Plot No. C-24, 1 Bandra Kurla Complex, Bandra (East), Mumbai -400051. … Respondents

WITH
WRIT PETITION (ST) NO. 15698 OF 2025

Hikal Limited … Petitioner
A Company incorporated under the Companies Act, 1956, Having its Registered office at 717/718 Maker Chamber V, Nariman Point, Mumbai-400021 and office at 3rd and 6th Floor, Great Eastern Chamber, Sector-11 Plot-

28, CBD Belapur, Navi Mumbai Thane,
Maharashtra - 400614

Versus

1. **Union of India,**
   Through the Secretary, Ministry of Finance, Department of Revenue, North Block, New Delhi
2. **The GST Council,**
   Through the Secretary, 5th Floor, Tower-II Jeevan Bharti Building Janpath Road, Connaught Place, New Delhi-110001
3. **The Central Board of Indirect Taxes and Customs**,
   Through the Chairman, Department of Revenue North Block, New Delhi-110001
4. **The Additional Director,**
   Having his office at Director General of GST Intelligence Office of the Principal Additional Director General, Mumbai Zonal Unit, Ground Floor Laxmi Insurance Building Sir P.M. Road Fort, Mumbai-400001
5. **The Commissioner, CGST & CX**
   Thane Commissionerate, Having his office at 3rd and 5th Floor, Accel House, Road No. 22 1 Wagle Industrial Estate Thane-400604
6. **Joint Commissioner of CGST &CX**
   Thane Commissionerate, Having his office at Accel House, Road No. 22, MIDC, Wagle Industrial Estate, Thane (West)-400604 … Respondents

WITH
WRIT PETITION NO. 11356 OF 2025

Mylan Laboratories Limited F-4 & F-12
Malegaon MIDC,
Sinnar, N ashik-422113 … Petitioner

Versus

1. **The Union of India, Through the22 22** Secretary, Department of Revenue, Ministry of Finance, having its office at 128-A, North Block, New Delhi, 110 00.
2. **Central Board of Indirect Taxes** and Customs
Ministry of Finance,
Through its Chairman,
Having its office at North Block
New Delhi - 110 001

3. **Office of the Commissioner,**
CGST and Central Excise,
Nashik, Plot No. 155, Sector- P-34
NH, Jaistha & Vaishak, CIDCO
Nashik- 422008

4. **Additional Commissioner**
CGST and Central Excise,
Nashik, Plot No. 155, Sector- P-34
NH, Jaistha & Vaishak, CIDCO
Nashik- 422008

5. **Anti Evasion Wing**
(Preventive Section), Headquarters23 23
Nashik, Plot No. 155, Sector- P-34
NH, Jaistha & Vaishak, CIDCO
Nashik- 422008

This Judgment & Order is corrected in terms of suo motu speaking to the minutes of order dated 23.09.2025

6. **The Superintendent, CGST & C. Ex.**
Sinner Range, Division - II,
Nashik, Plot No. 155, Sector- P-34
NH, Jaistha & Vaishak, CIDCO
Nashik- 422008

… Respondents

WITH
WRIT PETITION NO. 11355 OF 2025

Ajit Ganpat Dhuri, Aged 49 years,
Deputy General Manager of
Mylan Laboratories Limited
Residing at Flat No. 3, 2nd Floor,
Morya Apartment Plot No. 15
Survey No. 909/1/15
Opposite Police Quarters,
Wasan Nagar, Cidco Colony,
Nashik, Maharashtra-422009 … Petitioner

Versus

1. **Union of India**
Through the Secretary,
Department of Revenue,
Ministry of Finance, having its office
at 128-A, North Block,
New Delhi, 110001.

2. **Central Board of Indirect Taxes**
and Customs Ministry of Finance,
Through its Chairman, Having its
office at North Block New Delhi-110
001

3. The Commissioner, CGST and
Central Excise, Nashik, Plot No. 155,
Sector- P-34 NH, Jaistha & Vaishak,

CIDCO
Nashik- 422008 1

4. **Additional Commissioner** CGST and Central Excise, Nashik, Plot No. 155, Sector- P-34 NH, Jaistha & Vaishak, CIDCO Nashik-422008

5. **Anti Evasion Wing**

   (Preventive Section), Headquarters Nashik, Plot No. 155, Sector- P-34 NH, Jaistha & Vaishak, CIDCO Nashik- 422008

6. **The Superintendent, CGST & C. Ex.**
   Sinner Range, Division – II, Nashik, Plot No. 155, Sector- P-34 NH, Jaistha & Vaishak, CIDCO Nashik-422008

… Respondents

WITH
WRIT PETITION NO. 4625 OF 2025

Mancare Pharmaceuticals Private Limited Having office at Plot N0. 60, Dhovali Village, Vasai Municipal Industrial Estate. Vasai West, Palghar Maharashtra — 401207 Authorised Representative

Shri _____

… Petitioner

Versus

1. **Union of India**
   Through the Secretary Ministry of Finance, North Block, New Delhi -110 001

2. **State of Maharashtra**
   Through its Additional Chief Secretary (Finance) Secretaries

This Judgment & Order is corrected in terms of suo motu speaking to the minutes of order dated 23.09.2025

Cabin, Main building, Mantralaya,
Kama Rd, Hutatma Rajguru Chowk,
Mumbai-400032

3. **Central Board of Indirect Taxes & Customs**
Ministry of Finance, Finance, North Block, New Delhi -110 001

4. **The Goods & Services Tax Council**
Through The Secretary 5th Floor, Tower II Jeevan Bharti Building Janpath Road, Connaught Place New Delhi -- 110001

5. **Deputy Commissioner of Customs,**
Office of Commissioner of Customs (Export) Air Cargo Complex, Andheri (E)-Mumbai-400099

6. **Commissioner of Customs**
Nhava Sheva, JNCH, Mumbai

7. **Commissioner of Customs (Export)**,
Air Cargo Complex, Sahar, Andheri East, Mumbai – 400099

8. **Superintendent/Appraiser/ Intelligence officer**,
1st Floor, Central GST Bhavan, C-24, E-Block Bandra Kurla Complex, Bandra East, Mumbai – 400051 … Respondents

WITH
WRIT PETITION NO. 12170 OF 2023

M/s Laxmi Organic Industries Limited, … Petitioner
A Company incorporated under Companies Act 1956, having its registered address at A/22/23/3, MIDC, Mahad, Raigad, Mumbai, Maharashtra — 402301 Through Shri Aniket Hirpara Having its registered office at A/22/23/3,

This Judgment & Order is corrected in terms of suo motu speaking to the minutes of order dated 23.09.2025

MIDC, Mahad, Raigad, Mumbai,
Maharashtra

Versus

1. **Union of India,** Through its Secretary, Department of Revenue, Ministry of Finance, Government of India, North Block, New Delhi -110001

2. **Central Board of Indirect Taxes and Customs,**
Through its Chairman, Department of Revenue, Ministry of Finance, Government of India, North Block, New Delhi — 110001

3. **Commissioner of Customs, Import II,**
Group II-A, New Custom House, Ballard Estate, Mumbai, Maharashtra — 400 001

4. **Additional Director General,**
Directorate of Revenue Intelligence, Kolkata Zonal Unit, 8, Ho Chi Minh Sarani, Kolkata - 700071

… Respondents

WITH
WRIT PETITION NO. 11079 OF 2025

Privi Specialty Chemicals Limited
(formerly known as Fairchem Specialty Limited) 1st Floor, Privi House, A-71, TTC, Thane Belapur Road, Koperkharane, Navi Mumbai, Thane, Maharashtra - 400 710.

… Petitioner

Versus

This Judgment & Order is corrected in terms of suo motu speaking to the minutes of order dated 23.09.2025

1. **Union of India,**
   Through the Secretary, Ministry of Finance Department of Revenue, 128-A, North Block, New Delhi-110001.
2. **Central Board of Indirect Tax and Customs,** Department of Revenue, Ministry of Finance, Through its Chairman, 17 17 Having his office at North Block, New Delhi-110 001.
3. **The Joint Commissioner (AE),**
   CGST & Central Excise, Belapur Having his office at 1st Floor, CGO Complex CBD-Belapur, Navi Mumbai - 400 614
4. **The Joint / Additional Commissioner,**
   Division IV of CGST & Central Excise, Belapur Commissionerate, Having his office at 1st Floor, CGO Complex CBD-Belapur, Navi Mumbai - 400 614.

… Respondents

WITH
WRIT PETITION NO. 11002 OF 2025

M/s Catapharma Chemicals Private Limited,
having its registered address at A-115 to A-119, A-122, A-124 to 126, STICE, Musalgaon, Sinnar, Nashik - 422 112. … Petitioner

Versus

1. **Joint Commissioner, CGST & Central Excise, Nashik Commissionerate**
   Plot No. 155, Sector-9-34, NH, Jaishtha & Vaishakh, CIDCO, Nashik-422 008.
2. **The Commissioner of State Tax,**

Maharashtra State.
8th Floor, GST Bhavan, Nesbit Road,
Mazgaon, Mumbai - 400 010.

3. **Central Board of Indirect Taxes and Customs** (erstwhile Central Board of Excise & Customs) Ministry of Finance North Block New Delhi 110 001.

4. **The State of Maharashtra**
Through the Government Pleader,
PWD Building, High Court (O. S.)
Mumbai 400

5. **The Union of India**
Through the Secretary, Ministry of Finance, Government of India, North Block, New Delhi - 110 001. … Respondents

WITH
WRIT PETITION NO. 12169 OF 2023

Undercarriage and Tractor Parts Pvt Ltd.,
A Private Limited Company having its factory & Registered office at Plot No D-4, D-4/1, Five Star Industrial area, Kagal Dist. Kolhapur – 416236
Through Shri Annasaheb Laxman Patil, Whole Time Director of the Petitioner Company, having his address at Mauli Niwas, A/P- Halasawade, Tal-Karvir, Dist. Kolhapur, 416 202 … Petitioner

Versus

1. **Union of India,**
through Secretary Ministry of Finance (Department of Revenue), No.137, North Block, New Delhi — 110 001

2. **Central Board of Indirect Tax and**

This Judgment & Order is corrected in terms of suo motu speaking to the minutes of order dated 23.09.2025

Customs, through Chairman, Department of Revenue, Ministry of Finance, North Block, New Delhi — 110 001

3. **Office of the Commissioner of Central** GST, Kolhapur, through Additional Commissioner, CGST Kolhapur Comm'te, Vasant Plaza Commercial Complex, 4th and 5th Floor, C.S. No. 1079/2, K.H., Rajaram Road, Bagal Chowk, Kolhapur — 416 001 … Respondents

WITH
WRIT PETITION NO. 11357 OF 2025

Blue Jet Healthcare Limited
(formerly known as Blue Circle Oranics Private Limited),
Plot No. B-12, C4, E-2, MIDC Chemical Zone Kalyan Badlapur Road, Ambernath West, Thane, Maharashtra - 421 501. … Petitioner

Versus

1. **Union of India,**

   Through the Secretary, Ministry of Finance Department of Revenue, 128-A, North Block, New Delhi-110001

2. **Central Board of Indirect Tax and Customs,** Department of Revenue,

   Ministry of Finance, Through its Chairman, Having his office at North Block, New Delhi - 110 001.

3. **The Joint / Additional Commissioner,** … Respondents

   CGST & Central Excise, Thane Rural Commissionerate, Having his office at 4th Floor, GST Bhawan, Plot No. 24-

This Judgment & Order is corrected in terms of suo motu speaking to the minutes of order dated 23.09.2025

C, Sector E, Bandra Kurla Complex,
Bandra (East), Mumbai - 400 051.

WITH
WRIT PETITION NO. 11358 OF 2025

Uniray Medical LLP
Plot No. C-97, TTC Industrial Area
Turbhe Mahape Road, Turbhe MIDC
Thane - 400 705 … Petitioner

Versus

1. **Union of India,**
   Through the Secretary, Ministry of Finance Department of Revenue, 128-A, North Block, New Delhi-110001
2. **Central Board of Indirect Tax and Customs,** Department of Revenue, Ministry of Finance, Through its Chairman, Having his office at North Block New Delhi 1100 001
3. **The Deputy/Assistant Commissioner**
   CGST & Central Excise, Division-Ill, Belapur Commissionerate, Having his office at 1st Floor, CGO Complex, CBD- Belpaur, Navi Mumbai - 400614
4. **The Deputy Commissioner (AE),**
   CGST & Central Excise, Division-III, Belapur Commissionerate, Having his office at 1st Floor, CGO Complex, CBD- Belpaur, Navi Mumbai - 400614 … Respondents

WITH
WRIT PETITION NO. 18847 OF 2024

Aeroflex Industries Limited … Petitioner

This Judgment & Order is corrected in terms of suo motu speaking to the minutes of order dated 23.09.2025

A Company registered under
Companies Act, 1956
having its registered office at Survey
No.41 & 42/13, 14, 18, Village:
Chalgaon, Near MIDC, Taloja, Panvel,
District-Raigad Maharashtra -410 208

Versus

1. **Union of India,**
   (Through the Secretary,
   Ministry of Law and Justice,
   Department of Legal Affairs, Branch
   Secretariat, Aaykar Bhavan Annexe,
   2nd floor, New Marine Lines Mumbai
   400020.
2. **The Commissioner of CGST**
   Raigad, Plot No.1, Sector-17
   Khandeshwar, Panvel, Navi Mumbai -
   410 206
3. **The Additional Commissioner (A.E),**
   CGST & C.Ex., Raigad, Plot No.1
   Sector-17, Khandeshwar Panvel, Navi
   Mumbai - 410 206 … Respondents

WITH
WRIT PETITION NO. 10972 OF 2025

M/s. KT Exports (India) Private Limited,
12, 1202, Kohinoor Square, Wing B, NC
Kelkar Marg, Opp. Shiv Sena Bhavan,
Dadar West, Mumbai - 400 028 … Petitioner

Versus

1. **Union of India,**
   (Through the Secretary), Ministry of
   Law and Justice, Department of Legal
   Affairs, Branch Secretariat, Aaykar
   Bhavan Annexe, 2nd floor, New

Marine Lines, Mumbai - 400020

2. **Commissioner of CGST & Central Excise,**
Mumbai Central Commissionerate,
Piramal Chambers, Jiibhoy Lane
Parel, Lal Baug, Mumbai - 400 012.

3. **Asistant Commissioner of CGST Div- VI,**
Mumbai Central Commissionerate,
Piramal Chambers, Jiibhoy Lane
Parel, Lal Baug, Mumbai - 400 012 … Respondents

WITH
WRIT PETITION NO. 10974 OF 2025

M/s. Medico Remedies Limited,
Plot No. 7, 8 & 9, Dewan N Sons Udyog
Nagar, Lokmanya Nagar, Palghar-West,
Palghar, Maharashtra - 401 404. … Petitioner

Versus

1. **Union of India**
(Through the Secretary),
Ministry of Law and Justice,
Department of Legal Affairs,
Branch Secretariat, Aaykar Bhavan
Annexe, 2nd floor, New Marine Lines,
Mumbai-400020.

2. **Commissioner of CGST & Central Excise**
Palghar Commissionerate Plot No. C-24, Sector - E, Bandra-Kurla Complex,
Bandra (East), Mumbai-400 051.

3. **Additional Commissioner of CGST & Central Excise;** … Respondents.
5th Floor, Plot No. C-24, Sector-E,
Central GST Bhavan, Bandra-Kurla

This Judgment & Order is corrected in terms of suo motu speaking to the minutes of order dated 23.09.2025

Complex, Bandra (East), Mumbai-400
051.

W. P. No. 78 / 2025

Mr. V. Shridharan, Senior advocate a/w Mr. Sahil Parghi, Mr. Dhananjay Sethuraj and Ms. Vidhi Jain i/by Sriram Sridharan for the Petitioner

Mr. J. B. Mishra a/w Mr. Ashutosh Mishra a/w Mr. Rupesh Dubey i/by A. A. Ansari, for the Respondent No. 1

Mr. Karan Adik a/w Mr. Abhishek R. Mishra a/w Ms. Sangeeta Yadav, Ms. Maya Majumdar a/w Mr. Rupesh Dubey for Respondents No. 2 to 6

W.P. No. 465 / 2021

Mr. Abhishek A Rastogi, Ms. Pooja M. Rastogi, Ms. Meenal Songire a/w Ms. Arya More for the Petitioner.

Mr. Jitendra B. Mishra, Ms. Sangeeta Yadav, Mr. Ashutosh Mishra, for the Respondent
Ms. Jyoti Chavan, Addl. G.P. for the Respondents

W.P.No. 2828/2021

Mr. Bharat Raichandani a/w Ms. Dhanishtha Kawale i/by UBR Legal Advocates for the Petitioner

Mr. Jitendra Mishra a/w Ms. Sangeeta Yadav, Ms. Maya Majumdar, Mr. Rupesh Dubey and Mr. Ashutosh Mishra and Mr. S. D. Deshpande for the Respondents

W.P.No. 3691 / 2021

Mr. Bharat Raichandani a/w Ms. Dhanishtha Kawale i/by UBR

This Judgment & Order is corrected in terms of suo motu speaking to the minutes of order dated 23.09.2025

Legal Advocates for the Petitioner

Mr. Jitendra Mishra a/w Saket R. Ketkar a/w Ms. Sangeeta Yadav, Ms. Maya Majumdar, Mr. Rupesh Dubey and Mr. Ashutosh Mishra and Mr. S. D. Deshpande for the Respondents
Ms. Jyoti Chavan, Addl. G. P. for the Respondent No. 5

W.P.No. 405 / 2021

Mr. Abhishek A Rastogi, Ms. Pooja M. Rastogi, Ms. Meenal Songire, Ms. Aarya More for the Petitioner

Mr. Jitendra Mishra, Ms. Sangeeta Yadav, Mr. Ashutosh Mishra and Rupesh Dubey for the Respondents

W.P.No. 2044/2022

Mr. Vishal Agarwal, Mr. Abhishek Deodhar and Mr. Rishabh Jain for the Petitioners

Mr. Jitendra Mishra, Ms. Sangeeta Yadav, Mr. Ashutosh Mishra and Rupesh Dubey for the Respondents

W.P.No. 3163 / 2021

Mr. Prakash Shah, Senior Advocate a/w Mr. Jas Sanghavi, Mr. Yash Prakash, Ms. Linzy Sharan i/by PDS legal for the Petitioners

Mr. Jitendra Mishra, Mr. Karan Adik, Mr. S. D. Deshpande, Ms. Sangeeta Yadav, Mr. Ashutosh Mishra a/w Mr. Rupesh Dubey for the Respondents
Ms. Jyoti Chavan, Addl. G. P. for the State of Maharashtra

W.P.(L)No. 8737 / 2022

Dr. Avinash Poddar a/w Ms. Deepali Kamble and Ms. Anchal Poddar for the Petitioner

This Judgment & Order is corrected in terms of suo motu speaking to the minutes of order dated 23.09.2025

Mr. J. B. Mishra a/w Ms. Sangeeta Yadav, Mr. Ashutosh Mishra and Mr. Rupesh Dubey for the Respondent

W.P.No. 1773 / 2024

Mr. Prakash Shah, Senior Advocate a/w Mr. Jas Sanghavi, Mr. Vikas Poojary, Ms. Linzy Sharan i/by PDS legal for the Petitioners

Mr. Karan Adik a/w Ms. Sangeeta Yadav for Respondent
Ms. Shruti Vyas a/w Mr. D. P. Singh for the Respondent No. 1/UOI

W.P.No. 4640 / 2022 a/w CHOL / 286 / 2022

Mr. Bharat Raichandrani a/w Ms. Dhanishtha Kawale i/by UBR Advocates for the Petitioner
Mr. Vijay Kantharia a/w Mr. Abhishek R. Mishra and Ms. Jyoti Chavan for the Respondents

W.P.(L) No. 11740 / 2025

Mr. V. Sridharan, Senior Advocate, Mr. Sahil Parghi, Mr. Dhananjay Sethuraj and Ms. Vidhi Jain i/by Sriram Sridharan for the Petitioners

Ms. P. S. Cardozo a/w Ms. Niyati Mankad a/w Ms. Priyanka Singh for the Respondents

W.P.No. 2745 / 2025

Mr. Vishal Agarwal a/w Ms. Yashashvi Jain for the Petitioners

Mr. Jitendra B. Mishra, Ms. Sangeeta yadav, Ms. Niyati Mankad, Mr. Ashutosh Mishra Mr. Rupesh Dubey Ms. Priyanka Singh

Ms. Jaymala Ostwal a/w Ms Niyati Mankar (thr. VC) for the Respondents.

This Judgment & Order is corrected in terms of suo motu speaking to the minutes of order dated 23.09.2025

W.P. (L) No. 15183 / 2024

Dr. Avinash Poddar, Ms. Deepali Kamble a/w Ms. Anchal Poddar for the Petitioner

Mr. J. B. Mishra, Ms. Sangeeta Yadav, Mr. Ashutosh Mishra a/w Mr. Rupesh Dubey for the Respondent

W.P.No. 2097 / 2025

Mr. V. Sridharan, Senior Advocate, Mr. Sahil Parghi, Mr. Dhananjay Sethuraj and Ms. Vidhi Jain i/by Sriram Sridharan for the Petitioner

Mr. Satyaprakash Sharma a/w Mr Saket R Ketkar, Ms. Sangeeta Yadav Ms. Harpreet Kaur for Respondent No. 4 & 5

W.P.No. 3522 / 2024

Mr. Prakash Shah, Senior Advocate, Mr. Jas Sanghavi, Mr. Suyog Bhave, Ms. Linzy Sharan i/by PDS Legal for the Petitioner

Mr. Satyaprakash Sharma, Mr. Abhishek Mishra for the Respondent No. 2 to 5

W.P.No. 3013/2023 a/w IAL/31922/2023

Mr. Vishal Agarwal a/w Mr. Abhishek Deodhar and Mr. Rishabh Jain for the Petitioner

Mr. Subir Kumar, Kavita Shukla and Niyanta Trivedi for the Respondents

W.P.No. 2052 / 2025

Mr. Prakash Shah, Senior Advocate, Mr. Jas Sanghavi, Mr. Yash Prakash i/by PDS Legal for the Petitioners

This Judgment & Order is corrected in terms of suo motu speaking to the minutes of order dated 23.09.2025

Ms. Maya Majumdar a/w Mr. Abhishek R. Mishra for the Respondent No. 1 to 3

W.P.(L) No. 39729/2022

Mr. Abhishek A Rastogi, Ms. Pooja M. Rastogi, Ms. Meenal Songire, Ms. Aarya More for the Petitioner

Mr. Jitendra Mishra, Ms. Sangeeta Yadav, Mr. Ashutosh Mishra and Rupesh Dubey for the Respondent

WP/6795/2023

Mr. Abhishek A. Rastogi a/w Ms. Pooja M. Rastogi, Ms. Meenal Songire, Ms. Arya More, Advocate for the Petitioner.

Mr. Jitendra B. Mishra a/w Ms. Sangeeta Yadav, Mr. Ashutosh Mishra, Mr. Rupesh Dubey, for Respondent.

WP/1493/2025

Mr. Prakash Shah, Senior Advocate a/w Mr. Jas Sanghavi, Mr. Kshitij Viswanath, Ms. Linzy Sharan i/b PDS Legal for the Petitioner.

Mr. Jitendra Mishra a/w Mr. Karan Adik, Ms. Sangeeta Yadav, Adv.for Respondent.

WP/1006/2024 & IA/7229/2025

Mr. Mayank Jain a/w Ms. Akshita Shetty,i/by Khaitan & Co. for the Petitioner in WP/1006/2024 & Applicant in IA/7229/2025.

Mr. Jitendra B. Mishra a/w Ms. Sangeeta Yadav, Mr. Ashutosh Mishra, Mr. Rupesh Dubey, Adv. for Respondent

Mr. Subir Kumar a/w Mr. Ram Ochani, Ms. Niyanta Trivedi, Adv. S. D. Deshpande, Adv. for Respondent

This Judgment & Order is corrected in terms of suo motu speaking to the minutes of order dated 23.09.2025

WP/12927/2022

Mr. Vishal Agarwal a/w Mr. Abhishek Deodhar, Mr. Rishabh Jain i/b TLC Legal LLP for the Petitioner.

Mr. Jitendra Mishra a/w Ms. Sangeeta Yadav, Mr. Ashutosh Mishra, Mr. Rupesh Dubey, Adv. for Respondent.

WP/739/2025 a/w IA/11291/2025

Mr. Prithwiraj Choudhuri a/w Ms. Kausarjahan Sayed i/b Mr. Prabhakar Shetty, Advocate for the Petitioner in WP/739/2025 and for Applicant in IA/11291/2025.

Mr. J B Mishra, a/w Ms. Sangeeta Yadav, Mr. Rupesh Dueby, for the Respondents.

Mr. Karan Adik a/w Mr. Abhishek R. Mishra, Adv.for Respondent No. 2 & 3.

WP/674/2024

Mr. Bharat Raichandani a/w Ms. Dhanistha Kawale i/b UBR Legal Advocates, for the Petitioner.

Mr. Karan Adik a/w Mr. Ram Ochani, Ms. Sangeeta Yadav, Adv. for Respondent.

WP/1325/2025

Mr. Roshil Nichani a/w Mr. Aansh Desai i/b Pythagoras Legal, for the Petitioner.

Mr J B Mishra a/w Ms. Sangeeta Yadav & Mr Rupesh Dubey Adv. for Respondent.

WP/1614/2025

Mr. Yogesh S. Patki a/w Mr. Simon Mascarenhas i/b Mulla & Mulla & Craigie Blunt & Caroe, for the Petitioner.

Ms. Maya Majumdar, Mr. Harshad Shingapurkar, Adv. Soutrik

Kar, Mr. Ritik Gupta, Adv. for Respondent

WP/4658/2025

Mr. Stebin Mathew i/b Ms. Dishya Pandey, Advocate for the Petitioner.

Mr. Satyaprakash Sharma a/w Ms. Megha Bajoria, Adv. Harpreet Kaur Sethi, for Respondent No. 2 & 3.

Ms. Sangeeta Yadav, Adv. for Respondent.

WP/5816/2025

Mr. Prakash Shah, Senior Advocate a/w Mr. Jas Sanghavi, Mr. Mihir Mehta, Mr. Mohit Rawal i/b PDS Legal, for the Petitioner.

Mr. Karan Adik a/w Adv. S. D. Deshpande, Adv. for Respondent

WP/5815/2025

Mr. Prakash Shah, Senior Advocate a/w Mr. Jas Sanghavi, Mr. Mihir Mehta, Mr. Mohit Rawal i/b PDS Legal, for the Petitioner.

Mr. Karan Adik a/w Adv. S. D. Deshpande, Adv. for Respondent

WP(st)/15698/2025

Mr. Prakash Shah, Senior Advocate a/w Mr. Jas Sanghavi, Mr. Kshitij Viswanath, Ms. Linzy Sharan i/b PDS Legal, for the Petitioner.

Mr. Karan Adik a/w Ms. Sangeeta Yadav, Mr. Abhishek R. Mishra and Mr. Satyaprakash Sharma a/w Sangeeta Yadav, Adv. for Respondent No. 2 to 4 and 5, 6.

This Judgment & Order is corrected in terms of suo motu speaking to the minutes of order dated 23.09.2025

WP/11356/2025

Mr. V. Sridharan, Senior Advocate a/w Mr. Sahil Parghi, Mr. Dhananjay Sethuraj & Ms. Vidhi Jain i/b Mr. Sriram Sridharan, Advocate for the Petitioner

WP/11355/2025

Mr. V. Sridharan, Senior Advocate a/w Mr. Sahil Parghi, Mr. Dhananjay Sethuraj & Ms. Vidhi Jain i/b Mr. Sriram Sridharan, Advocate for the Petitioner

WP/4625/2025

Mr. Bharat Raichandani a/w Ms. Dhanistha Kawale i/b UBR Legal Advocates, for the Petitioner.

Mr J B Mishra a/w Ms. Sangeeta Yadav, Adv. for Respondent.

Ms. Shruti D. Vyas, Addl. GP a/w Aditya R. Deolekar, AGP for the State.

WP/12170/2023

Mr. Abhishek A. Rastogi a/w Ms. Pooja M. Rastogi, Ms. Meenal Songire, Ms. Arya More, Advocate for the Petitioner.

Mr. Jitendra B. Mishra a/w Ms. Sangeeta Yadav, Mr. Ashutosh Mishra, Mr. M. P. Sharma a/w Mr. Rupesh Dubey for Respondent

WP/11079/2025

Mr. V. Sridharan, Senior Advocate a/w Mr. Sahil Parghi, Mr. Dhananjay Sethuraj & Ms. Vidhi Jain i/b Mr. Sriram Sridharan, Advocate for the Petitioner.

Ms. Maya Majumdar a/w Ms. Megha Bajoria, for Respondent.

WP/11002/2025

Mr. Shashank Ajay Mehta a/w Mr. Devendra H. Jain, Advocate

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for the Petitioner.

WP/12169/2023

Mr. Abhishek A. Rastogi a/w Ms. Pooja M. Rastogi, Ms. Meenal Songire.

Ms. Arya More, Advocate for the Petitioner.

Mr. Karan Adik a/w Mr. Ram Ochani, Adv. Sumar Kumar Das, Adv. for Respondent

WP/11357/2025

Mr. V. Sridharan, Senior Advocate a/w Mr. Sahil Parghi, Mr. Dhananjay Sethuraj & Ms. Vidhi Jain i/b Mr. Sriram Sridharan, Advocate for the Petitioner.

WP/11358/2025

Mr. V. Sridharan, Senior Advocate a/w Mr. Sahil Parghi, Mr. Dhananjay Sethuraj & Ms. Vidhi Jain i/b Mr. Sriram Sridharan, Advocate for the Petitioner.

Ms. Maya Majumdar a/w Ms. Megha Bajoria, Adv. for Respondent

WP/18847/2024

Dr. Sujay Kantawala a/w Mr. Roshil Nichani, Mr. Jeffry Caleb, Ms. Aishwarya Kantawala, Ms. Ayushi Jha, Advocate for the Petitioner.

Mr. Jitendra Mishra a/w Ms. Mamta Omle, Mr. Rupesh Dubey, for Respondent No. 2 & 3.

Mr. Jitendra B. Mishra a/w Ms. Sangeeta Yadav, Mr. Ashutosh Mishra, Mr. Rupesh Dubey, Adv. for Respondent.

WP/10972/2025

Mr. Stebin Mathew i/b Ms. Dishya Pandey, Advocate for the Petitioner.

WP/10974/2025

Mr. Stebin Mathew i/b Ms. Dishya Pandey, Advocate for the Petitioner.

Ms. Savita Ganoo a/w Ms. Sangeeta Yadav, for Respondent.

Ms. Ruju R. Thakkar a/w Ms. Niyati Mankad (thr. VC) Mr. Priyanshu V. Doshi, for Respondent No. 2 & 3.

CORAM: M.S. Sonak &
Jitendra Jain, JJ.

RESERVED ON: 04 September 2025
PRONOUNCED ON: 11 September 2025

JUDGMENT : *(Per M. S. Sonak, J.)*

1. Heard learned Counsel for the parties.

2. Rule in each of the Petitions. The Rule is made returnable immediately at the request and with the consent of the learned Counsel for the parties.

3. Since substantially common issues of law and fact arise in these Petitions, the learned Counsel for the parties agree that a common order could dispose of these Petitions.

4. The learned counsel for the parties agreed that **Writ Petition No.78 of 2025, instituted by Hikal Limited,** be treated as the lead Petition for the disposal of this batch of Petitions. Accordingly, we propose to treat this Petition as the lead Petition.

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THE CHALLENGE IN THESE PETITIONS.

5. The challenge in most of these Petitions is to Rule 89 (4B) and/or 96(10) of the Central Goods and Service Tax Rules, 2017 (CGST Rules). Upon the omission of these Rules (impugned Rules) vide Notification dated 08 October 2024, notifying The Central Goods and Service Tax (Second Amendment) Rules, 2024 (2024 Amendment Rules), the Petitioners, without prejudice to their challenge to the impugned Rules, contend that any savings clause does not back such omission, and therefore, all pending proceedings, impugned in these Petitions would stand lapsed.

6. In all these Petitions, the learned Counsel for the Petitioners have made a categorical statement that the allegations in the impugned show cause notices, based upon which orders in original have been passed in some cases, the only allegation was about the non-compliance with the conditions prescribed either under Rule 89(4B) or 96(10) of the CGST Rules. The learned Counsel for the Petitioners, in unison, contended that there was no other allegation in the impugned show cause notices or in the impugned orders in the original.

7. Accordingly, we had requested the learned Counsel for the Respondents to verify the above statements. Except in one or two cases, which we de-tagged, the learned Counsel for the Respondents were unable to dispute the statements made by the learned Counsel for the Petitioners or demonstrate that

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the impugned show cause notices contained any allegations, besides non-compliance with Rule 89(4B) and 96(10) of the CGST Rules.

8. In Writ Petition Nos. 14852, 14854, 14855, 14857, 14858, 14862 and 14860 of 2023, the Respondents, by invoking the impugned Rules, forced the Petitioners to refund the alleged excess refund made to the Petitioners. The Petitioners, therefore, instituted these Petitions to challenge the impugned Rules. Upon the omission of the impugned Rules, the Petitioners have raised an additional ground to challenge the forced recovery. The facts in Writ Petition No. 739 of 2025 are also not substantially different. In the Petitions referred to in this paragraph, the Petitioners have sought a refund of the amounts forcibly recovered from them or, in any event, for processing their refund application without adverting to any alleged breach of the impugned Rules.

9. In short, the main issues involved in all these Petitions relate to the constitutional validity of the Rules and, in any event, to the lapse of pending proceedings consequent upon the repeal or omission of the impugned Rules, which, the Petitioners contend, were not backed by any savings clause.

BRIEF REFERENCE TO THE STATEMENTS OF FACTS IN THE LEAD PETITION (HIKAL LIMITED VS UNION OF INDIA & ORS, WRIT PETITION NO. 78 OF 2025)

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10. The Petitioner, Hikal Limited, is engaged in the manufacture of chemical intermediates, speciality chemicals and active pharmaceutical ingredients used in both human and animal healthcare. The Petitioner has pleaded that it operates through two manufacturing units: -

(a) Taloja, Raigad (a 100% Export Oriented Unit) wherein the Petitioner imports raw materials duty-free under Notification No. 78/2017-Customs dated 13.10.2017 and exports nearly 90% of its finished goods. The remaining 10% is cleared domestically.

(b) Mahad, Raigad (Domestic Tariff Area unit) for which the Petitioner procures raw materials, inter alia, under Advance Authorisation licenses and avails IGST exemption under Notification No. 79/2017-Customs dated 13.10.2017. In some cases, the Petitioner also undertakes the import of goods on payment of IGST.

(c) The Petitioner has pleaded that the finished goods manufactured by the Petitioner are either exported, with or without the payment of IGST, or sold domestically. On exports made with payment of IGST, the Petitioner claimed a refund under Section 54 of the CGST Act, read with Section 16 of the IGST Act. These refunds were duly sanctioned to the Petitioner. The Department did not challenge the refund sanction orders.

(d) In or around 2022, an investigation was initiated by the Department for the 2017-18 to 2019-20 ('**disputed period**')

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based on the suspicion that the IGST refund claimed by the Petitioner is in violation of Rule 96(10) of the CGST Rules, 2017, since certain goods were imported against advance authorisation licenses. This investigation culminated in the issuance of the Impugned Show Cause Notice dated 04.08.2024 proposing a GST demand of Rs. 67,11,55,626/-, Rs. 28,25,89,849/- was for the period 23.10.2017 to 08.10.2018, and the balance demand was for the period post 08.10.2018.

(e) The Petitioner instituted the present Petition on 29 August 2024, challenging the constitutional validity of Rule 96(10) of the CGST Rules and the show cause notice dated 04 August 2024, alleging the breach of the provisions of the said Rules. During the pendency of this Petition, vide notification No. 20/2024 dated 08 October 2024, Rule 96(10) was omitted.

(f) In the personal hearing, pursuant to the show cause notice dated 04 August 2024, held on 12 November 2024, the Petitioner pointed out the pendency of the present Petition and the omission of Rule 96(10), based upon which the impugned show cause notice was issued. The Petitioner requested that the impugned show cause notice be dropped, or its adjudication be kept in abeyance. The 4th Respondent, i.e., the Joint Commissioner, did neither, but passed the impugned order in original dated 23 January 2025 confirming demand, interest and penalty.

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(g) The Petitioner, therefore, amended this Petition to bring on record the facts concerning the omission of Rule 96(10) and raise a challenge to the impugned order in the original dated 23 January 2025.

(h) In this Writ Petition, the Petitioner has contended that any savings clause did not back the omission of Rule 96(10). Therefore, the show cause notice dated 04 August 2024 could not have been proceeded with, and the impugned order, dated 23 January 2025, is *ex facie* without jurisdiction. The Petitioner has also contended that Rule 96(10) was ultra vires and unconstitutional. Furthermore, the Petitioner has contended that it would have been eligible to claim a refund under Rule 89, and the situation would thereby become revenue neutral.

(i) The Petitioner also contended that refunds to the extent of Rs. 28,25,89,849/- claimed in respect of exports made on payment of IGST for the period before 09 October 2018 did not even remotely violate any of the conditions prescribed under Rule 96(10). The challenge was also raised to the invocation of the extended period of limitation under Section 74 of the CGST Act, in the absence of any allegation of fraud, willful misstatement or suppression of facts to evade any tax.

(j) In short, the main issues involved in the lead Petition relate to the constitutional validity of the impugned Rules and, in any event, to the lapse of pending proceedings consequent upon the repeal or omission of the impugned

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Rules, which, the Petitioners contend, were not backed by any savings clause.

PETITIONERS CONTENTIONS

11. Mr Sridharan, learned Senior Counsel appearing for the Petitioner in the lead Writ Petition No. 78 of 2025, and the other learned Counsel appearing on behalf of the Petitioners, advanced several contentions questioning the constitutional validity of Rules 89(4B) and 96(10) of the CGST Rules. They submitted that these Rules were ultra vires the parent Act and, in any event, they were affected by the vice of manifest arbitrariness. They submitted that the effect of the said Rules was grossly disproportionate and, accordingly, there was a violation of the doctrine of proportionality. They submitted that the impugned Rules, far from promoting the legislative and executive policies, were frustrating such policies. They submitted that in case of conflict between legislative and executive policy on one hand and the rules made to implement such policy, it is the former that ought to prevail. They also submitted that the impugned Rules are expressly discriminatory and violate the equality mandate under Article 14 of the Constitution. In support of all these contentions, they relied upon several decisions of the Hon'ble Supreme Court.

12. The learned counsel for the Petitioners, at the very outset, pointed out that a learned Single Judge of the Kerala

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High Court in the case of **M/s. Sance Laboratories Pvt. Ltd. Vs. Union of India (WP – C No.17447 of 2023 and other connected matters)** disposed of on 10 October 2024, has declared Rule 96 (10) of the CGST Rules as ultra vires and unconstitutional and directed the revenue not to initiate any proceedings to recover any tax based upon alleged non-compliance with Rule 96(10) of the CGST Rules.

13. The learned Counsel for the Petitioners submitted that the striking down of Rule 96(10) by the Kerala High Court will have the effect throughout the territory of India. They submitted that no other High Court has taken any contrary view, and even the Revenue has not challenged the decision of the Kerala High Court in *M/s Sance Laboratories Pvt Ltd* (supra). They submitted that such striking down goes to the nativity, and therefore, any notices or orders alleging or recording the breach of Rule 96(10), being based upon an ultra vires or unconstitutional Rule, would have to be quashed and set aside. They relied on **Kusum Ingots & Alloys Ltd Vs Union of India & Anr**[1], **Saumya and Thomas Vs Union of India & Ors**[2] and **Commissioner of Income-Tax, Vidarbha Vs Smt. Godavari Devi Saraf**[3] in support of their contentions.

14. Without prejudice, Mr Sridharan submitted that the 2024 Amendment Rules contained in the Notification dated 08 October 2024 had omitted the impugned Rules without

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1 (2004) 6 SCC 254

2 2010 (1) KLT 869

3 1977 SCC OnLine Bom 215

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any savings clause to save the pending proceedings. He submitted that Section 6 of the General Clauses Act was inapplicable to omission or repeals of Rule or, in any event, omission or repeal by Rules. He submitted that the 2024 Amendment Rules or the CGST Act also did not contain any savings clause to save pending proceedings consequent upon the omission of the impugned Rules. He referred to a list of almost 64 Notifications issued by the Central or State Government, amending or omitting Rules which had provided for express saving clauses. He submitted that the absence of any savings clause in the Notification dated 08 October 2024 was conspicuous and deliberate.

15. Accordingly, Mr Sridharan submitted that the common law principle that an omitted or repealed provision is entirely obliterated from the statute book, as if it had never been enacted, applies with full force to the present case, except regarding *"transactions past and closed"*. He submitted that the impugned show cause notices or orders issued thereon, citing non-compliance with the omitted or repealed Rules, are invalid and cannot be enforced. He relied upon the decisions of the Constitution Bench in the case of **Rayala Corporation (P) Ltd. Vs Director of Enforcement**[4], **Kolhapur Cane Sugar Works Ltd. And Anr. Vs Union of India**[5], **Fibre Boards (P) Ltd. Vs Commissioner of Income-tax**[6], **Shree Bhagwati Steel Rolling**

[4] (1969) 2 SCC 412

[5] (2000) 2 SCC 536

[6] (2015) 10 SCC 333

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Mills Vs Commissioner of Central Excise[7]**, and Gammon India Limited Vs Special Chief Secretary & Ors**[8], to support his arguments.

16. Mr Sridharan relied on **Keshavan Madhava Menon Vs State of Bombay**[9]*,* to explain the concept of "*transactions past and closed*". He emphasised passages from commentaries by **Craies** and **Crawford** on the interpretation of statutes, referred to in the said decision. He also relied on a passage from **Wall Vs. Chesapeake and Ohio Ry. Co.**[10], in which it was held that transactions past and closed would imply proceedings which have reached a final Judgment in the Court of last resort.

17. Mr Sridharan and the other learned Counsel for the Petitioners relied on **M/s Sri Sai Vishwas Polymers Vs Union of India and anr**.[11] and **M/s Addwrap Packing Pvt Ltd Vs Union of India and Ors**[12] to contend that the Division Benches of the Gujarat High Court and the Uttarakhand High Court, in the context of the Notification dated 08 October 2024 had already held pending proceedings or even orders that could not be described as "*transactions past and closed*" were not saved because Section 6 of the General Clauses Act was not applicable and there were no savings clauses in the Notification dated 08 October 2024 or in the CGST Act. They

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7 (2015) 326 ELT 209

8 (2006) SCC 354

9 AIR 1951 SC 128

10 (125 N.E. 20)

11 2025 (5) TMI 1811

12 2025 (6) 1156 Gujarat HC

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submitted that these decisions fully support the Petitioners' contentions, and, to the best of their knowledge, these decisions were not challenged by the Revenue before the Hon'ble Supreme Court.

18. Based on the above contentions, Mr Sridharan submitted that the impugned show cause notices, which were not disposed of when the Notification dated 08 October 2024 omitting the impugned rules was issued, would lapse, and no orders would have been passed disposing of such show cause notices. He submitted that the benefit of repeal/omission would have to be extended even to those orders which were subject matter of challenge in these Petitions on the principle that even such orders had not attained any finality and therefore, could not be classified as transactions past and closed. For these reasons, Mr Sridharan submitted that the impugned show cause notices or the impugned orders made disposing of such show cause notices deserved to be quashed and set aside.

19. The learned Counsel for the Petitioners in the other Petitions substantially adopted the arguments advanced by Mr Sridharan. Some of the learned Counsel contended that the Petitioners they represent cannot be denied a refund of the amounts that were coercively recovered from them by citing the violation of the impugned Rules.

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RESPONDENTS' COUNTER

20. The learned Counsel for the Respondents, at the outset, submitted that there was nothing unconstitutional or ultra vires in so far as Rules 89(4B) and 96(10) of the CGST Rules were concerned. They submitted that the striking down of Rule 96(10) by the Kerala High Court would not preclude this Court from upholding the validity of the said Rules. They submitted that the impugned Rules were a fiscal measure, and greater latitude should be shown to the Rule-Making Authorities in such matters. Accordingly, they submitted that the challenge to the constitutionality of the impugned Rules or the argument that the impugned Rules were ultra vires the parent Act must be rejected.

21. The learned Counsel for the Respondents submitted that Section 6 of the General Clauses Act was applicable because the 2024 Amendment Rules were enacted in exercise of powers by Section 164 of the CGST Act. Therefore, such Rules must be regarded as "Central Act" for the purposes of Section 6 of the General Clauses Act. They relied on **Chandpaklal Shah & Anr Vs Reliance Industries Ltd**[13], **State of Punjab Vs Mohar Singh**[14] **M/s Highpoint Hotels Pvt Ltd Vs The Excise Commissioner in Karnataka**[15] and **Laxmi Board and Paper Mills Pvt Ltd Vs Union of India & Ors**[16] to support this contention.

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13 2017 (354) ELT 289 (SC)

14 1954 (2) scc 483

15 WP/27575/2017 & connected matters, decided on 18 August 2017.

16 1991 (51) ELT 329 (BOM)

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22. The learned Counsel for the Respondents also relied on Section 174(3) of the CGST Act to argue that these provisions refer to the general application of the General Clauses Act. They contended that the provisions of Section 6, or at least the principles of Section 6 of the General Clauses Act, would apply to the present case. They argued that Section 6, or at least the principles of Section 6, are clearly relevant and would preserve all pending proceedings that are challenged in these Petitions.

23. The learned Counsel for the Respondents submitted that the decision of the Constitution Bench in *Rayala Corporation* (supra) was already declared as *per incuriam,* or in any event, the observations therein were declared as *obiter dictum* in the latter decisions of **Fibre Boards (P) Ltd. Vs Commissioner of Income-tax**[17] and **Shree Bhagwati Steel Rolling Mills Vs Commissioner of Central Excise**[18]. Therefore, based upon the said decision, it could not be said that Section 6 of the General Clauses Act does not apply to subordinate legislation like Rules or to a case where subordinate legislation like Rules brings about the repeal. They relied upon **Vianaar Homes Pvt. Ltd Vs Assistant Commissioner**[19] and **Commissioner of Central Excise, Thane Vs Milton Poly Plast (I) Pvt. Ltd.**[20] and the **68th Report of the Law Commission of India on General Clauses Act, 1897.**

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17 (2015) 10 SCC 333

18 (2015) 326 ELT 209

19 2020 SCC OnLine (Del.) 1394

20 2019 (367) ELT 962 (Bom.)

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24. The learned Counsel for the Respondents submitted that Rule 1(2) of the 2024 Amendment Rules stated that "*save as otherwise provided in these rules, they shall come into force on the date of their application in the official gazette."* Based on this, they argued that the Rules, unless explicitly specified, were given a prospective effect. They contended that it was impermissible for this Court to grant any retrospective effect to the Rules by accepting the Petitioners' arguments.

25. The learned Counsel for the Respondents submitted that the Goods and Services Tax Council, whose recommendations led to the enactment of the 2024 Amendment Rules, had clarified that the omissions in the impugned Rules were to operate prospectively. They further argued that Rule 1(2) itself functions as a savings clause, and therefore, the common law principle relied upon by the Petitioners would not apply in this case.

26. The learned Counsel for the Respondents relied upon Section 166 of the CGST Act to submit that the savings clause therein saves all pending post the omission or repeal of the impugned Rules. They pointed out that the 2024 Amendment Rules were laid before the parliament. Mr Adik went to the extent of submitting that until the parliament approved such Rules, they did not even enter into force. They submitted that in any event, the savings clause in Section 166 was sufficient to protect the pending proceedings.

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27. Mr Subir Kumar submitted that the impugned show cause notices were issued under Section 73 of the CGST Act, read with Section 20 of the IGST Act, 2017. He submitted that neither of these provisions had been omitted or repealed. Therefore, he submitted that omission of the impugned Rules would not affect the impugned show cause notices or the orders made thereon. He included several decisions in his written submissions, but during arguments, cited only **Jayanthilal Amrathlal Vs Union of India**[21].

28. Based on the above contentions, the learned Counsel for the Respondents submitted that these Petitions may be dismissed.

PETITIONER'S REJOINDER

29. Mr Sridharan submitted that Rule 1(2) of the 2024 Amendment Rules was so worded to avoid reopening of transactions past and closed. He submitted that if any retrospective effect were to be given, then perhaps, even transactions past and closed would have been rendered vulnerable. He submitted that the issue of retrospectivity was quite irrelevant because this was a case of omission or repeal without any savings clause, and therefore, the common law principle referred to earlier would apply in this batch of Petitions.

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21 (1972) 4 SCC 174

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30. Mr Sridharan submitted that Section 166 of the CGST Act is concerned only with the laying of the Rules before the Parliament. He submitted that such laying procedures are not regarded as mandatory. In any event, the contention about the 2024 Amendment Rules not coming into force until approved by the Parliament is misconceived and not supported by the expressions used in Section 166. There is no factual foundation for the 2024 Amendment Rules ever being modified or annulled by the Parliament for the so-called savings clause to apply. Accordingly, based upon Section 166 of the CGST Act, there was no savings of pending proceedings in these matters.

31. Mr Sridharan submitted that Section 174 of the CGST Act must be considered in its entirety. He submitted that this Section only saves the enactments referred to in sub-Sections 1 and 2. The savings clause in sub-Section 3 applies only to the repealed provisions referred to in sub-Sections 1 and 2. He submitted that Section 174(3), at best, would require the Court to refer to Section 6 of the General Clauses Act. However, since the requirements of Section 6 are not complied with, there is no question of applying Section 6 in the facts of the present cases.

32. Mr Sridharan submitted that the argument about the 2024 Amendment Rules being framed under Section 164 of the CGST Act and should therefore, be regarded as, a "Central Act" for purpose of Section 6 of the General Clauses Act, was,

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to some extent, accepted by the Full Bench of the Gujarat High Court in the case of **Saurashtra Cements and Chemical Industries Ltd. Vs. Union of India**[22] and by the Division Bench of Karnataka High Court in **Falcon Tyres Limited Vs. Union of India**[23]**.** However, these decisions were expressly overruled by the Constitution Bench in *Kolhapur Canes Sugar Works Ltd* (supra). He submitted that the decisions in the case of *M/s. High Point Hotels Pvt. Ltd.* (supra) and *Laxmi Board and Paper Mills Pvt. Ltd.* (supra), which take the same view as in *Saurashtra Cements* (supra) and *Falcon Tyres Ltd.* (supra), also run counter to the decision of the Constitution Bench in *Kolhapur Canes Sugar Works Ltd.* (supra).

33. For all the above reasons, Mr. Sridharan and the other learned Counsel for the Petitioners in this batch of Petitions submitted that the Rule in all these Petitions may be made absolute.

ISSUES FOR DETERMINATION

34. Based on the pleadings and rival contentions, the following main issues arise for determination in this batch of Petitions: -

(i) Whether the impugned Rules are ultra vires the CGST Act or otherwise unconstitutional, null and void?

(ii) What is the legal effect of the omission of

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22 (1995) 79 E.L.T. 367

23 (1992) 60 E.L.T. 166

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the impugned Rules vide Notification dated 08 October 2024 (without any protection of Section 6 of the General Clauses Act or savings clauses in the Rules or the parent Act, as contended by the Petitioners) on all the proceedings and orders impugned in these Petitions?

(iii) Whether any of the impugned orders could be regarded as *"transactions past and closed"*?

(iv) Whether, as contended by the Respondents, Section 6 of the General Clauses Act saves the impugned pending proceedings or orders?

(v) Whether, as contended by the Respondents, Section 6 of the General Clauses Act applies to the omission or repeal of the impugned Rules because the 2024 Amendment Rules are enacted by exercising the powers under Section 164 of the CGST Act, and therefore, the Rules qualify to be regarded as "Central Act" at least for the purposes of Section 6 of the General Clauses Act?

(vi) Whether, as contended by the Respondents, the provisions of Section 6 of the General Clauses Act are attracted to the present omission or repeal of the impugned Rules, given the provisions of Section 174(3) of the CGST Act?

(vii) Whether, as contended by the respondents, Clause 1(2) of the Notification dated 08 October 2024 purporting to give prospective effect to the omission or repeal of the impugned Rules saves all

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pending proceedings commenced before 08 October 2024?

(viii). Whether, as contended by the Respondents, the pending proceedings as on the date of omission or repeal of the impugned Rules stand saved by virtue of Section 166 of the CGST Act?

EVALUATION OF THE RIVAL CONTENTIONS, DETERMINATION OF THE ABOVE ISSUES AND ANALYSIS.

ARGUMENTS ABOUT THE IMPUGNED RULES BEING ULTRA VIRES THE CGST ACT OR OTHERWISE UNCONSTITUTIONAL, NULL AND VOID (FIRST ISSUE)

35. Though, based upon the pleadings and the arguments advanced, the first issue regarding the impugned Rules being ultra vires the CGST Act or otherwise unconstitutional, null and void is raised in this batch of Petitions, for the reasons discussed hereafter, we do not propose to determine this issue.

36. In matters of examining the constitutional validity of the provisions of any legislative act or even the Rules made thereunder, one of the salutary principles is that a Constitutional Court must not embark upon such an examination only because it can or it is empowered to do so. Such vital questions must be examined only if it is necessary to do so, and a Petitioner's grievance cannot be suitably

redressed without addressing such an issue of constitutional validity of a statute or the Rules framed under the statute.

37. Ordinarily, a Court should not decide issues of constitutional validity of statutes or rules unless they are absolutely necessary and the case at hand cannot be disposed of without dealing with and resolving such issues. The Hon'ble Supreme Court has held in several cases that academic exercise in constitutional law is not for Courts but for jurists, and the Court should not enter into such issues and interpret them unless it is really necessary. Therefore, if a Petition can be disposed of on any other issue by granting at least substantially the relief which the Petitioner seeks without examining the constitutional validity of a statutory provision or even the rules made thereunder, then the Constitutional Court should not rush to examine and decide on the issue of constitutional validity, merely because it may be empowered to do so.

38. The above principles have been settled and explained *inter alia* in **Bhut Nath Mete V. State of W.B.**[24]**; Sumedico Corpn V. R.P.F. Commr.**[25]**, K. I. Shepherd V. Union of India**[26] and **Central Organisation of T.N. Electricity Employees V. T.N. Electricity Board (2005) 8 SCC 729, 745**[27].

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[24] (1974) 1 SCC 645

[25] *(1998) 8 SCC 381*

[26] *(1987) 4 SCC 431*

[27] *(2005) 8 SCC 729, 745*

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39. In this batch of Petitions, for reasons that we will discuss elaborately hereafter, we are satisfied that the Petitioners are entitled to succeed on the ground that this is a case of omission or repeal of the impugned Rules without any savings clause to protect the pending proceedings. Besides, we are also satisfied that the provisions of Section 6 of the General Clauses Act are not attracted and therefore, relying upon these provisions, the pending proceedings can claim no immunity or protection. Therefore, it is quite unnecessary to determine the issue of the constitutionality of the impugned rules.

40. However, we wish to briefly record one of the controversies regarding the constitutionality of Rule 96(10) of the CGST Rules, which is not significantly different from Rule 89(4B) of the CGST Rules. The first Rule applies to exports and the second to imports. Both the Rules provide for certain safeguards to ensure that there is no overlap between taxes and refunds regarding specific exports and imports.

41. One of the contentions raised on behalf of some of the Petitioners was that Rule 96(10) of the CGST Rules was already struck down as unconstitutional, null and void by the learned Single Judge of the Kerala High Court in the case of *M/s. Sance Laboratories Pvt. Ltd.* (supra). Based upon this, they contended that such a striking down will have an effect throughout the territory of India. They further contended that such striking down goes to the nativity, and therefore, any notices or orders alleging or recording the breach of any of the requirements of Rule 96(10), being based upon an ultra

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vires and unconstitutional Rule, would have to be quashed and set aside.

42. In *Kusum Ingots & Alloys Ltd* (supra), the Hon'ble Supreme Court has held that where a competent Court having territorial jurisdiction passes an order on a Writ Petition questioning the constitutionality of a parliamentary Act, then, keeping in view the provisions in Article 226(2) of the Constitution of India, such order, will have effect throughout the territory of India, subject of-course to the applicability of the Act.

43. Following *Kusum Ingots & Alloys Ltd.* (supra) the Coordinate Bench of this Court comprising Abhay S Oka, J (as His Lordship then was) and C V Bhadang, J held that the striking down of Section 10-A(1) of the Divorce Act, 1869 by the Division Bench of the Kerala High Court in the case of *Saumya and Thomas* (supra), would have effect throughout the territory of India. Therefore, the Family Court at Bandra, Maharashtra, could not have ignored the striking down of Section 10-A (1) of the Divorce Act by the Kerala High Court, on the ground that such a decision was not binding upon the Courts and Authorities in the State of Maharashtra.

44. In *Commissioner of Income-Tax, Vidarbha* (supra), another Coordinate Bench of this Court, comprising Kantawala, CJ and Chandurkar, J (as His Lordship then was), rejected the contention that the striking down of Section 140-A(3) of the Income Tax Act by the Madras High Court in the case of **A.M. Sali Maricar And Anr. Vs Income-Tax Officer And Anr**[28] was not binding upon the Income Tax Authorities or the

[28] (1973) 90 ITR 116

Income Tax Tribunals in the State of Maharashtra. The Coordinate Bench held that the Income Tax Act was an all-India statute. If an Income Tax Tribunal in Madras was bound by the decision in *A.M. Sali Maricar* (supra), then, in the absence of any contrary decision given by any other competent High Court, binding on the authorities and tribunals in the State of Maharashtra, such authorities and tribunals in the State of Maharashtra must proceed based on the law declared by the High Court, even of another State and quash the assessment and penalties under the provision already struck down.

45. In these matters, none of the learned Counsel appearing on behalf of the Respondents was able to make any statement regarding the challenge to the Kerala High Court's decision declaring Rule 96(10) of the CGST Rules as ultra vires and unconstitutional. The Uttarakhand High Court, in the case of *M/s Shree Sai Vishwas Polymers* (supra), has already taken cognisance of the Kerala High Court's decision and proceeded based on its unconstitutionality. The learned Counsel for the Respondents were also unable to make any statement about the challenge to the Uttarakhand High Court's decision.

46. In the case of **Commissioner of Income-Tax Vs Thana Electricity Supply Ltd**[29], another Coordinate Bench of this Court of this Court comprising Dr B P Saraf, J (as His Lordship then was) & U T Shah, J, however, after noticing the earlier decision in *Godavari Devi Saraf* (supra) had suggested that the observations in *Godavari Devi Saraf* (supra) cannot be taken as the *ratio decidendi* and would, at best, constitute

[29] 1993 SCC OnLine BOM 591

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obiter dictum. The Coordinate Bench held that such observations might have persuasive efficacy but not a binding character as in the case of a precedent.

47. Though, for reasons discussed above, we do not propose to examine the issue of constitutional validity of Rules 89(4B) and 96(10) of the CGST Rules, we have noted the contention raised on behalf of some of the Petitioners that since Rule 96(10) is already struck down by the Kerala High Court, the effect of such striking down must enure even in the State of Maharashtra and the authorities in the State of Maharashtra cannot ignore the declaration made by the Kerala High Court in the case of *M/s Sance Laboratories Pvt Ltd* (supra) regarding unconstitutionality of Rule 96(10) of the CGST Rules, until the said Rule was omitted vide Notification dated 08 October 2024.

48. We have also noted how, at least two Coordinate Benches of this Court in the case of *Godavari Devi Saraf* (supra) and **Lancy Leo Mendonca & Ors Vs Union of India & Ors**[30] have taken a view that supports the contention of the Petitioners, though another Coordinate Bench in the case of Thana Electricity Supply Ltd (supra) may have taken a slightly different view in the matter.

49. Accordingly, we once again clarify that in this batch of Petitions we are not addressing the issue of Rules 89(4B) and 96(10) of the CGST Rules being ultra vires the parent act or otherwise unconstitutional, null and void because, for reasons discussed hereafter, we are satisfied that these Petitions should succeed on the ground of the effect of omission of the

[30] 2015 SCC OnLine BOM 5743

said two Rules, without any effective savings clause to protect the pending proceedings.

LEGAL EFFECT OF THE OMISSION OR REPEAL OF THE IMPUGNED RULES WITHOUT PROTECTION OF ANY SAVINGS CLAUSES OR SECTION 6 OF THE GENERAL CLAUSES ACT (SECOND ISSUE)

50. The Central Government, in the exercise of powers conferred upon it by Section 164 of the CGST Act, issued a Notification dated 08 October 2024 containing the 2024 Amendment Rules by which the impugned Rules came to be omitted. The relevant extract of 2024 Amendment Rules as contained in the Notification dated 08 October 2024 is transcribed below for the convenience of reference: -

Notification-GST-Central GST (CGST)
MINISTRY OF FINANCE
(Department Of Revenue)
(CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS)
NOTIFICATION NO. 20/2024-Central Tax
New Delhi, the 8th October, 2024.

G.S.R. 626(E). In exercise of the powers conferred by section 164 of the Central Goods and Services Tax Act. 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following rules further to amend the Central Goods and Services Tax Rules 2017, namely:—

1. (1) These rules may be called the Central Goods and Services Tax (Second Amendment) Rules, 2024,

(2) Save as otherwise provided in these rules, they shall come into force on the date of their publication in the Official Gazette.

2. .....

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3. ……

4. ……

5. ……

6. ……..

7. ……

8. ……..

9. In the said rules, in rule 89.-

(a) in sub-rules (4),-

(i) in clause (B), the words, brackets, figures and letters "other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both" shall be omitted;

(ii) in clause (C), the words, brackets, figures and letters, "other than the turnover of supplies in respect of which refund is claimed under sub rules (4A) or (4B) or both" shall be omitted;

(iii) in clause (E), for the long line beginning with the word "excluding" and ending with the words "during the relevant period", the words "excluding the value of exempt supplies other than zerorated supplies during the relevant period" shall be substituted;

(b) sub-rules (4A) and (4B) shall be omitted;

(c) in such-rule (5), in the Explanation, in clause (a), the words, brackets, figures and letters "other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both" shall be omitted.

10. In the said rules, in rule 96, sub-rule (10) shall be omitted.

11. ……

12. ……

13. ……

14. ……

15. ……

16. ……

17. ……

18. ……

19. ……

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20. .....

21. .....

22. .....

Form GST SPL-01, 01 to 08

Note: *The principal rules were published in the Gazette of India. Extraordinary, Part II. Section 3, Sub-section (i)* vide number G.S.R. *610(E), dated the 19th June. 2017 No. 3/2017-Central Tax. dated the 19th June, 2017 and were last amended vide notification number G.S.R. 376 (E). dated the 10th July 2024 No. 12/2024-Central Tax. dated the 10th July 2024.*

51. 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.

52. 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 Bombay*[31], *State of Punjab Vs Mohar Singh*[32], *Qudrat Ullah Vs Municipal Board, Bareilly*[33], *State of Rajasthan Vs Mangilal Pindwal*[34] and *Mohan Raj Vs Dimbeswari Saikia & Anr*[35]).

53. In ***Halsbury's Laws of England,*** **4th Edn.,** the word "repeal' has been defined as to repeal an Act is to cause it to cease to be a part of the corpus juris or body of law. To repeal an enactment contained in an Act is to cause it to cease to be in law a part of the Act containing it. The general principle is that, except as to transactions past and closed, an Act or enactment which is repealed is to be treated thereafter as if it had never existed. When an Act is repealed, then it is treated as revoked or abrogated, and removed from what is popularly known as the statute-book.

54. **Crawford,** in his book on the Interpretation of Laws, stated that an express repeal will operate to abrogate an existing law, unless there is some indication to the contrary, such as a saving clause. Even existing rights and pending litigations, both civil and criminal, may be affected, although it is not an uncommon practice to use the saving clause in

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31 AIR 1951 SC 128

32 AIR 1955 SC 84

33 AIR 1974 SC 396

34 AIR 1996 SC 2181

35 AIR 2007 SC 232

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order to preserve existing rights and to exempt pending litigation.

55. In *Gammon India Ltd* (supra), the Hon'ble Supreme Court, after referring to the various commentaries, accepted the common law principle that a repeal or an omission (without any savings clause) is to obliterate the statute from the statute book and any proceedings which have not culminated in a final judgment prior to the repeal are abated at the consummation of the repeal. However, it was also observed that where the repeal does not contemplate either a substantial common law or a statutory right, but merely the procedure prescribed to secure the enforcement of the right, then the right itself is not annulled but remains in existence, enforced by applying the new procedure.

56. In the present batch of Petitions, it was not even argued that the provisions in Rule 89(4B) and 96(10) of the CGST Rules were not substantive provisions affecting the rights of importers and exporters. In any case, a review of these Rules makes it clear that they are not purely procedural but impact substantive rights of the parties. Therefore, the removal or repeal of Rules 89(4B) and 96(10) would essentially erase these Rules from existence as if they had never been enacted or passed, and they should be regarded as provisions that never existed, except in relation to "*transactions past and closed*".

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57. Thus, subject to further discussion on whether this is a case of omission or repeal backed by any savings clauses, it is evident that an omission or a repeal without any savings clauses would lapse the impugned proceedings or orders unless they qualify as "*transactions past and closed".*

TRANSACTIONS PAST AND CLOSED [THIRD ISSUE]

58. In these matters, not even an attempt was made by the learned Counsel for the Respondents to contend that the impugned show cause notices or for that matter, the orders challenged in these Petitions, were covered by the expression "*transactions past and closed".* In cases where the show cause notices did not culminate in any orders, obviously, the transaction is not covered by the expression. Not only do such show cause notices become vulnerable, but even the orders made after the date of omission or repeal, i.e. after 08 October 2024, become vulnerable. The show cause notices could not have proceeded any further post the repeal or omission of the impugned Rules i.e. beyond 08 October 2024. In some petitions, the challenge is to orders made by adjudicating authorities before October 08, 2024. However, a challenge to such orders was raised and was pending either before the Appellate Authorities or this Court. In such circumstances, even such orders could not be regarded as final for them to be included in the expression "*transactions past and closed"*

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59. *In M/s Add Wrap Packaging Pvt Ltd* (supra) the Division Bench of the Gujarat High Court has considered this aspect of the omission or repeal of these very impugned Rules on pending proceedings in some detail. The Division Bench held that the omission or repeal of the impugned Rules would affect pending proceedings/cases where final adjudication has not taken place. The Division Bench held that the omission of Rule 96-10 would apply to all the proceedings/cases/Petitions which are pending adjudication either before the High Court or before the adjudicating authorities and no further proceedings are required to be carried forward and the Petitioners would be entitled to maintain refund claims of IGST paid on export of goods. The impugned show cause notices and the orders were therefore quashed and set aside, and it was declared that the Petitioners were entitled to maintain refund claims for IGST paid for the export of goods.

60. 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*

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England before the enactment of the Interpretation Act of 1889 :

> *'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)*

*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).*

WHETHER SECTION 6 OF THE GENERAL CLAUSES ACT IS APPLICABLE AND SAVES THE PENDING PROCEEDINGS (FOURTH ISSUE)

61. Section 6 of the General Clauses Act reads as follows: -

"**6. Effect of repeal.**—Where this Act, or any [Central Act] or Regulation made after the commencement of this Act, repeals any enactment hitherto made or hereafter to be made, then, unless a different intention appears, the repeal shall not—

(a) revive anything not in force or existing at the time at which the repeal takes effect; or

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> (b) affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder; or
>
> (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed; or
>
> (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or
>
> (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid,
>
> and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the repealing Act or Regulation had not been passed."

62. From the analysis of Section 6 of the General Clauses Act, 1897, it is evident that for the savings clause to apply, the repeal of any enactment must be brought about by the following:

(a) by "this Act", i.e., the General Clauses Act; or

(b) any Central Act; or

(c) Regulation.

63. The expression "this Act" offers no difficulty because it means the General Clauses Act, 1897. Similarly, the expression "Central Act" is defined under Section 3(7) of the General Clauses Act to mean an Act of Parliament and shall include an Act of the Dominion legislature or Indian legislature before the commencement of the Constitution, and an Act made before such commencement by the Governor General in Council or the Governor General acting in

legislative capacity. The expression "regulation" has been defined under Section 3(50) of the General Clauses Act, 1897.

64. In the present matter, the notification dated 8 October 2024 by which Rules 89(4B) and 96(10) of the CGST Rules stand omitted or repealed is neither the General Clauses Act nor any Central Act as defined under Section 3(7). So also, the said notification is not some "regulation" as defined under Section 3(50) of the General Clauses Act, 1897. The notification only contains the Central Goods and Services Tax (Second Amendment) Rules, 2024. Therefore, on a plain reading of Section 6 of the General Clauses Act, 1897, to an omission or repeal brought about by the notification dated 08 October 2024, which is nothing but a "Rule", the provisions of Section 6 of the General Clauses Act, 1897 would not apply.

65. In *Rayala Corporation Pvt Ltd* (supra) and in *Kolhapur Cane Sugar Works Ltd* (supra), the Constitution Benches of the Hon'ble Supreme Court have held that Section 6 of the General Clauses Act, 1897, applies to repeals of a Central Act or a Regulation [as defined under section 3(7) and 3(50)], but not to the repeal of any "Rule". Thus, on a plain reading of Section 6 of the General Clauses Act and on the authority of the two Constitution Bench decisions, there is no scope to hold that Section 6 applies to the repeal or omission of the two rules brought about by the Notification dated 08 October 2024.

66. Mr Mishra's contention that the entire decision in *Rayala Corporation Pvt Ltd* (supra) or all the observations therein constitute *obiter dictum,* given the decisions in *Fibre Boards Pvt Ltd* (supra) and *Shree Bhagwati Steel Rolling Mills* (supra), is, with respect, misconceived. The latter two decisions of the Hon'ble Supreme Court only hold that the observations in *Rayala Corporation Pvt Ltd* (supra) to the effect that there is a difference between an "omission" and "repeal" and that the provisions of Section 6 apply only to a "repeal" and not to an "omission" constitute an *obiter dictum*.

67. However, the *ratio decidendi* of *Rayala Corporation Pvt Ltd* (supra) continues to be that a repeal of any enactment otherwise than by the General Clauses Act, a Central Act or a regulation as defined under Section 3(50) of the General Clauses Act, 1897 would not attract the provisions of Section 6 of the General Clauses Act, 1897. The latter two decisions, in fact, held that the Constitution Bench, having concluded that Section 6 of the General Clauses Act was not applicable to a "repeal" by a Rule, should not have gone further and commented on the distinction between an omission and the repeal. The observations regarding the distinction only were therefore held to be *obiter dictum* and departed from.

68. In any event, *Kolhapur Cane Sugar Works Ltd* (supra) clinches the issue. This decision of the Constitution Bench of the Hon'ble Supreme Court related to the applicability of Rules 10 and 10-A of the Central Excise Rules. Before the High

Court, one of the contentions raised by the Appellants was that Rules 10 and 10-A had been deleted and a new Rule 10 had been introduced by a notification dated 6 August 1977. The effect of such deletion and introduction of a new provision was that the old Rules under which the show cause notice was issued ceased to exist; thereafter, further proceedings were without jurisdiction since the notification of 6 August 1977 did not contain any saving clause. It was also contended by the Appellant that Section 6 of the General Clauses Act did not apply because it does not apply to the repeal of statutory Rules and because it applies only where there is a repeal by a central Act, whereas in the case at hand, the repeal was only by a notification. The High Court repealed these contentions and dismissed the Writ Petition.

69. The appeal against the High Court's decision initially came up before a Bench of two Judges who felt that, having regard to the importance of the questions involved and the possible necessity of revisiting the Constitution Bench decision in *Rayala Corporation Pvt Ltd* (supra), the matter should be considered by a Constitution Bench. The Constitution Bench noted that Rules 10 and 10-A were omitted, and a new provision was introduced by Rule 10 with effect from 6 August 1977. The show cause notice issued under the omitted Rule 10 and 10-A was sought to be saved by resort to Section 6 of the General Clauses Act, 1987.

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70. The Constitution Bench, upon an in-depth analysis of the provisions of Section 6 of the General Clauses Act and the previous precedents on the subject, held the following at paragraphs 36 to 40: -

> "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".**
>
> 37. **The position is well known that at common law, the normal effect of repealing a statute or deleting a provision is to obliterate it from the statute-book as completely as if it had never been passed, and the statute must be considered as a law that never existed.** To this rule, an exception is engrafted by the provisions of Section 6(1). **If a provision of a statute is unconditionally omitted without a saving clause in favour of pending proceedings, all actions must stop where the omission finds them, and if final relief has not been granted before the omission goes into effect, it cannot be, granted afterwards.** Savings of the nature contained in Section 6 or in special Acts may modify the position. Thus the operation of repeal or deletion as to the future and the past largely depends on the savings applicable. In a case where a particular provision in a statute is omitted and in its place another provision dealing with the same contingency is introduced without a saving clause in favour of pending proceedings then it can be reasonably inferred that the intention of the legislature is that the pending proceedings shall not continue but fresh proceedings for the same purpose may be initiated under the new provision.
>
> 38. In the present case, as noted earlier, Section 6 of the General Clauses Act has no application. There is no saving provision in favour of pending proceedings. Therefore action for realisation of the amount refunded can only be taken under the new provision in accordance with the terms thereof.
>
> 39. The further question that arises for consideration in this connection is whether Notification No. 267/77

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> dated 6-8-1977 by which Rule 10 was deleted contained any provision for continuance of the proceedings already initiated and whether Act 25 of 1978 which introduced Section 11-A of the Central Excise Act, adopted the legal device of creating a fiction by virtue of which proceedings under Rule 10 could be deemed to be proceedings under Section 11-A of the Act. If such was the position then it could be argued that the proceedings initiated when the old Rule 10 was in force could be continued on the strength of the clause of the notification by which the said Rule was omitted and substituted by a new Rule which in turn was substituted by Section 11-A of the Act.
>
> 40. **From the contents of the provisions in the Rules it is clear that it did not contain any saving clause for continuance of the proceedings initiated under the Rule which was deleted/omitted. There is also no provision in Section 11-A or in any other section of the Act saving the proceedings initiated under the deleted/omitted provision. The consequential position that follows is that the proceedings lapsed after 6-8-1977 and any order passed in the proceedings thereafter is to be treated as non est.** In case the notice was issued after Section 11-A was introduced in the Act, the proceedings will continue and will not be affected by this decision. All the cases are disposed of on the terms aforesaid. No costs."

71. In the present batch of Petitions, what are repealed are "Rules". More importantly, the Rules are repealed by notification dated 08 October 2024, which is also nothing but the Central Goods and Services Tax (Second Amendment) Rules, 2024. Therefore, upon a plain reading of Section 6 of the General Clauses Act, 1897, or in any event, given the decisions in *Rayala Corporation Pvt Ltd* (supra) and *Kolhapur Cane Sugar Works* (supra), the provisions of Section 6 of the General Clauses Act, 1897, would not apply to such a repeal or omission.

72. The Sixtieth Report of the Law Commission of India on The General Clauses Act, 1897, made in May 1974 and cited by Mr Karan Adik, notes that the main purpose of Section 6 of

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the General Clauses Act was to overturn the common law rule that a repeal nullifies the statute for all future purposes. Ultimately, the Law Commission itself concluded that the section was quite comprehensive in its scope and content, and it did not see a need for any changes (see paras 6.2 and 6.8).

73. Therefore, by focusing on a single line in paragraph 1.18 of the Law Commission Report, which states that there can be no better testimony to the utility of the General Clauses Act than the fact that the Courts have, on considerations of equity, justice, and good conscience, extended its principles not only to subordinate legislation but also to private documents, we are not prepared to hold that the provisions of Section 6 of the General Clauses Act, as they currently stand, would cover the case of an omission or a repeal of subordinate legislation caused by another subordinate legislation. Such an interpretation would run counter to the two Constitution Bench decisions of the Hon'ble Supreme Court.

74. Consequently, based upon the provisions of Section 6 of the General Clauses Act, 1897, the Respondents cannot assert that the show cause notices issued under the omitted or repealed Rules or the orders made in disposing of show cause notices after the Rules or the orders that had not attained finality are saved by virtue of the provisions of Section 6 of the General Clauses Act, 1897.

SINCE THE 2024 RULES BY WHICH THE IMPUGNED RULES WERE OMITTED/REPEALED WERE MADE UNDER SECTION 164 OF THE CGST ACT, CAN THEY BE REGARDED AS

'CENTRAL ACT' FOR THE PURPOSES OF SECTION 6 OF THE GENERAL CLAUSES ACT? (FIFTH ISSUE)

75. As noted earlier, the expression 'Central Act' appearing in Section 6 of the General Clauses Act is defined under Section 3(7) of the General Clauses Act. There is no case made out to ignore this statutory definition or to elevate Rules framed under the Central Act to the status of a Central Act. There is a clear distinction between a Central Act and the Rules, which are subordinate legislation, that may be framed by exercising the powers conferred by such Central Act. The Central Act is a primary legislation enacted by the Parliament. The Rules are a subordinate legislation enacted by the Central Government in the present case. The Rules cannot be elevated to the status of a Central Act merely because they may have been enacted by exercising the powers under the Central Act. Therefore, in principle, the contention based upon Section 164 of the CGST Act cannot be accepted.

76. Contentions, very similar to the one raised above, were accepted by the Full Bench of the Gujarat High Court in the case of *Saurashtra Cement and Chemical Industries* (supra) and by the Division Bench of the Karnataka High Court in the case of *Falcon Tyres Ltd* (supra). Incidentally, an almost identical contention was also accepted in *M/s Highpoint Hotels Pvt Ltd* (supra) and *Laxmi Board and Papers Mills Pvt Ltd* (supra).

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77. However, the Constitution Bench in the case of *Kolhapur Cane Sugar Works Ltd* (supra) expressly overruled the Gujarat and Karnataka decisions and "*other decisions taking a similar view*". The Constitution Bench held that in case of repeal or omission of any Rule, the Court must look to the provision in the Rule which has been introduced after the omission of the previous Rule to determine whether pending proceedings will continue or lapse. If there is a provision therein that the pending proceedings shall continue and be disposed of under the old Rule as if the Rule had not been deleted or omitted, then such proceedings will continue. If the case is covered by Section 6 of the General Clauses Act, 1897, or there is a *pari materia* provision in the statute under which the Rule has been framed, in that case also, the pending proceeding will not be affected by the omission of the Rule. *In the absence of any such provision in the statute or in the Rule, the pending proceedings would lapse on the Rule under which the notice was issued or proceedings were initiated being deleted/omitted.*

78. We have considered the decisions in *Highpoint Hotels Pvt Ltd* (supra) and *Laxmi Board and Paper Mills Pvt Ltd* (supra). At the time when *Laxmi Board and Paper Mills Pvt Ltd* (supra) was decided, the Coordinate Bench did not have the benefit of the decision of the Constitution Bench in *Kolhapur Cane Sugar Works Ltd* (supra). The decision in *Laxmi Board and Paper Mills Pvt Ltd* (supra) takes a view which does not align with the view taken by the Constitution

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Bench in *Kolhapur Cane Sugar Works Pvt Ltd* (supra). Similarly, with respect, we believe that even the decision of the learned Single Judge of the Karnataka High Court in the case of *Highpoint Hotels Pvt Ltd* (supra) may not be consistent with the law laid down by the Constitution Bench in *Kolhapur Cane Sugar Works Ltd* (supra).

79. Besides, the main ground given by the learned Single Judge of Karnataka High Court for distinguishing the Constitution Bench's decision in the case of *Rayala Corporation Pvt Ltd* (supra) is that the said judgment related to offence and prosecution for alleged breach of Rule 132-A of the Defence of India Rules and the case before the learned Single Judge concerned compensation to the State for loss of revenue caused by short lifting of liquor quantity under Rule 14(2) of the Excise Rule, 1968. With respect, we do not agree that the *ratio decidendi* of the Constitution Bench decision in *Rayala Corporation Pvt Ltd* (supra) could have been brushed aside, based upon such a distinction. In our view, such a distinction was not quite relevant for brushing aside the *ratio decidendi* in the Constitution Bench's decision.

80. Similarly, the decision of the Constitution Bench in the case of *Kolhapur Case Sugar Works Ltd* (supra) was sought to be distinguished by the learned Single Judge of the Karnataka High Court by holding that there was no re-enactment of Rule 14(2) of the Excise Rules of 1968 after the omission of this Rule on 1 August 2014. Further, the learned Single Judge of

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the Karnataka High Court applied Section 6 of the General Clauses Act by observing that the Constitution Bench's decisions in *Rayala Corporation Pvt Ltd* (supra) and *Kolhapur Cane Sugar Works Ltd* (supra) concerned the treatment of the omission of a Rule as not constituting a repeal for the purposes of Section 6 of the General Clauses Act, 1897.

81. With respect, though, in *Rayala Corporation Pvt Ltd* (supra), a distinction was made between "omission" and the "repeal", there was no occasion for making any such distinction in *Kolhapur Cane Sugar Works Ltd* (supra). Secondly, in *Fibre Boards Pvt Ltd* (supra) and *Shree Bhagwati Steel Rolling Mills* (supra), the Hon'ble Supreme Court held that the observations regarding the distinction between omission and repeal were not the *ratio decidendi* of *M/s Rayala Corporation Pvt Ltd* (supra) but, at best, were obiter *dictum*. Therefore, with respect, we are hesitant to agree with the reasoning of the learned Single Judge of the Karnataka High Court when it comes to distinguishing the Constitution Bench decisions in *Rayala Corporation Pvt Ltd* (supra) and *Kolhapur Cane Sugar Works Ltd* (supra).

82. Therefore, the argument that the Notification dated 08 October 2024 or the Central Goods and Service Tax (Second Amendment) Rules, 2024 must be regarded as "Central Act" for the purposes of Section 6 of the General Clauses Act only because such rules were enacted in the exercise of powers conferred upon the Central Government by Section 164 of the

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CGST Act cannot be accepted. Similar contentions seeking to elevate rules framed under a Central Act to the status of a Central Act have been expressly rejected by the Constitution Bench.

THE ARGUMENT BASED ON SECTION 174(3) OF THE CGST ACT (SIXTH ISSUE)

83. Section 174 of the CGST Act is concerned with '**Repeal and Saving**'. Section 174(1) repeals the Acts specifically referred to therein. Section 174(2) provides that the repeal of the specified Acts and the amendment of the Finance Act, 1994, to the extent mentioned in sub-Section (1) or Section 173 shall not, inter alia, affect pending proceedings. Thus, while Section 174(1) repeals the specified enactments, Section 174(2) saves the pending proceedings or any actions that might have been taken under the repealed enactments. This provision was necessary and enacted to ensure a smooth transition from the erstwhile regime to the GST regime.

84. Since particular emphasis was laid by the learned counsel for the Respondents on Section 174(3) of the CGST Act, we transcribe the same herein below for the convenience of reference.

> *"The mention of the particular matters referred to in sub-sections (1) and (2) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of repeal."*

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85. Section 174(3) of the CGST Act appears to have been enacted as a matter of abundant caution. The provisions of Section 174 must be read and construed in their entirety. Section 174(1) repeals the Acts specified therein. Section 174(2) is a savings clause qua anything done under the Acts repealed by Section 174(1). Section 174(3), by making applicable the provisions of the General Clauses Act, which would include the provisions of Section 6 of the General Clauses Act, imparts some additional protection that might have been missed by the provisions of Section 174(2) on account of the repeal of the Acts specified in Section 174(1). At least prima facie, Section 174(3) would have no application qua the repeal of any Acts not specified in Section 174(1). Therefore, Section 174(3) cannot be regarded as a savings clause to protect the pending proceedings under the impugned Rules omitted vide Notification dated 08 October 2024.

86. In any event, even if we accept Mr Adik's liberal construction of Section 174(3), still, at best, this Section will oblige the Courts to refer to Section 6 of the General Clauses Act. However, if the requirements of Section 6 of the General Clauses Act are not fulfilled, because the repeal is not by any Central Act, etc., then there is no question of applying Section 6 of the General Clauses Act by referring to Section 174(3) of the CGST Act. Section 174(3), at best, makes applicable the provisions of the General Clauses Act, which would include Section 6, but surely, Section 174(3) does not operate to

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amend the provisions of Section 6 of the General Clauses Act. That would be an extremely tenuous or strained construction of Section 174(3) of the said Act.

87. Therefore, even the argument based on Section 174(3) of the CGST Act made on behalf of the Respondents cannot be accepted.

THE ARGUMENT BASED ON CLAUSE 1(2) OF THE NOTIFICATION DATED 08 OCTOBER 2024 (SEVENTH ISSUE)

88. The learned Counsel for the Respondents then argued that Clause 1(2) of the notification dated 08 October 2024 should be interpreted as a savings clause. They argued that this clause grants prospective effect to the omission of Rules 89(4B) and 96(10). They also relied on the minutes of the GST Council and the observation therein that the omission of these Rules was intended to be prospective and not retrospective.

89. Clause 1(2) only provides that the CGST (Second Amendment) Rules, 2024, would come into effect from the date of their publication in the official gazette, i.e., on 08 October 2024. The issue with which we are concerned is not of prospectivity or retrospectivity. The issue with which we are concerned is the effect of such omission or repeal of Rules 89(4B) and 96(10) without there being any savings clause to protect or save pending proceedings.

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90. As noted earlier, even if the two Rules are omitted on 08 October 2024, the common law Rule that such Rules are completely obliterated or treated as never having been enacted will apply in the absence of any savings clause. To overcome such a drastic effect, the legislature enacted Section 6 of the General Clauses Act, 1897. Even the Law Commission's report, relied upon by Mr Adik, specifically states that Section 6 of the General Clauses Act, 1897, was enacted to make a departure from the common law Rule referred to above.

91. Therefore, unless the Respondents can establish that Section 6 of the General Clauses Act, 1897, applies or that there was any savings clause in the CGST Act or in the Notification, based merely on Clause 1(2) or the GST Council minutes, the pending proceedings that had not attained finality cannot be held as saved. The Clause relied upon is not a savings clause. It does not save pending proceedings.

92. Clause 1(2) does not prevent the lapsing of inconclusive proceedings or even orders that have not attained finality. Only transactions "past and closed" are not affected. This protection for "past and closed" transactions is not on account of Clause 1(2) now relied upon, but because of the common law principle that remains intact where the provisions of Section 6 of the General Clauses Act do not apply or where there are no savings clauses in the repealing rules or the

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parent legislation under which such rules may have been enacted.

93. Furthermore, we are inclined to agree with Mr Sridharan's submission that no general retrospective effect was given to the notification dated 08 October 2024 (unless otherwise indicated) because otherwise an argument that even the transactions past and closed have no immunity might have been possible. Such an argument would have exposed the Revenue to excessive demands for refunds even in respect of past and closed transactions. However, based on Clause 1(2) of the notification dated 08 October 2024, the pending proceedings or the proceedings where the impugned orders had not attained finality cannot be protected or saved.

THE ARGUMENT BASED ON SECTION 166 OF THE CGST ACT (EIGHTH ISSUE)

94. Section 166 of the CGST Act reads as follows: -

> "**166. Laying of rules, regulations and notifications.—** Every rule made by the Government, every regulation made by the Board and every notification issued by the Government under this Act, shall be laid, as soon as may be after it is made or issued, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or in the notification, as the case may be, or both Houses agree that the rule or regulation or the notification should not be made, the rule or regulation or notification, as the case may be, shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done

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under that rule or regulation or notification, as the case may be."

95. M P Jain & S N Jain in "Principles of Administrative Law", 8th edition, in Chapter 5, dealing with legislative and other controls over delegated legislation, have referred to the "laying procedure" at paragraph 5.1.2 (pages 160 to 164). At sub-paragraph (iii), the authors have observed as follows: -

"(iii) There is a third variety of laying procedure, *viz.,* laying with a negative procedure. This formula envisages that the legislature may annul the draft rules laid before it. Now a days, the laying formula occurs more frequently in the Central statutes and a standard formula has been evolved for this purpose. It runs as follows:

> Every rule made under this Act shall be laid, as soon as may be, after it is made before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or, annulment shall be without prejudice to the validity of anything previously done under that rule.

The highlights of this formula are as follows:

(i) This formula requires the rules to be laid before each House of Parliament as soon as possible. There is no time-frame within which the rules are to be laid before the House after their promulgation.

(ii) The laying procedure envisaged by the above formula is laying with a negative resolution.

(iii) The rules are to be laid for 30 sessions days. This period may be comprised in one session or in two or more successive sessions.

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(iv) Before the expiry of the session immediately following the session or the successive session or in two or more successive sessions.

(v) The rules come into force as soon as they are made and the laying procedures effect thereafter.

(vi) If any modification is made in the rules, or they are annulled, by the Houses then the rules operate in the modified form or be of no effect, in the future.

(vii) If they are annulled then they will cease to exist from the date annulment.

(viii) The rules can be annulled or modified only when both Houses agree.

(ix) In this formula, the initiative to move a resolution to annul or modify the rules has to be taken by the members of the House. The Government is under no obligation to take any initiative in this regard.

(x) In this 'laying' formula, there is no time-frame within which the rules have to be laid before the Houses after their promulgation. The phraseology used is "as soon as may be" after the rules are made. In practice, often the rules are laid long after they are made. This reduces the effectiveness of the Parliamentary control over delegated legislation[36].

The laying formula as contained, in the above provision is regarded as being of directory nature and not mandatory."

96. From the above, or even otherwise from the plain reading of Section 166 of the CGST Act, firstly, it is not possible to accept the contention that the notification dated 8 October 2024 was not effective until the Rules were laid

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[36] See, *supra*, under "Procedural *ultra vires*. "In *Prohibition & Excise Supdt v Toddy Toppers Co-op Society*, (2003) 12 SCC 738, para 12, p 747: AIR 2004 SC 658, while dealing with challenge to validity of rule 24 of Andhra Pradesh Excise (Arrack & Toddy Licences, General Conditions) Rules, 1969 which enabled the competent officers to send samples of arrack or toddy to independent laboratories for chemical examination, the Supreme Court interpreted the requirement of laying down of a subordinate legislation as contained in section 72(4) of AP Excise Act, 1968 as directory. *See* further *Bank of India v OP Swarnakar*, (2003) 2 SCC 721, para 124, p 767: AIR 2003 SC 858. *See* also, *Veneet Agrawal V UOI,* (2007) 13 SCC 721, para 124, p 767 " AIR 2003 SC 858. *See* also, *Veneet Agrawal v UOI,* (2007) 13 SCC 113 paras 16 & 17 : AIR 2008 SC 351.

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before the Parliament and approved by the Parliament through a resolution. Such a contention is neither borne out by the plain reading of Section 166 of the CGST Act, nor do any precedents support such a construction. Such a construction entirely ignores the expression "thereafter" in Section 166. Such a construction would, in fact, render a savings clause, upon which the Respondents rely, completely otiose or redundant. If the Rules were to come into force only after the Parliament approved them, there was no question of doing or saving anything previously done under such Rules.

97. An Analysis of Section 166 would show that its first leg provides for laying of Rules, Regulations and Notifications before the Parliament for a total period of 30 days. The second leg of Section 166 provides for consequences where both houses agree in making any modification to the Rules, Regulations and Notifications so laid or agree that such Rules, Regulations and Notifications should not have been made. In such an eventuality, the laid Rules, Regulations and Notifications as the case may be, shall "*thereafter*" have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Rule or Regulation or Notification, as the case may be.

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98. Therefore, for the second leg of Section 166 to apply, the Rules, Regulations and Notifications must be either modified or annulled by the Parliament. Where no such modification or annulment is made, the second leg of Section 166, including the so-called savings clause therein, would not even apply. The so-called savings clause only saves the acts done under the Rules, Regulations and Notifications between the date of their publication and the date of modification or annulment. This also negates Mr Adik's contention about the Rules not coming into force until they were placed before the Parliament and the Parliament specifically approved the same.

99. In any event, it is doubtful whether any modification or annulment by the parliament by passing a resolution as contemplated by Section 166 of the CGST Act can be elevated to the status of a Central Act as contemplated by Section 6 of the General Clauses Act. The argument based on Section 166 also contradicts the Respondents' earlier argument about the Central Goods and Services Tax (Second Amendment) Rules, 2024, coming into force from 08 October 2024.

100. The argument based on Section 166 of the CGST Act, apart from being misconceived, was attempted to be developed merely by claiming, without any pleading, that the notification dated 08 October 2024 was laid before Parliament. No details were provided about such laying. No information was given on whether the same was approved, modified, or annulled.

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101. In **Atlas Cycle Industries Ltd & Ors Vs State of Haryana**[37], the Hon'ble Supreme Court has held that clauses like Section 166 of the CGST Act, insofar as the requirement of laying before the parliament is concerned, are only directory and not mandatory.

102. In **Veneet Agrawal Vs Union of India & Ors**[38], the Hon'ble Supreme Court was concerned with an identical provision in Section 31 of the Securities and Exchange Board of India Act, 1992. The allegation was about non-compliance, since the Rules and Regulations which were impugned had not been laid before the house for the period stipulated under the said Section. The Hon'ble Supreme Court, after relying upon *Atlas Cycle Industries Ltd* (supra) and several other decisions, held that such a provision was not mandatory but only directory. Costs were imposed on the Petitioners because such contentions were being repeatedly raised even though the same had been rejected in a series of past decisions.

MISCELLANEOUS

103. As noted above, the decision of the Gujarat High Court in *Messers Addwrap Packaging Pvt. Ltd.* (supra) and of the Uttarakhand High Court in *Sri Sai Vishwas Polymers* (supra) also take the view that the repeal of the impugned Rules vide Notification dated 08 October 2024 is neither backed by any savings clauses nor do the provisions of Section 6 of the General Clauses Act apply to such omission or repeal.

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37 (1979) 2 SCC 1996

38 (2007) 13 SCC 116

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Accordingly, in both these matters, the Petitioners were granted relief by way of quashing pending proceedings and orders that had not attained any finality because the challenges against them were pending before the authorities under the Act or the High Court.

104. Mr. Sridharan also relied upon **Pasupuleti Venkateshwarlu Vs The Motor & General Traders**[39] and **Majati Subbarao Vs. P.V.K. Krishna Rao**[40] in support of his contention that the Court is bound to take note of subsequent events. This was in the context of the omission of the impugned Rules vide Notification dated 08 October 2024 during the pendency of the show cause notice proceedings or the proceedings challenging the orders made, alleging non-compliance with the requirements of the impugned Rules. None of the Respondents even contested this principle. The learned counsel for the Respondents only contended that the omission was prospective and, in any event, the so-called savings clauses saved the pending proceedings or the orders that were impugned in these Petitions. This contention about prospectivity is already considered earlier in the context of the argument based on Clause 1(2) of the Notification dated 08 October 2024.

105. The decision of the Delhi High Court in *Vianaar Homes Pvt. Ltd.* (supra) was delivered in a factual context not comparable to these matters. Besides, the focus of the decision was on the provisions of Section 24 of the General Clauses Act because that was a case of repeal of the Rules framed under an earlier legislation, which stood repealed by the advent of

[39] AIR 1975 SC 1409

[40] AIR 1989 SC 2187

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the CGST Act. To such a repeal, the Court held that the provisions of Section 174 of the CGST Act would apply, and the savings clause in Section 174(2) would save the earlier Rules. The Court noted that as we transitioned to a new system, the Legislature ensured that the repealed laws were saved for a smooth transition. It provided an extensive saving clause under the CGST Act and even added sub-section (3) to Section 174 to ensure the general application of Section 6 of the General Clauses Act, notwithstanding what was provided under the saving in Section 174(2).

106. In these matters, we are not concerned with the savings of any of the Acts or Rules that were repealed under Section 174(1) of the CGST Act. Besides, we are also not concerned with repeal followed by re-enactment for the provisions of Section 24 of the General Clauses Act to be applicable. Therefore, the decision in *Vianaar Homes Pvt. Ltd.* (supra) can be of no assistance to the Respondents in these matters.

107. In *Jayanthilal Amarathlal* (supra), relied upon by Mr. Subir Kumar, the Hon'ble Supreme Court held that the provisions of Section 6 of the General Clauses Act apply to a repeal of Gold (Control) Ordinance, 1968 as the re-enacted Gold (Control) Act does not exhibit a difference or a contrary intention, the proceedings initiated under the repealed law must be held to continue. That is not the issue in any of these matters, and therefore, based upon *Jayanthilal Amarathlal* (supra), the Petitioners cannot be denied the relief that they seek in these Petitions.

108. The 2024 Amendment Rules or the CGST Act do not include any savings clause to protect pending proceedings

resulting from the omission of the impugned Rules. Mr Sridharan referenced a list of nearly 64 Notifications issued by the Central or State Government, which amended or omitted Rules and included explicit savings clauses. This indicates that the Central Government was aware of the legal obligation to include a savings clause where Section 6 of the General Clauses Act might not apply. Therefore, it appears that not including a savings clause in the Notification dated 08 October 2024, unlike the 64 Notifications mentioned above, was not an accident but a conscious choice, made to benefit export, import, and trade.

109. The argument about the impugned show-cause notices being issued under Section 73 of the CGST Act and such notices surviving because this section had not been omitted or repealed also cannot be accepted. The only allegation in the impugned show cause notices concerns the alleged violation of the requirements of the impugned rules. There are no other allegations, as was asserted by the learned counsel for the Petitioners and not disputed by the learned counsel for the respondents, though a specific opportunity was granted to them. Therefore, if the impugned rules are omitted or repealed without any savings clauses or the protection of Section 6 of the General Clauses Act, nothing would survive in such notices. Such notices cannot be saved based on the argument now advanced.

110. In the case of *Chandpaklal Ramanlal Shah* (Supra) a charge was framed against the accused for offences punishable under Section 9 of the Central Excises and salt Act, 1944 read with Rule 52(A), 56(A), 173(G), 9(2) of the

Central Excise Rules and Rule 173(Q)read with Section 11(A) of the Central Excises and Salt Act, 1944. On the ground that Rule 56 was omitted and such omission was not backed by any savings clause, the accused was discharged. The Hon'ble Supreme Court reversed the High Court by holding that the charge against the accused (Respondent) was that of evasion of duty. This was relatable to Section 9(1)(b) of the Central Excises & Salt Act, 1944. Therefore, the omission of a procedural rule for availing the credit cannot, in any manner, affect the charge. The prosecution could not be deprived of the opportunity to prove evasion, which was itself an offence.

111. The decision in *Chandpaklal Ramanlal Shah* (Supra) is distinguishable. There, the charge was framed under the main Section, which was never omitted or repealed. In the present case, the allegation against the Petitioners relates to the violation of the impugned Rules, which have been omitted or repealed without any savings clause. Therefore, based upon *Chandpaklal Ramanlal Shah* (supra), the relief claimed by the Petitioners cannot be denied.

112. In *Milton Polyplas (I) Pvt. Ltd.* (supra), the Court found that a saving clause was indeed provided. However, the CESTAT ignored the savings clause as well as the provisions of Section 6 of the General Clauses Act on the premise that they apply only to a repeal or not to an omission of any Central Act or Regulation. Since this position was contrary to the law laid down in the case of *Fibre Boards Pvt. Ltd.* (supra) and *Shree Bhagwati Steel Rolling Mills* (supra), this Court answered the substantial question of law in favour of the revenue and against the assessee. Such an issue is not involved in the

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present batch of matters. Neither party have argued that there is any distinction between an omission and a repeal in the context of the applicability of section 6 of the General Clauses Act.

113. In the case of *State of Punjab Vs Mohar Singh* (supra), the issue concerned the application of Section 6 of the General Clauses Act to an Ordinance. Again, that is not the issue involved in any of these Petitions.

RELIEFS

114. 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.

115. Accordingly, we quash and set aside the impugned show cause notices and the impugned orders in original. Furthermore, we also quash and set aside the orders refusing some of the Petitioners' applications for refund, restore those applications to the files of the relevant Authorities, and direct the Authorities to consider and dispose of such refund applications in light of the declaration made by us above

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regarding the omission and repeal of the impugned Rules. This process must be completed within four months of the date of this order's upload, after providing the Petitioners with a fair opportunity to be heard.

116. The Rule is made absolute in all these Petitions in the above terms without any order for costs. In view of the disposal of these Petitions, all pending Interim Applications and Chamber Orders will not survive and are disposed of.

117. All concerned must act on an authenticated copy of this order.

(Jitendra Jain, J.) (M.S. Sonak, J.)

After pronouncement

118. At this stage, Mr Mishra prays for a stay of the Judgment and Order that we have just pronounced. In most of these Petitions, there was interim relief operating in favour of the Petitioners during the pendency of the Petitions even before the impugned show cause notices or orders were declared as lapsed. Now that we have declared the impugned show cause notices and orders as lapsed, there is no question of granting any stay which would have the effect of reviving those orders. Therefore, the motion for stay is rejected. Besides, we have not directed any immediate refund. We have only directed to Respondents to dispose of refund applications of some of the Petitioners within four months.

(Jitendra Jain, J.) (M.S. Sonak, J.)

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