03
15.09.2026
Court No. 10
AGM

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 3254 of 2025

M/s. Glen Industries Private Limited & Anr.
-versus
The Deputy Director, Directorate General of GST Intelligence, Kolkata Zonal Unit & Ors.

Mr. Ankit Kanodia.
Ms. Megha Agarwal.
Mr. Shovan Ojha.
Ms. Tulika Roy.
...For the Petitioners.

Mr. Bhaskar Prosad Banerjee.
Mr. Tapan Bhanja.
Mr. Gourab Karmakar.
... for the DGGI Authority.

Mr. Uday Shankar Bhattacharya.
Ms. Ekta Sinha.
... for the CGST Authorities.

Mr. Soumen Bhattacharya.
... for the Union of India.

1. The core issue involved herein pertains to the illegal and unsustainable claim raised by the respondents against the petitioners on the premise, that the petitioners have acted in contravention of the provisions of Rule 96 (10) of the CGST/WBGST Rules, 2017 despite the said Rule having been omitted unconditionally with effect from 8th October, 2024 vide Notification No. 20/2024-Central Tax, without any saving clause.

2. Learned counsel appearing for the petitioners submit that the issue involved in the present writ petition is no longer res Integra and stands concluded by the Hon'ble Supreme Court as observed in paragraph nos. 6 to 9 in the case of **M/s Goodluck India limited & Anr. –Versus- Union of India & Ors** in **Special Leave Petition (C) No. 24550 of 2025 wherein the Hon'ble Apex Court relying upon the constitution bench decision in Kolhapur Canesugar Works Ltd. Vs. Unon of India (2000) 2 SCC 536,** has categorically held that upon omission of a provision without any saving clause the provision ceases to exist in the eye of law and no proceedings can be initiated or continued on the basis thereof. Relevant extracts of Paragraphs 6 to 9 of the said judgment are herein below for ready reference:

> *"6. It has held by the Constitution Bench that if on omission of a rule, there was a provision for continuance of the proceedings already initiated or if by incorporation of a provision in the statute there was a legal device adopted, creating a fiction by virtue of which proceedings under the omitted rule could be continued; only then proceedings initiated under the omitted rule could be continued.*
>
> *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 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.

8. We find no good reason to interfere with the well-reasoned judgment of the High Court. We are told that there are many proceedings pending before the various High Courts and conflicting decisions have also been passed. We hope that such proceedings would get closure with this judgment.

9. The Registry is directed to send a copy of this order to all the High Courts. The Registry of the High Courts will ensure that the cases relating to the subject issue of omission of Rule 96(10) would be placed before the Courts having roster, after taking appropriate orders from the Hon'ble Chief Justice of the respective High Courts, expeditiously to bring quietus in the subject litigation."

3. It is further submitted on behalf of the petitioners that the Central Board of Indirect Taxes and Customs have already accepted the declaration of law laid down by the Hon'ble Supreme Court in the case of **M/s Goodluck India limited & Anr.** (supra) and has issued Office Memorandum dated 24.08.2026 instructing the field formations not to initiate or pursue proceedings based upon the omitted Rule 96(10). A copy of the Memorandum dated 24.8.2026 is kept on record.

4. Learned counsel appearing for GST Authorities files Affidavit-in-Opposition to the writ petition and the same is taken on record. It is submitted that the respondents have acted in accordance with law as prevailing at the relevant point of time.

5. Having heard the parties and upon perusing the materials available on record this Court has taken a judicial notice of the judgment of the Hon'ble Supreme Court in the case of **M/s Goodluck India limited & Anr.** (supra) and the office memorandum dated 24.08.2026 issued by the Central Board of Indirect Taxes. This court is of the considered view that in the light of the judgment dated 6th August, 2026 passed in the case of **M/s Goodluck India limited & Anr.**

(Supra), the show cause notice dated 09.01.2024 issued under Section 74 of the CGST Act, 2017 for the period from July 2017 to March 2021, along with the consequential orders dated 30.01.2025 passed in pursuance thereof, which are founded solely upon the omitted Rule 96(10) are hereby quashed and set aside.

6. With the above observations the writ petition being WPA 3254 of 2025 is disposed of.

7. Urgent Photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Smita Das De, J.)