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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 20th November, 2025

Uploaded on: 27th November, 2025

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W.P.(C) 3154/2023

VINAYAK INTERNATIONAL HOUSEWARES P LTD

.....Petitioner

Through: Mr. Rajat Mittal, Mr. Suprateek Neogi, Mr. Shubham Kumar , Mr. Priyanshu and Ms. Krati Aggarwal, Adv.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Aditya Singla, SSC, CBIC. Ms. Anushree Narain, SSC with Mr. Naman Choula and Mr. Yamit Jetley, Adv.

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W.P.(C) 10687/2023 & CM APPL. 41448/2023

M/S ASHISH FOILS PVT LTD

.....Petitioner

Through: Mr. Rajat Mittal, Mr. Suprateek Neogi, Mr. Shubham Kumar , Mr. Priyanshu and Ms. Krati Aggarwal, Adv.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Ms. Anushree Narain, SSC with Mr. Naman Choula and Mr. Yamit Jetley, Adv.

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W.P.(C) 3165/2023

MS MAYEDASS INTERNATIONAL

.....Petitioner

Through: Mr. Rajat Mittal, Mr. Suprateek Neogi, Mr. Shubham Kumar , Mr. Priyanshu and Ms. Krati Aggarwal, Adv.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Akshay Amritanshu, SSC with



Ms. Drishti Rawal, Mr. Abhay Nair, Mr. Mayur Goyal, and Mr. Sarthak Srivastava, Advs.

Mr. Abhishek Saket (SPCG) with Mr. Manish Madhukar, Mr. Abhigyan, Ms. Reya Paul, Ms. Amruta Padhi and Ms. Nidhi Singh, Advs. for UOI. Mr. Piyush Beriwal and Ms Ruchita Srivastava, Advs. for R 2&3.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE SAURABH BANERJEE

JUDGMENT

Prathiba M. Singh, J.

1. This hearing has been done through hybrid mode.
2. The present petitions have been filed by the Petitioners under Article 226 of the Constitution of India, *inter alia*, challenging the *vires* of Rule 96(10) of the Central Goods and Services Tax Rules, 2017 (*hereinafter*, ‘CGST rules’).

W.P.(C) 3154/2023 – Vinayak International Housewares Pvt Ltd Vs. UOI & Others

3. In ***W.P.(C) 3154/2023***, the Petitioner- M/s Vinayak International is a manufacturer/exporter of stainless steel kitchen cutleries and kitchen tools. According to the Petitioner, after the introduction of Goods and Services Tax (*hereinafter*, ‘GST’) in 2017, ***Notification No. 79/2017*** was issued on 13th October, 2017 by the Ministry of Finance (Department of Revenue), granting exemption, with effect from 13th October, 2017 from payment of Integrated Goods and Services Tax (*hereinafter*, ‘IGST’) on goods imported into India, against a valid advance authorization.



4. Thereafter, **Notification 3/2018** was issued on 23rd January, 2018 by the Ministry of Finance (Department of Revenue) introducing Rule 96(9) and 96(10) of CGST rules.
5. In terms of Rule 96(9) of the CGST rules, any person who seeks to claim refund of IGST on services exported, was to file Form GST RFD-01 which was to be dealt with in accordance with Rule 89 of the CGST Rules.
6. However, insofar as persons who export goods are concerned, the shipping bill itself is to be deemed as the application for refund, under Rule 96(1) of the CGST Rules.
7. Additionally, Rule 96(10) of the CGST Rules carved out certain exceptions in respect of which refund would not be granted. The said Rule 96(10) of the CGST Rules was challenged before various High Courts and several decisions have been passed. Thereafter, it is relevant to note that, Rule 96(10) of the CGST Rules was omitted on the recommendation of the 54th GST Council meeting and *vide Notification No. 20/2024* - Central Tax dated 8th October, 2024 (*hereinafter*, '*Notification No. 20/2024*').
8. The Petitioner was issued summons on 6th February, 2023 under Rule 96(10) of the CGST Rules, seeking details of total refunds claimed through the IGST route and was asked to appear before the Department. Thereafter, the Department issued several Show Cause Notices (*hereinafter*, '*SCN*'). While the summons were issued, the Petitioner challenged the constitutional validity of Rule 96(10) and also challenged the summons which were issued to the Petitioner.
9. In ***W.P.(C) 10687/2023***, the Petitioner-M/s Ashish Foils is a manufacturer exporter, who is also claiming IGST refunds. Show Cause Notices dated 14th November, 2022 and 27th July, 2023 were issued to the



Petitioner, raising demands of certain IGST refunds which were granted to the Petitioner. In this petition also, the Petitioner has challenged the constitutional validity of Rule 96(10) of the CGST Rules and the Show Cause Notices which have been issued.

10. In **W.P.(C) 3165/2023**, the Petitioner-M/s Mayedass International is also an exporter. Summons were issued to the Petitioner on 2nd February, 2023 and an enquiry was also commenced on 6th February, 2023 in respect of refund of IGST amounts which were obtained by the Petitioner. In this case, the SCN is yet to be issued and the challenge is again to the constitutional validity of Rule 96(10) of the CGST Rules and to the summons as also proceedings which have been initiated thereunder.

11. Ld. Counsel for the petitioner submits that the entire issue is covered by various decisions and is no longer *res integra*.

12. Mr. Aditya Singla, Id. SSC for the Department submits that the omission of Rule 96(10) of the CGST Rules would apply only prospectively after the said **Notification No. 20/2024** was issued. It is also argued that the saving clause in the **Notification No. 20/2024** would protect all proceedings prior to the said omission. The relevant portion of the communication from the GST Policy Wing is set out below:

“2.1. Rule 96(10) of the CGST Act, 2017 has been omitted prospectively, Le. with effect from 08.10.2024 vide notification No. 20/2024-Central Tax dated 08.10.2024 (Sl. No. 10), on the recommendations of GST Council in its 54th meeting held on 09.09.2024. It is pertinent to mention that the intent of GST Council was to omit the provisions of rule 96(10) from CGST Rules, 2017 prospectively only, and not to interfere the extant provisions of rule 96(10), as was applicable prior to its omission i.e. 08.10.2024, since the recommendation of the GST Council in its 54th meeting to



omit rule 96(10) of the CGST Rules, 2017 was based on the representations received from various exporters, who were facing difficulty due to restriction in respect of refund on exports, imposed vide rule 96(10) of CGST Rules, 2017, in cases where benefit of the specified concessional/exemption notifications is availed on the inputs. Therefore, the Council recommended to prospectively omit rule 96(10) from CGST Rules, 2017 on the ground that this will simplify and expedite the procedure for refunds in respect of such exports in future.

2.2 Relevant portion of the said notification No. 20/2024-Central Tax dated 08.10.2024 is re-produced herein under:

NOTIFICATION

No. 20/2024- Central Tax

New Delhi, the 8th October, 2024

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

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

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

2.3 In this regard, it is noteworthy to mention that clause (2) of the notification No. 20/2024 CT dated 08.10.2024, clearly



provides that "Save as otherwise provided in these rules, they shall come into force on the date of their publication in the Official Gazette." Since, in the instant case, the Central Goods and Services Tax (Second Amendment) Rules, 2024, was notified vide notification No. 20/2024 CT dated 08.10.2024 and was published in the Official Gazette on the same day, I.e. 08.10.2024, hence the said notification shall be said to have come into force from 08.10.2024 itself, which implies that benefit of the deletion of the Rule 96(10) of the CGST Act, 2017 will be available only with effect from 08.10.2024, and not for the period prior to 08.10.2024

2.4 It is further submitted that for refund claims under rule 96, the shipping bill is considered as a refund application. Therefore, if the shipping bill has been filed prior to the date of notification, the benefit of omission of the said rule cannot be said to be extended to the taxpayer.

2.5 Moreover, it is submitted that all policy decisions with respect to GST Act and rules made thereunder are taken only with the approval of the GST Council, a constitutional body established under Article 279A of the Constitution of India, which has been entrusted to make recommendations to the Union of India and the States on all GST related matters."

13. The Court has heard Mr. Rajat Mittal, Id. Counsel on behalf of the Petitioner and Mr. Aditya Singla, Mr. Akshay Amritanshu, and Ms. Anushree Narain, Id. Counsels on behalf of the Respondents.

14. Rule 96(10), which is the subject matter of the present petitions, is extracted below for ready reference:

"96. Refund of integrated tax paid on goods [or services] exported out of India.-

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"(10) The persons claiming refund of integrated tax paid on exports of goods or services should not have-

(a) received supplies on which the benefit of the Government of India, Ministry of Finance Notification No. 48/2017-Central Tax, dated the 18th October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number GSR 1305(E), dated the 18th October, 2017 except so far it relates to receipt of capital goods by such person against Export Promotion Capital Goods Scheme or Notification No. 40/2017-Central Tax (Rate), dated the 23rd October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number GSR 1320(E), dated the 23rd October, 2017 or Notification No 41/2017-Integrated Tax (Rate), dated the 23rd October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number GSR 1321(E), dated the 23rd October, 2017 has been availed; or

(b) availed the benefit under Notification No. 78/2017-Customs, dated the 13th October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number GSR 1272(E), dated the 13th October, 2017 or Notification No. 79/2017-Customs, dated the 13th October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub section (i), vide number GSR 1299(E), dated the 13th October, 2017 except so far it relates to receipt of capital goods by such person against Export Promotion Capital Goods Scheme.

Explanation: For the purpose of this sub-rule, the benefit of the notifications mentioned therein shall not be considered to have been availed only where the registered person has paid Integrated Goods and Services Tax and Compensation Cess on inputs and has availed exemption of only Basic Customs Duty (BCD) under the said notifications."

15. The Court has taken into consideration the recommendations of the



54th meeting of the GST Council wherein in respect of issue number 2, the following decision was taken by the GST Council:

“Issue 2: Review of the provisions of rule 96 (10) & rule 89 (4A) and rule 89 (4B) of CGST Rules:

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

The Law Committee also recommended that after the proposed deletion of rule 89(4A) and 89(4B) of CGST Rules, 2017, in the cases where the benefit of concessional/exemption notifications which were specified in rule 96 (10) or rule 89 (4A) or (4B) had been availed on inputs imported or procured domestically, the refund on account of exports can be claimed through the IGST refund route under rule 96 of the CGST Rules, 2017 or as refund of accumulated Input Tax Credit (ITC) under rule 89(4) of CGST Rules.

Decision-The Council agreed with the recommendations of the Law Committee to omit rule 96(10), rule 89(4A) & rule 89(4B) and forthe consequential amendment in clause (b) of sub-rule (4B) of rule 86, clause B, clause C and clause E of sub-rule (4) of rule 89 and Explanation (a) to sub-rule (5) of rule 89 of CGST, Rules, 2017 along with proposed circular.”

(Emphasis supplied)

16. Subsequently, vide Notification dated 8th October, 2024, notifying the



Central Goods and Services Tax 2nd amendment Rules 2024 and sub-clause 10, Rule 96(10) was omitted w.e.f 8th October, 2024. The said omission reads as under:

“G.S.R... (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.

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

17. Thus, with effect from 8th October, 2024, Rule 96(10) of the CGST rules was itself omitted. Pursuant to the said omission, different High Courts had the opportunity to consider Rule 96(10) of the CGST Rules, which are summarized below:

(i) **W.P. (C) 17447/2023 Sance Laboratories Pvt. Ltd. vs. Union of India**: In the above case, the Kerala High Court had considered the constitutional validity of Rule 96(10) of CGST rules and *vide* decision dated 10th October, 2024, the Kerala High Court came to the conclusion that Rule 96(10) of CGST rules creates restrictions on obtaining refund, which are not contemplated under Section 16 of the Integrated Goods and Services Tax Act, 2017 (*hereinafter*, ‘IGST Act’). Thus, the said rule was held to be unconstitutional. The relevant portion of the said judgment are set out



below:

“ [...]

*The above comparative table clearly indicates that the working of Rule 96(10) of the CGST Rules as presently worded creates a restriction not contemplated by Section 16 of the IGST Act, on the right to refund. Therefore, I am constrained to hold that **Rule 96(10) of the CGST Rules as presently worded is ultra vires the provisions of Section 16 of the IGST Act, it is 'manifestly arbitrary' as the term is to be understood in the light of the law laid down in Shayara Bano (supra) and the provision as it stands today produces absurd results, not intended by the Legislature.***

15. After this judgment was dictated (to the above extent), it was brought to my notice by the learned Standing Counsel appearing for Central Revenue that the problems associated with the working of Rule 96(10) of the CGST Rules are engaging the attention of the GST Council. Today, when these writ petitions are taken up again, it is brought to my notice that notification No.20/2024-Central Tax, dated 08-10-2024, has now been issued deleting the provisions of Rule 96(10) of the CGST Rules w.e.f. 08-10-2024. However, it is noticed that the notification is prospective and does not deal with cases where the refund of IGST has either been denied or is proposed to be denied on account of the provisions contained in Rule 96(10) of the CGST Rules. Therefore, notwithstanding the deletion of Rule 96(10) w.e.f. 08-10-2024, it falls upon this Court to declare upon its validity for the prior period.

Having regard to the findings rendered in this judgment these Writ Petitions will stand allowed as follows:-

(i) Rule 96(10) of the CGST Rules, as inserted by notification No.53/2018-CT dated 09-10-2018 w.e.f. 23-10-2017 is declared ultra vires the provisions of Section 16 of the IGST Act and unenforceable on account of being



manifestly arbitrary;

(ii) As a consequence of the above declaration, any action that has been initiated by the issuance of a show cause notice or otherwise or has culminated in an order against the petitioners in these writ petitions on the basis of the provisions contained in Rule 96(10) of the CGST Rules, as inserted by notification No.53/2018-CT dated 09-10-2018 w.e.f. 23-10-2017, will stand quashed;

(iii) It is directed that no proceedings shall be taken to recover any IGST that has been refunded to the petitioners in these writ petitions by applying the provisions of Rule 96(10) of the CGST Rules for the period between 23-10-2017 and 08-10-2024:

(iv) In cases where orders have been issued by the Adjudicating Authority including on issues other than those arising out of the application of Rule 96(10) of the CGST Rules, the person aggrieved may file appeals against such orders and on such issues other than those arising out of the application of Rule 96(10) of the CGST Rules within a period of two weeks from the date of receipt of a certified copy of this judgment. Since these Writ Petitions have been pending before this Court along with interim orders of protection such appeals shall be deemed to have been fled on time provided they are fled within the time permitted;

(v) In cases where a show cause notice has been issued, on issues other than those arising under Rule 96(10) of the CGST Rules, the petitioners shall file their replies in response to such notices within a period of two weeks from the date of receipt of a certified copy of this judgment and all issues other than those arising out of the application of Rule 96(10) of the CGST Rules shall be adjudicated by the proper officer.”

(Emphasis supplied)



(ii) **WPA No. 3254/2025- Glen Industries Pvt. Ltd. vs. Deputy Director, DGGI:**

Then, the High Court of Calcutta *vide* decision dated 26th March, 2025 has also granted an interim order after following the decision in ***Kolhapur Canesugar Works Ltd. and Another vs. Union of India and Others. (2000) 2 SCC 536***, in the following terms:

“11. Having regard thereto, in my view, the said provision of rule 96(10) being omitted unconditionally, without a saving clause in favour of the pending proceedings, all actions from the date of such omission of the rule must stop. Having regard thereto, I find that there was no scope for the respondent no. 2 to pass any order by invoking the provisions of rule 96(10) of the said rules after the same was omitted on 8th October, 2024 without a saving clause in favour of the pending proceeding. Having regard thereto, and the petitioners having made out a prima facie case, the order impugned shall remain stayed till disposal of the writ petition.”

(iii) **W.P.(MB)No. 103/2025 M/s Sri Sai Vishwas Polymers vs. UOI:**

Thereafter, Id. Division Bench of the High Court of Uttarakhand, *vide* its decision dated 30th April, 2025 considered the omission of Rule 96(10) of CGST rules from the statute book and observed as under:

“8. The next question that falls for consideration in the instant case is whether respondent no. 2 was at all competent to pass an order subsequent to the omission of the concerned rule. Admittedly, the Rule 96 (10) of CGST Rule, 2017 was omitted from the statute book on 8th October, 2024 and the order impugned was passed on 30th January, 2025.

9. Having regard to the judgment delivered in the case of



Kolhapur Canesugar Works Ltd. (supra), it would transpire that the effect of omission of rule from the statute book is different from the effect of substitution of rule and the effect of amendment of a statute which is saved by a saving clause. It appears that the Hon'ble Supreme Court having noted the provisions of Section 6 of the General Clauses Act, 1897, had come to a finding that the exception contained in Section 6 of the General Clauses Act applies where any Central Act or Regulation made after commencement of the General Clauses Act repeals any enactment. It is not applicable to omission of a "rule". The Hon'ble Supreme Court had also observed that normal effect of repealing of a statute or deleting a provision is to obliterate it from the statute book subject to the exception engrafted in Section 6 of the General Clauses Act. If, however, a provision of a statute is unconditionally omitted without a saving clause in favour of pending proceeding, all actions must stop where the omission finds them, and if the 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 past largely depend upon the savings applicable. In a case where a particular provision is omitted and in its place another provision dealing with the same contingency is introduced without the saving clause in favour of the 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. In the instant case, no new rule has been incorporated. On the contrary, rule 96(10) of CGST Rule, 2017 has itself been omitted from the statute book without any saving clause, at least the parties at this stage have not been able to show anything to the contrary.



10. Having regard thereto, in our view, the said provision of rule 96(10) of CGST Rule, 2017 being omitted unconditionally, without a saving clause in favour of the pending proceedings, all actions from the date of such omission of the rule must stop. Having regard thereto, we find that there was no scope for the respondent no. 2 to pass any order by invoking the provisions of rule 96(10) of CGST Rule, 2017 after the same was omitted on 8th October, 2024 without a saving clause in favour of the pending proceeding. Having regard to the above observations, we deem it appropriate to allow the writ petition and set aside the order dated 03.02.2025 passed by respondent no.2.”

(Emphasis supplied)

(iv) Addwrap Packaging Pvt. Ltd. vs. Union of India, (2025) 31 Centax 274 (Guj.):

The Division Bench of the Gujarat High Court by decision dated 13th June, 2025 held as under:

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

204. By Notification No.20/2024 Rules, 2024 have been notified and as per Rule 10 of the said Rules, Rule 96(10) of



the CGST Rules has been omitted with prospective effect. This would give rise to three situations, firstly, whether the same would be applicable retrospectively, or secondly, prospectively or thirdly, same would be applicable prospectively but also to "pending proceedings". As discussed here-in-above, Rule 10 of Rules, 2024 is applicable prospectively and the same also would be applicable to pending proceedings.

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

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

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

208. The petitions therefore succeed in view of applicability of Notification No.20/2024 whereby Rule 96(10) is omitted and the said Notification would be applicable to all the pending proceedings/cases as on 8th October, 2024. The impugned show cause notices and the orders-in-original are therefore, quashed and set aside. The petitioners are



therefore, entitled to maintain refund claims for IGST paid for the export of goods as per Rule 96 of the CGST Rules, 2017 in accordance with law.

209. Civil Applications also stand disposed off.

210. Rule is made absolute to the aforesaid extent. No order as to costs.”

(v) W.P. No. 78 of 2025 titled Hikal Limited vs. Union of India and Others and a batch of matters:

Lastly, the Id. Division Bench of Bombay High Court, by a detailed judgment dated 11th September, 2025 considered all the issues that arise under Rule 96(10) of the CGST Rules. The Bombay High Court, after a detailed discussion, came to the conclusion that Section 6 of the General Clauses Act, 1897 would not be applicable to save an omitted rule. The relevant portion of the decision reads as under:

“47. 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.

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59. From the above, it is indisputable that the impugned rules stand deleted. The only dispute revolves around the scope of such omission or repeal. The Petitioners contend that any savings clause did not back such omission or repeal, and therefore, the common law principle regarding



repeals obliterating the repealed provision from the statute book or rule book would apply. The Respondents admit the omission or repeal but contend that the common law rule would not apply because pending proceedings have been expressly saved.

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65. 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".

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82. 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.

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

123. 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 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.

124. 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.”

(Emphasis supplied)

18. A conjoint reading of all the judicial precedents set out above leads to the following conclusions:

- (i) In the 54th meeting of the GST Council, the recommendation made is relevant, as it clearly observed that Rule 96(10) of CGST Rules leads to unnecessary complication, without any intended benefit and therefore the omission was recommended.
- (ii) Rule 96(10) of the CGST rules has been omitted with effect from 8th October, 2024 upon the recommendations of the GST Council in its 54th meeting. The Kerala High Court in ***Sance Laboratories Pvt. Ltd (Supra)*** has considered the constitutional validity of Rule 96(10) of the CGST rules and has held that, if permitted to stand, the constraints placed upon IGST refunds under Rule 96(10) would run contrary to the provisions of the IGST Act, especially Section 16 of the IGST Act. As evident from the above, the said omission of the said Rule has also been considered by all the



other High Courts in above mentioned decisions.

(iii) Additionally, various High Courts through the above mentioned decisions, have held that following the decision of the Supreme Court in *Kolhapur Canesugar Works (Supra)*, Rule 96(10) of the CGST rules having been omitted from the Statute, it would also apply to all pending proceedings. The Bombay High Court while considering the same has held that unless and until the transactions have *passed and closed*, the benefit of omission of Rule 96(10) of the CGST rules has been extended.

(iv) All pending SCNs, orders and even appeals filed against orders would not be *transactions passed and closed* and therefore, the proceedings cannot continue under Rule 96(10) of the CGST rules. The benefit of omission of Rule 96(10) of the CGST rule sought to be extended to all pending proceedings including appeals.

19. Applying the above legal principles to the facts and circumstances of the present writ petitions, the following observations are made:

(i) In *W.P. (C) 3154/2023*, the case is only at the stage of summons and therefore the proceedings deserve to be quashed including the summons. Thus, no proceedings can continue under Rule 96(10) of the CGST rules against the Petitioner.

(ii) In *W.P. (C) 10687/2023*, the SCN and all subsequent orders emanating therefrom which were passed in the said matter shall also stand quashed. Moreover, as the Petitioner is already in the process of filing the appeal against the order and the additional 10% pre-deposit has already been made by the Petitioner.

(iii) In *W.P.(C) 3165/2023*, the SCN and proceedings emanating



from the SCN stand quashed.

20. Accordingly, all writ petitions are allowed in the above terms. The writ petitions are disposed of.

PRATHIBA M. SINGH
JUDGE

SAURABH BANERJEE
JUDGE

NOVEMBER 20, 2025/kp/sm