

The State of Telangana & Ors. v. M/s Tirumala Constructions

Case number: Civil Appeal No. 1628 of 2023 and connected appeals/SLPs listed on the judgment cover; Maharashtra assessee appeals identified in paragraph 117 as Civil Appeal Nos. 2730-2733 of 2023 and SLP (C) No. 7776 of 2023

Citation: 2023 INSC 942

Decision date: 2023-10-20

GST constitutional transition and legacy VAT: legislative competence to enact post-transition amendments

Court: Supreme Court

Bench: S. Ravindra Bhat and Aravind Kumar, JJ.; judgment by S. Ravindra Bhat, J.

Decision stage: Final common judgment dismissing Telangana/Gujarat State appeals and allowing Maharashtra assessee appeals

01 Facts

Three batches concerned amendments to pre-GST State VAT legislation after the constitutional transition to GST. Telangana's ordinance of 17 June 2017 extended relevant limitation periods from four to six years; the later State enactment was brought into force on 2 December 2017. The Telangana High Court invalidated the measure, and the State appealed. Gujarat introduced section 84A in 2018 with effect from 1 April 2006, excluding specified litigation periods when computing revision limitation and thereby enabling reopening otherwise out-of-time assessments. The Gujarat High Court invalidated it, and that State appealed. Maharashtra had introduced a 10% disputed-tax pre-deposit condition in April 2017. After the Nagpur Bench held it inapplicable to an earlier-started lis, Maharashtra used a March 2019 ordinance and the enactment of 9 July 2019 to insert a retrospective explanation. A Bombay High Court Full Bench upheld that measure, and the assessee appealed. The central questions were the status and scope of section 19 of the 101st Amendment, the duration of transitional legislative power, whether an earlier ordinance saved Telangana's later enactment, and whether retrospective effect could cure lack of competence. The underlying liabilities and credit disputes were legacy VAT matters. Their material GST connection was the constitutional transfer and transition of legislative fields.

Pinpoint: Paragraphs 1-16, PDF pages 2-11; paragraphs 22-23, pages 13-14; paragraphs 70-71, pages 34-35; detailed Gujarat/Maharashtra chronology at paragraphs 108-115, pages 57-63. Telangana operative chronology confirmed in paragraphs 105-106, pages 56-57.

02 Court Discussion

The Hon'ble Court rejected the proposition that section 19 lacked constituent force merely because it was not inserted into the body of the Constitution. It was an incidental, transitional part of a constitutional amendment enacted under constituent power. Section 19, read with Article 246A, temporarily preserved inconsistent indirect-tax laws and supplied authority to amend or repeal them while the new GST regime was being established. During that limited interval, amendment power was not confined solely to aligning old statutory wording with the amended Constitution. This finding was temporally bounded: the transitional authority lasted for the prescribed period of one year or until the new GST law was enacted, whichever intervened as applicable; in these cases the relevant GST laws took effect on 1 July 2017. Legislative competence for a retrospective enactment must exist when the enactment is made, not merely

on the earlier date to which it purports to relate. Telangana's earlier ordinance did not preserve competence to enact the December 2017 amendment. The Court applied the distinction between an ordinance's temporary effect and a law subsequently enacted by the legislature, and rejected reliance on the GST savings provision to sustain jurisdiction under the invalid measure. The Gujarat 2018 amendment and Maharashtra 2019 measure likewise could not be saved simply by retrospective operation or their claimed curative purpose. Article 246A's GST power did not sustain the challenged amendments to the former VAT regime after the transition. The Court's reasoning therefore accepts a meaningful transitional amendment power but rejects its asserted continuation beyond the relevant period. Source caution: paragraph 107 on PDF page 57 prints "are valid"; this conflicts with the immediately preceding invalidity reasoning and the explicit conclusions in paragraphs 116(iv)-117. The operative result below follows those express conclusions, without treating that isolated phrase as a separate holding or silently altering the source.

Pinpoint: Section 19's status: paragraphs 72-83, PDF pages 35-40. Scope and duration: paragraphs 90-97, pages 45-49. Telangana ordinance and savings: paragraphs 98-107, pages 50-57. Gujarat/Maharashtra: paragraphs 108-115, pages 57-63. Express conclusions: paragraph 116, page 63.

03 Decision

Paragraph 116(iv) holds that the challenged Telangana and Gujarat VAT amendments made after 1 July 2017 were correctly held void for want of legislative competence. It sets aside the Bombay High Court judgment and holds the amendment to the Maharashtra Act void to the extent that it required pre-deposit. Paragraph 117 dismisses the Telangana and Gujarat States' appeals and any other SLPs in those batches, and allows the assessee appeals against the Bombay High Court judgment, identified as Civil Appeal Nos. 2730-2733 of 2023 and SLP (C) No. 7776 of 2023. No costs were ordered. The Maharashtra holding must be read with paragraphs 114-115, which identify the retrospective 2019 explanation and its competence defect; this common judgment does not announce abolition of every VAT or GST appellate pre-deposit requirement.

Pinpoint: Paragraphs 114-117, PDF pages 61-64; explicit dispositions in paragraphs 116(iv) and 117, pages 63-64.

04 In Favour Of

Assesseees in Telangana, Gujarat and Maharashtra on the challenged post-GST-transition VAT amendments

In favour of the assessee parties in all three batches on the challenged post-transition VAT amendments. Telangana and Gujarat failed in their State appeals; the Maharashtra assesseees succeeded in setting aside the adverse High Court judgment. This is final constitutional/statutory relief concerning the validity of the measures at issue. It is not a blanket cancellation of all historical VAT liabilities, an adjudication of every underlying assessment, a GST ITC entitlement ruling or a general waiver of appellate deposits under other provisions.

Pinpoint: Paragraphs 116-117, PDF pages 63-64, read with paragraphs 105-106 and 113-115, pages 56-57 and 61-63.

05 A K H B REVIEW POINT

AKHB REVIEW POINT: For a legacy VAT reopening, revision or pre-deposit dispute, prepare a provision-by-provision chronology of the old law, constitutional change, ordinance, assent/enactment, commencement, repeal and savings clause, and the impugned notice or appeal. Separate a law's asserted retrospective commencement from the legislature's competence on the date it enacted the amendment. Match the

challenged provision to the precise State measure considered here before transferring the conclusion to another statute or period. The Court did not accept that section 19 permitted only wording changes to align existing laws; its amendment-power holding was broader but confined to the transitional interval. Preserve any independent basis supporting a historical liability and examine whether a challenged proceeding actually depends on the invalid amendment. Do not treat legacy VAT input credit in the Gujarat factual background as a CGST section 16 holding, or the Maharashtra result as dispensing with every appellate pre-deposit. When quoting this judgment, flag the contradictory wording in paragraph 107 and use the unambiguous final conclusions for the result. Obtain any authenticated correction and check later judicial treatment before relying on that passage in a filing.

Pinpoint: AKHB analysis based on paragraphs 73, 80-83, 90-97, 103-106 and 112-117; PDF pages 35-40, 45-49 and 55-64.

Sources and limitations

Relevant provisions

Constitution (One Hundred and First Amendment) Act, 2016: sections 19 and 20

Constitution of India: Articles 246A, 245, 246, 254, 269A, 279A, 366 and 368; Articles 123 and 213 concerning ordinances; amended Seventh Schedule, particularly List II Entry 54 and List I Entry 84

Telangana Value Added Tax Act, 2005: amendments to assessment/reassessment and revision limitation, particularly sections 21 and 32; Telangana GST Act, 2017, section 174 savings/repeal provision

Gujarat Value Added Tax Act, 2003: sections 75 and 84A and the 2018 retrospective amendment; Gujarat GST transition legislation

Maharashtra Value Added Tax Act, 2002: section 26(6A)-(6C), the 2017 pre-deposit amendment and 2019 retrospective explanation/validation measure

Statutory note

Historical, cross-regime scope: this case addresses the 2016-2017 constitutional GST transition and specified later amendments of State VAT legislation. It does not construe general CGST ITC eligibility, modern GST refund rules or every surviving State taxing power. Amended Entry 54 itself retains specified goods, as reproduced in paragraph 13; the conclusion about the challenged old VAT fields should not be generalized to an absence of all State taxing competence. Section 19's transitional power is discussed with its express duration; the judgment does not authorize indefinite amendment of old laws. The original has inconsistent dates/phrases in its narrative, including paragraphs 98 and 102; the note uses the repeated chronology confirmed in paragraphs 14, 23 and 105-106 and does not certify a complete independent Gazette history. No comprehensive later State statutory amendment check through 12 October 2026 has been completed.

Treatment note

Official signed judgment checked in full on 12 October 2026. A limited search did not verify an authenticated corrigendum resolving paragraph 107; absence from those results is not evidence that no correction exists. The conflicting phrase is expressly disclosed and the reported outcome is anchored to paragraphs 116(iv)-117. No comprehensive review, curative, later-judgment or State-by-State implementation check has been completed. The note does not certify that every assessment or appeal affected by the challenged provisions has since been disposed of. This AI-assisted AKHB research note is

based on identified primary material. It does not represent verified human legal review and is not a substitute for professional advice on a particular case.

Scope of source review

All 64 pages of the official signed common judgment were read, including the connected-case cover, introductory history, party submissions, complete reasoning, conclusions and signature page. The cover verifies Civil Appeal No. 1628 of 2023 and lists the connected proceedings; all belong to one common decision for counting purposes. The neutral citation is 2023 INSC 942. Page 2 identifies S. Ravindra Bhat, J. as author; page 64 verifies the bench and 20 October 2023 date. PDF page 57 was visually checked to confirm that the contradictory word “valid” in paragraph 107 is present in the source rather than introduced by extraction; page 63 was visually checked against the express invalidity conclusion. The notes preserve these source limitations and do not rely on a search snippet for the ratio.

Primary source

Source description: Supreme Court of India official signed common judgment dated 20 October 2023

Official source: [Open source document](#)

AKHB source PDF: [Open source document](#)

Judges: S. Ravindra Bhat; Aravind Kumar

Outcome type: final

Disclosures and source rights

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