

M/s BirlaNu Limited (registered as ISD unit) v. Union of India and 3 others

Case number: Writ Petition No. 14564 of 2024

Citation: No neutral or reported citation is printed in the official judgment PDF.

Decision date: 30 December 2025

ISD same-month credit distribution: pre-April 2025 rule struck down to a limited extent; Supreme Court challenge pending in latest reviewed order

Court: Telangana High Court

Bench: Hon'ble Chief Justice Sri Aparesh Kumar Singh and Hon'ble Sri Justice G.M. Mohiuddin

Decision stage: Final High Court merits disposal; subsequently challenged in Supreme Court SLP(C) No. 21260/2026 (Diary No. 26500/2026).

01 Facts of case and issues

BirlaNu was registered as an Input Service Distributor (ISD). In an audit covering FY 2017–18 and FY 2018–19, the Department objected that credit accumulated during each financial year had been distributed in its final month rather than month by month. It relied on Rule 39(1)(a), which required credit available for distribution in a month to be distributed in that month.

The final audit report dated 22 January 2024 was followed by a show-cause notice dated 30 January 2024 proposing a penalty of Rs. 8,38,67,332 under Section 122(1)(ix). BirlaNu challenged the same-month requirement and the resulting proceedings. The Court framed issues concerning the pre-1 April 2025 version of Section 20, delegated legislative authority, natural justice, limitation and alternative remedy.

Pinpoint: Official High Court PDF physical pp. 4–5, paragraphs 2–3; physical pp. 6–9, paragraphs 4–6. Judgment text begins at physical p. 4; printed judgment p. 2 is physical p. 5.

02 Discussion by Hon'ble Court

The Court distinguished judicial review of delegated authority from disagreement with fiscal policy. Before 1 April 2025, Section 20 authorised prescription of the manner of credit distribution but contained no express or implied authority for a limitation period that could extinguish entitlement. Reading “manner” as permitting such a substantive restriction would exceed that delegation. General rule-making power under Section 164 could implement the Act, but could not create restrictions absent from it. The Court relied on delegated-legislation authorities including *Sales Tax Officer v. K.I. Abraham* and *Global Energy Ltd.*

It considered route-based denial of otherwise lawfully availed credit arbitrary, discussing Articles 14 and 300-A. These observations concerned legitimately accrued credit; they did not dispense with the statutory conditions for obtaining credit in the first place.

The audit also failed natural justice. Reasonable time sought to assemble older records was refused; objections were finalised and put before the monitoring committee without a hearing. The Court found non-compliance with paragraph 5.13 of the CBIC GST Audit Manual 2019. On this record, it also treated the notice as beyond ordinary Section 73 limitation and rejected the Section 74 suppression ground because

02 Discussion by Hon'ble Court

the distribution details had been disclosed in GSTR-6 and were available to the Department. The vires challenge and procedural violations justified writ jurisdiction despite the objection that BirlaNu should answer the notice.

Pinpoint: Official High Court PDF physical pp. 10–16, paragraphs 8–20 (delegation and constitutional reasoning); physical pp. 16–18, paragraphs 21–26 (hearing, limitation and maintainability).

03 Judicial decision and operative relief

The writ petition was allowed. Paragraph 27(i) struck down Rule 39(1)(a) only to the extent that it mandated distribution in the same month, declaring that requirement ultra vires Section 20. Read with the issue and reasoning, this adjudication concerns the statutory framework before 1 April 2025. It does not invalidate every part of Rule 39.

The final audit report, show-cause notice and all consequential proceedings were quashed. BirlaNu was permitted to claim refund of any amount deposited in connection with those proceedings in accordance with law. The Court did not quantify a refund, grant interest, fix a payment deadline or order a remand. Pending miscellaneous petitions were closed; no costs were awarded.

Pinpoint: Official High Court PDF physical p. 19, paragraph 27(i)–(ii) and concluding directions; temporal scope: paragraph 6(I), physical p. 9, and paragraphs 9, 11 and 17, physical pp. 10–11 and 14–15.

04 In favour of

The taxpayer, BirlaNu, on final disposal in the High Court; that result is under Supreme Court challenge, and refund remained claim-based under law.

This was substantive relief against the challenged rule requirement and proceedings, rather than interim protection or a fresh-hearing remand. The Supreme Court's official order of 29 May 2026 condoned delay and issued notice. Its latest order reviewed, dated 24 September 2026, adjourned SLP(C) No. 21260/2026 to 20 November 2026. Neither reviewed order grants a stay or decides the merits; this does not certify the absence of any other order.

Pinpoint: High Court paragraph 27, physical p. 19; Supreme Court official ROPs dated 29 May 2026 and 24 September 2026, physical p. 1 each, operative directions.

05 AKHB REVIEW POINT

AKHB analysis: For historical ISD disputes, separate eligibility to avail credit from the timing and allocation of its distribution. Preserve invoice-level eligibility, recipient allocation, GSTR-6 disclosure and audit correspondence; identify exactly which demand or penalty depends on the invalidated same-month condition. A refund request should connect each deposit to the quashed proceedings.

The statutory date is decisive. Section 20 was substituted with effect from 1 April 2025 and now expressly authorises prescribed time limits. The substituted Rule 39(1), effective that day, retains the same-month requirement. This judgment should therefore not be used as blanket permission to delay present-day ISD distribution.

Likewise, its case-specific limitation finding is not a universal deadline calculator: the judgment does not set out a complete analysis of annual-return dates and extension notifications. Check those separately. Before reliance, obtain the latest Supreme Court orders in SLP(C) No. 21260/2026 and distinguish notice or adjournment from a decision affirming the High Court.

Pinpoint: AKHB commentary based on High Court paragraphs 6, 9–20 and 21–27; official Section 20 and Notifications 16/2024-CT, 12/2024-CT and 09/2025-CT; Supreme Court ROPs identified below. Practical actions and limits are analysis.

Sources and limitations

Relevant provisions

CGST Act 2017: Sections 20 (pre-1 April 2025 version), 73, 74, 122(1)(ix), 164; CGST Rules 2017: Rule 39(1)(a); Constitution: Articles 14, 226 and 300-A. Sections 16 and 17 appear in the petitioner's eligibility submissions.

Statutory note

Decision-period law is distinct from current law: Finance Act 2024, section 12 substituted CGST section 20 from 1 April 2025, under Notification 16/2024-CT. Amending rule 8 of Notification 12/2024-CT substituted Rule 39(1), retaining same-month distribution; Notification 09/2025-CT commenced that amendment on 1 April 2025. The judgment does not adjudicate the validity of that amended delegation.

Treatment note

Status checked on 12 October 2026: Supreme Court challenge confirmed by official ROPs dated 29 May and 24 September 2026. The latter lists SLP(C) No. 21260/2026 for 20 November 2026. Neither of those two orders grants a stay; no exhaustive docket or citator certification is made. This note reports the High Court judgment historically and does not represent its rule as finally settled.

Scope of source review

All 20 physical PDF pages individually read and visually checked: administrative caption/prayer/counsel sheets (pp. 1–3), complete judgment (pp. 4–19; paragraphs 1–27), and dated disposal endorsement (p. 20).

Source notes

Physical page numbering is used throughout. The source's awkward expression "March 2018-2019" is paraphrased as final-month distribution in each audited year. Visible original paragraphs 2 and 3 both state Rs. 8,38,67,332; the OCR variation Rs. 8,38,67,392 is rejected. No additional holding concerning GSTR-6A is inferred from paragraph 4(iv), which records a submission.

Primary source

Source description: Complete issuing-court judgment PDF, with separately checked Supreme Court procedural orders.

Official source: [Open source document](#)

Source pages: 20

Outcome type: final high court merits

Additional source

Supreme Court of India, SLP(C) Diary No. 26500/2026, 29 May 2026

Official source: [Open source document](#)

Pinpoint: Official ROP p. 1, operative directions. Delay condoned; notice issued returnable 11 September 2026; counter and rejoinder timelines. No stay direction in this reviewed order.

Supreme Court of India, SLP(C) No. 21260/2026, 24 September 2026

Official source: [Open source document](#)

Pinpoint: Official ROP p. 1, operative directions. Adjourned at respondent's request; re-list on 20 November 2026. No merits determination or stay direction in this reviewed order.

CBIC Section 20, consolidated text and amendment footnotes

Official source: [Open source document](#)

Pinpoint: Current Section 20(2) expressly authorises prescribed time limits; compare the former section reproduced in High Court paragraphs 11–12.

Notification 16/2024-Central Tax, 6 August 2024

Official source: [Open source document](#)

Pinpoint: Clause (b): Finance Act 2024 sections 11 and 12 effective from 1 April 2025.

Notification 12/2024-Central Tax, 10 July 2024

Official source: [Open source document](#)

Pinpoint: Amending rule 8, physical p. 2: substituted Rule 39(1)(a) retains same-month distribution.

Notification 09/2025-Central Tax, 11 February 2025

Official source: [Open source document](#)

Pinpoint: Table serial 2: amending rule 8 of Notification 12/2024-CT effective from 1 April 2025.

CBIC Rule 39, consolidated text and amendment history

Official source: [Open source document](#)

Pinpoint: Current Rule 39(1)(a), read with the substitution and commencement notifications.

Disclosures and source rights

AI disclosure: Prepared with AI assistance from the complete official High Court judgment and identified official legal sources. No human legal review is claimed.

General disclaimer: For professional information only; not legal advice. Read the complete judgment, applicable statutory version and subsequent court orders, and obtain case-specific professional advice before acting.

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Source checked: 12 October 2026