HC-KAR

NC: 2026:KHC:60054-DB
WA No. 1101 of 2026

CNR: KAHC010243502026

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 28TH DAY OF OCTOBER, 2026**

**PRESENT**

**THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE**

**AND**

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

**WRIT APPEAL NO. 1101 OF 2026 (T-RES)**

**BETWEEN:**

1. COMMISSIONER/ADDITIONAL COMMISSIONER OF CENTRAL TAX
1ST FLOOR, BMTC BUS STAND
KANAKAPURA ROAD
BANASHANKARI
BANGALORE
KARNATAKA - 560 070

2. DEPUTY COMMISSIONER OF CUSTOMS
IGST REFUND INLAND CONTAINER DEPOT
WHITFIELD
BENGALURU - 560 066

Digitally signed by AMBIKA H B
Location: High Court of Karnataka

3. JOINT COMMISSIONER OF CUSTOMS
IGST REFUND INLAND CONTAINER DEPOT
WHITEFIELD
BENGALURU -560 066

4. DIRECTORATE GENERAL OF FOREIGN TRADE
6TH FLOOR, C & E WING
5TH BLOCK, KENDRIYA SADAN
17TH MAIN ROAD
BENGALURU - 560 034

5. THE UNION OF INDIA
THROUGH ITS REVENUE SECRETARY

DEPARTMENT OF REVENUE
MINISTRY OF FINANCE
128-A/NORTH BLOCK
NEW DELHI - 110 001

…APPELLANTS

(BY SRI ARAVIND V. CHAVAN, ADVOCATE)

**AND:**

1. M/S. INDIA AGRO EXPORTS PRIVATE LIMITED
GSTIN-29AABCI3254LIZC
SY.NO.471AA AND 48/1
YEDUMUDU VILLAGE
HORHALLI HOBLI
KANAKAPURA TALUK
BANGALORE - 562 112

…RESPONDENT

(BY SRI P.B. HARISH, ADVOCATE)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER PASSED BY THE LEARNED SINGLE JUDGE IN WP NO.20792/2021 (T-RES), DATED 09.12.2025 & ETC.

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

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

## ORAL JUDGMENT

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

1. The Revenue has filed the present appeal impugning an order dated 09.12.2025 [**impugned order**] passed by the learned Single Judge in Writ Petition No.20792/2021 (T-RES). The

respondent had filed the said petition *inter alia* praying that directions be issued to the proper officer to sanction the refund following the procedure under Rule 96(3) of the Central Goods and Services Tax Rules, 2017 [**CGST Rules**]. The respondent had also impugned the letters dated 08.02.2021 and 05.03.2021 whereby its refund had been withheld.

2. A plain reading of the said letters indicated that the refunds had been withheld on account of Rule 96(10) of the CGST Rules.

3. This Court is informed that Rule 96(10) of the CGST Rules was deleted by a notification dated 08.10.2024. However, one of the questions that arose in the said context was whether the deletion would be applicable retrospectively.

4. Whilst the respondent argued that the notification is retrospective, the Revenue contended that the deletion of Rule 96(10) of the CGST Rules is prospective.

5. The learned Single Judge following an earlier decision of this Court in **M/s. Hikal Limited v. Union of India and Others**[1] passed

[1] Writ Petition 15251/2020 dated 09.12.2025

in W.P No.15251/2020 directed that the refund due to the respondents be processed.

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

> "7. The Constitution Bench decision applies squarely in the above case. We may also observe that even going by the recommendations as extracted hereinabove, sub-rule (10) of Rule 96 was omitted because it was '*leading to unnecessary complications without any intended benefit being served' (sic)*. As fairly submitted by the learned ASG the legislature has not brought in any saving clause or a sunset clause, when sub-rule (10) of Rule 96 was omitted. The recommendation that the omission should be prospective is also advisory in nature and does not bind the rule making authority. The intention to omit

[2] 2026 SCC OnLine SC 1523
[3] (2000) 2 SCC 536

> the rule without any saving clause was to bring to an end, the unnecessary complications once and for all and the intention cannot be to keep alive the unnecessary complications insofar as the pending proceedings are concerned."

7. The Central Board of Indirect Tax and Customs has also issued a clarification dated 26.10.2026 *inter alia* stating as under:

> "6. In view of this decision of the Hon'ble Supreme Court, it is hereby clarified that the said omission of rule 96(10) of the CGST Rules will be effective retrospectively from 23.10.2017. Accordingly, the field formations are advised to deal with pending proceedings concerning rule 96(10) in accordance with the said judgment. It may also be noted that such a treatment shall apply, *mutatis mutandis,* in respect of omission of rules 89 (4A) and 89 (4B) as well."

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

9. The pending interlocutory application also stands disposed of.

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

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

AHB
List No.: 1 Sl No.: 11