

Rule 96(10) Export Refund Restriction Treated as Omitted Retrospectively from 2017 (2026): Circular No. 264/10/2026-GST

Description

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Quick summary

- Circular No. 264/10/2026-GST, dated 26/10/2026, clarifies that Rule 96(10) of the CGST Rules - omitted prospectively from 08/10/2024 - is now to be treated as having applied only up to that date and never before, following the Supreme Court's ruling in M/s Goodluck India Limited.
- Rule 96(10) had barred exporters who availed concessional or exemption notifications on their inputs from also claiming IGST refund on export, and was itself omitted from 08/10/2024 to ease genuine difficulty flagged at the 54th GST Council meeting.
- The Supreme Court held that because the 2024 omission carried no saving or sunset clause, the restriction cannot be enforced in any proceeding pending as on the date of omission - relying on the Constitution Bench ruling in Kolhapur Canesugar Works that a plain "omission" of a rule, unlike a repeal, does not keep old proceedings alive under section 6 of the General Clauses Act.
- CBIC now directs field formations to apply this retrospectively from 23/10/2017, the date Rule 96(10) first came into force - so pending demands, recoveries or denials of refund resting on Rule 96(10) must be dealt with in line with the Supreme Court's ruling.
- The same treatment applies to the omission of rules 89(4A) and 89(4B), which carried the same kind of input-side restriction on refund computation.

A rule that is "omitted" rather than formally repealed raises a genuinely tricky legal question: does it stop applying only from the day of omission, or does its earlier existence stop mattering altogether, even for cases already underway? Circular No. 264/10/2026-GST, dated 26 October 2026, settles this for Rule 96(10) of the CGST Rules by following a Supreme Court ruling delivered just months earlier.

New to terms such as "saving clause" or "sunset clause"? See the technical terms explained in simple words further down.

At a glance

- **Circular:** No. 264/10/2026-GST, GST Policy Wing, CBIC, dated 26 October 2026.

- **Issued under:** section 168(1) of the CGST Act.
- **Rules involved:** Rule 96(10) of the CGST Rules (in force 23 October 2017, omitted 8 October 2024), and by extension rules 89(4A) and 89(4B).
- **Follows:** the Supreme Court's judgment dated 6 August 2026 in SLP (Civil) No. 24550 of 2025, *M/s Goodluck India Limited & Anr. v. Union of India & Ors.*

What Rule 96(10) did, and why it was removed

Rule 96(10) barred an exporter from claiming an **IGST refund on export of goods** if the exporter had also availed the benefit of specified **concessional or exemption notifications on the inputs** used for those goods - the idea being to prevent a double benefit (tax-free inputs, and a refund on the output too).

In practice, this created genuine difficulty for exporters, flagged at the **54th GST Council meeting held on 9 September 2024**. The rule was accordingly **omitted prospectively with effect from 8 October 2024**, via the CGST (Second Amendment) Rules, 2024 (Notification No. 20/2024-Central Tax).

The question this circular resolves

The 2024 omission was prospective in wording - it removed the restriction going forward. That left open whether proceedings **already pending** as on 8 October 2024, involving demands or refund denials resting on Rule 96(10) for earlier periods, could still be enforced. Courts had started ruling on this, and field officers and taxpayers alike needed a uniform answer.

The Supreme Court's ruling in M/s Goodluck India Limited

In its judgment dated **6 August 2026**, the Supreme Court held that:

- Since the omission of Rule 96(10) carried **no saving clause or sunset clause** preserving its application to pending matters, the omission applies to **all proceedings pending as on the date of omission**.
- This follows the Constitution Bench ruling in ***Kolhapur Canesugar Works Ltd. v. Union of India*** [(2000) 2 SCC 536], which held that **section 6 of the General Clauses Act, 1897 does not apply to the omission of a rule** (as distinct from its repeal). Pending proceedings survive an omission only where there is an express provision for their continuance, or some other legal device built into the statute or rules to preserve them.
- Rule 96(10)'s omission had neither, so it is to be read as if the restriction simply **ceases to bind pending proceedings**.

What "retrospective from 23.10.2017" means in practice

Following this ruling, the circular directs that the omission of Rule 96(10) is to be treated as applying **retrospectively from 23 October 2017** - the date the rule first came into force. Field formations are instructed to deal with **pending proceedings concerning Rule 96(10)** in line with the Supreme Court's decision, meaning the restriction can no longer be enforced in matters still open as on the date of omission.

The same treatment extends to rules 89(4A) and 89(4B)

The circular explicitly states that this treatment applies, **mutatis mutandis**, to the omission of **rules 89(4A) and 89(4B)** of the CGST Rules as well - both of which carried similar input-side restrictions bearing on refund computation.

How CSM & Co LLP can help

If a refund claim or demand is still open and was decided against the exporter on the strength of Rule 96(10), rule 89(4A) or rule 89(4B), this circular may be directly relevant to reopening or defending that position - please reach out to our team and we will be happy to assist with a review.

Technical terms explained in simple words

Term	What it means
Rule 96(10)	A CGST Rules provision, in force from 23/10/2017 to 08/10/2024, that denied an IGST export refund where the exporter had also availed a concessional or exemption notification on its inputs.
Omission (of a rule)	Removing a rule from the rulebook, as opposed to a “repeal” - a distinction that matters because old proceedings are not automatically preserved after a plain omission.
Saving clause / sunset clause	A provision specifically stating that something withdrawn still continues to apply to matters already in progress, or until a stated date.
Section 6, General Clauses Act, 1897	A provision that normally keeps earlier rights and pending proceedings alive after a repeal - held by the Supreme Court not to apply automatically to a mere omission of a rule.
Pending proceedings	A dispute, demand, refund claim or appeal that has not yet reached a final, concluded decision as on a given date.

Frequently asked questions

What did Rule 96(10) of the CGST Rules restrict?

Rule 96(10), in force from 23 October 2017, barred an exporter who had availed benefit under specified concessional or exemption notifications on its inputs from also claiming an IGST refund on the export of goods made using those inputs - intended to prevent a double tax benefit.

When was Rule 96(10) itself withdrawn, and why does the date matter?

It was omitted with effect from 8 October 2024, after the 54th GST Council meeting flagged genuine difficulty exporters were facing because of the restriction. The question this circular answers is whether

that 2024 omission also wipes out the restriction for the years before 2024, or only going forward.

What did the Supreme Court decide in M/s Goodluck India Limited?

The Supreme Court held that because the October 2024 omission of Rule 96(10) carried no saving clause or sunset clause preserving old cases, the restriction cannot be applied to any proceeding that was still pending as on the date of the omission - effectively treating the rule as if it had never applied to those pending matters.

Why does an “omission” of a rule matter differently from a “repeal”?

The Supreme Court relied on its Constitution Bench ruling in Kolhapur Canesugar Works Ltd v. Union of India, which held that section 6 of the General Clauses Act - the provision that normally keeps old proceedings alive after a repeal - does not apply to the mere omission of a rule. Without an express saving provision, an omitted rule simply stops applying, including to matters already in progress.

Does this circular’s clarification apply to any other rules besides Rule 96(10)?

Yes. The circular states that the same treatment applies, with necessary modification, to the omission of rules 89(4A) and 89(4B) of the CGST Rules, which carried similar input-side restrictions relevant to refund computation.

Official sources

- CBIC - GST Circulars (CGST)
- GST Portal

Related reading

- 57th GST Council Meeting (October 2026): Arrest Powers Removed, Faster Refunds and Wider ITC

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