2025:CGHC:51114-DB

2025:CGHC:51114-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WA No. 736 of 2025

Bharat Aluminum Company Limited Balco Plant, Balco Nagar, Korba, District - Korba (C.G.) Pin Code - 495 684. Through Its Authorised Representative - Shri Rajiv Jain, S/o Shri Bimal Kumar Jain, Aged About 40 Years, Presently Posted As - Head (Taxation), Bharat Aluminium Company Limited, Balco Plant, Balco Nagar, Korba, District - Korba (C.G.) Pin Code - 495 684

--- **Appellant**

Versus

1 - State of Chhattisgarh Through Its - Secretary, Department of Finance, Mahanadi Bhawan, Atal Nagar, Naya Raipur, District - Raipur (C.G.)

2 - Joint Commissioner (Appeals) State Tax, Bilaspur, District - Bilaspur (C.G.)

3 - Assistant Commissioner State Tax, Korba, Circle - 2, District - Korba (C.G.)

--- **Respondents**

WA No. 724 of 2025

Bharat Aluminum Company Limited Balco Plant, Balco Nagar, Korba, Distt. Korba, Chhattisgarh, Pin Code 495684. Through Its Authorised Representative Shri Rajiv Jain, S/o Shri Bimal Kumar Jain Aged About 40 Years, Presently Posted As Head (Taxation), Bharat Aluminium Company Limited, Balco Plant, Balco Nagar, Korba, Distt. Korba, Chhattisgarh, Pin Code 495684.

---**Appellant**

Versus

1 - State of Chhattisgarh Through Its Secretary, Department of Finance, Mahanadi Bhawan, Atal Nagar, Naya Raipur, Distt. Raipur, Chhattisgarh.

2 - Joint Commissioner (Appeals) State Tax, Bilaspur, Distt. Bilaspur, Chhattisgarh.

3 - Assistant Commissioner State Tax, Korba, Circle-2, Distt. Korba, Chhattisgarh.

--- **Respondents**

WA No. 714 of 2025

Bharat Aluminium Company Limited, B A L C O Plant, Balco Nagar, Korba, District - Korba Chhattisgarh Pin Code - 495684 Through Its Authorised Representative Shri Rajiv Jain, S/o Shri Bimal Kumar Jain, Aged About 40 Years, Presently Posted As Head (Taxation), Bharat Aluminum Company Limited, B A L C O Plant, Balco Nagar, Korba, District - Korba Chhattisgarh Pin Code - 495 684

---**Appellant**

Versus

1 - State of Chhattisgarh Through Its Secreary, Department of Finance, Mahanadi Bhawan, Atal Nagar, Naya Raipur, District - Raipur Chhattisgarh

2 - Joint Commissioner (Appeals) State Tax, Bilaspur, District - Bilaspur Chhattisgarh

3 - Assistant Commissioner State Tax, Korba, Circle-2, District - Korba Chhattisgarh

--- **Respondents**

WA No. 739 of 2025

Bharat Aluminium Company Limited, Balco Plant , Balco Nagar, Korba District Korba , Chhattisgarh 495684. Through- Through- Its Authorised Representative- Shri Rajiv Jain, S/o Shri Bimal Kumar Jain, Aged About 40 Years, Presently Posted As- Head (Taxation), Bharat Aluminum

2025:CGHC:51114-DB

Company Limited Balco Plant , Balco Nagar, Korba District Korba, Chhattisgarh 495684.

---Appellant

Versus

1 - State of Chhattisgarh Through The Secretary, Department of Finance , Mahanadi Bhawan, Atal Nagar (Naya Raipur), District Raipur Chhattisgarh.

2 - Joint Commissioner (Appeals) State Tax, Bilaspur, District- Bilaspur Chhattisgarh.

3 - Assistant Commissioner State Tax, Korba Circle- 2, District- Korba (C.G.).

--- Respondents

WA No. 737 of 2025

Bharat Aluminum Company Limited Balco Plant , Balco Nagar, Korba District Korba , Chhattisgarh 495684. Through- Through- Its Authorised Representative- Shri Rajiv Jain, S/o Shri Bimal Kumar Jain, Aged About 40 Years, Presently Posted As- Head (Taxation), Bharat Aluminum Company Limited Balco Plant , Balco Nagar, Korba District Korba , Chhattisgarh 495684.

---Appellant

Versus

1 - State of Chhattisgarh Through The Secretary, Department of Finance , Mahanadi Bhawan, Atal Nagar (Naya Raipur), District Raipur Chhattisgarh.

2 - Joint Commissioner (Appeals) State Tax, Bilaspur, District- Bilaspur Chhattisgarh.

3 - Assistant Commissioner State Tax, Korba Circle- 2, District- Korba (C.G.).

... Respondents

(Cause-title taken from Case Information System)

For Appellant	:	Mr. Bharat Raichandani & Mr. K. Rohan, Advocates
For Respondents	:	Mr. Rahul Tamaskar, Government Advocate

2025:CGHC:51114-DB

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Ravindra Kumar Agrawal, Judge

Judgment on Board

***Per* Ramesh Sinha, Chief Justice**

14.10.2025

1. Heard Mr. Bharat Raichandani and Mr. K. Rohan, learned counsel for the appellants as well as Mr. Rahul Tamaskar, learned Government Advocate, appearing for the State/respondents.

2. Since all these writ petitions involve a common question of law and arise out of similar facts and circumstances, the learned Single Judge, for the sake of convenience and to avoid multiplicity of proceedings, has disposed of the writ petitions by a common order. Consequently, as the present writ appeals also raise identical issues, they are being heard analogously and are disposed of by this common judgment.

3. The present intra-Court appeals have been preferred against the common order dated 31.07.2025 passed by the learned Single Judge in Writ Petition (T) Nos. 14/2021, 15/2021, 16/2021, 17/2021 and 18/2021 (*Bharat Aluminium Company Limited v. State of Chhattisgarh and others*), whereby the writ petitions preferred by the appellants/writ petitioners came to be dismissed. The said writ petitions, having arisen out of identical facts and involving common questions of law, were decided together by the learned Single Judge by a common order. Being aggrieved by the

2025:CGHC:51114-DB

said dismissal, the appellants have preferred the present writ appeals seeking interference with the impugned order.

4. Brief facts of the cases projected before the learned Single Judge, in nutshell, were that the appellant/writ petitioner – Bharat Aluminium Company Limited was engaged in the manufacture, sale and export of aluminium products and had its factory premises situated at Korba, Chhattisgarh. For carrying out its industrial operations, the appellant/writ petitioner had established two captive power plants of 540 MW and 1200 MW capacity at Korba. The appellant/writ petitioner imported coal on payment of Goods and Services Tax (GST) Compensation Cess and utilized the same for generation of electricity in the said power plants, which, in turn, was used for manufacture of aluminium products. The appellant/writ petitioner also maintained a residential township for its employees.

5. It was the case of the appellant/writ petitioner that the electricity generated from the aforesaid power plants was utilized in three ways: (i) primarily, for manufacturing operations within the factory premises; (ii) partly, sold to the State Electricity Boards; and (iii) partly, supplied to the residential township for the benefit of its employees. The dispute before the authorities was confined only to the portion of electricity supplied to the township.

6. The appellant/writ petitioner had filed an application for refund under Section 54(1) of the Central Goods and Services Tax Act,

2017 (for short, "the CGST Act") seeking refund of Input Tax Credit (ITC) of the Compensation Cess paid on imported coal, amounting to ₹7,44,73,347/- for the month of February 2019. Out of the said amount, provisional refund of 90% was sanctioned on 06.05.2019 to the tune of ₹6,70,26,012/-. Subsequently, a show cause notice dated 07.06.2019 was issued proposing rejection of refund to the extent of ₹51,48,531/-, to which the appellant/writ petitioner submitted its reply on 19.06.2019, asserting that the electricity supplied to the township was for business purposes and that no reversal of ITC was warranted under Rule 42 of the CGST Rules.

7. However, by order dated 22.06.2019, rectified on 06.07.2019, the Assistant Commissioner, State Tax, Korba, Circle-2, rejected the refund application holding that (i) the electricity generated by the 540 MW power plant and supplied for township consumption was not eligible for ITC of Compensation Cess attributable to that portion, and (ii) sale of Duty Credit Scrips (DCS) being an exempt supply required proportionate reversal of ITC under Rule 42 of the CGST, SGST, and IGST Acts.

8. Aggrieved thereby, the appellant/writ petitioner preferred an appeal under Section 107 of the Chhattisgarh Goods and Services Tax Act, 2017 before the Joint Commissioner (Appeals), State Tax, Bilaspur, who, by order dated 17.09.2020 (Annexure P-8), affirmed the order of the Assistant Commissioner. The

appellate authority held that (a) supply of electricity to the township was not intrinsically connected with the business activity of the appellant/writ petitioner, (b) sale of Duty Credit Scrips (DCS) was an exempt supply warranting reversal of ITC, and (c) an amount of ₹40,14,605/- was recoverable from the appellant/writ petitioner.

9. Questioning the aforesaid appellate order, the appellant/writ petitioner had preferred writ petitions being Writ Petition (T) Nos.14/2021, 15/2021, 16/2021, 17/2021 and 18/2021 contending, inter alia, that maintenance of the township and supply of electricity thereto were activities “in the course or furtherance of business” within the meaning of Section 2(17) read with Section 16(1) of the CGST Act, and therefore, eligible for Input Tax Credit.

10. The appellant/writ petitioner had further placed reliance upon the insertion of Explanation 1(d) to Rule 43 of the Central Goods and Services Tax Rules, 2017, vide Notification No.14/2022 – Central Tax dated 05.07.2022, contending that the same had retrospective applicability and would govern the pending proceedings. Hence, the appellant/writ petitioner had prayed for setting aside of the impugned order dated 17.09.2020 passed by the Joint Commissioner (Appeals), State Tax, Bilaspur, affirming the order dated 06.07.2019 passed by the Assistant Commissioner, State Tax, Korba, Circle-2.

11. The learned Single Judge, upon considering the rival submissions advanced on behalf of the respective parties and after examining the material placed on record as well as the judicial precedents cited at the Bar, dismissed the writ petitions by a common order dated 31.07.2025, which is impugned in the present appeals.

12. Challenging the aforesaid order dated 31.07.2025 passed by the learned Single Judge in the writ petition being Writ Petition (T) Nos.14/2021, 15/2021, 16/2021, 17/2021 and 18/2021, the instant appeals have been filed by the appellant/writ petitioner.

13. Mr. Bharat Raichandani assisted by Mr. K. Rohan, learned counsel for the appellant/writ petitioner submits that the impugned common order dated 31.07.2025 is liable to be quashed and set aside as it has been passed in gross violation of the principles of natural justice. The order is non-speaking, fails to consider the submissions and precedents placed before the learned Single Judge, and disposes of the writ petitions without proper examination of the legal and factual issues. It is submitted that in the impugned judgment, the learned Writ Court, without appreciating the submissions and precedents cited by the appellant/writ petitioner, dismissed the writ petition and primarily held the following:

a. The Hon'ble Supreme Court in **Maruti Suzuki Limited v Commissioner of Central Excise, Delhi-III, 2009 (9) SCC 193** and ***Commissioner of Central Excise v Gujarat***

Narmada Fertilizers Company Limited, 2009 (9) SCC 101 held that CENVAT Credit is available only to the extent it is used for captive generation of electricity and is not available for electricity wheeled out. The learned Single Judge held that since the Appellant/Writ Petitioner provides a portion of electricity to the township, reversal of ITC is warranted.

b. The Hon'ble Supreme Court in ***Sree Sankaracharya University of Sanskrit & Ors v Dr. Manu & Ors, 2023 SCC OnLine SC 640*** held that an Explanation when added must be examined based on its purport and intent. The learned Single Judge concluded that the Explanation added in the present case merely expands the scope of exempt supplies and is therefore not clarificatory. It further held that since Section 164(3) of the CGST Act was not invoked, the amendment cannot be said to be retrospective, particularly as ITC provisions are a concession under the statute.

14. It is submitted by Mr. Raichandani that the learned Single Judge frames the issue as whether maintenance of the township is in the course or furtherance of business under Section 2(17) read with Section 16(1) of the CGST Act. However, the conclusion reached pertains to denial of Input Tax Credit (ITC) for electricity supplied to the township, without recording any observation on whether maintenance of the township constitutes a business activity. There is no discussion on the core statutory provisions and the issue as framed. Several judicial precedents have been relied upon to establish that maintenance of township is an integral part of business operations. While the impugned order mentions these cases, it fails to discuss their applicability or distinguish them from the facts of the present case. This cursory

treatment renders the order arbitrary and non-speaking. The manufacturing facilities are located in a remote area in Korba, and uninterrupted operations require the presence of skilled employees and technical personnel at all times. The township provides residential facilities for employees, enabling continuous supervision, emergency response, and safety management, which are critical for the smooth functioning of the manufacturing process. Denying ITC for electricity supplied to the township fails to appreciate this direct nexus between township maintenance and business operations. It is further submitted that the impugned order erroneously observes that ITC is a concession. The appellant/writ petitioner never contended that ITC is a vested right. The relevant issue is whether the maintenance of township qualifies as an activity in the course or furtherance of business, which the impugned order fails to address.

15. With respect to the amendment brought by Notification No.14 to the CGST Rules, it is submitted that the amendment is clarificatory and confers a benefit to the taxpayer. The amendment explains the treatment of exempt supplies (sale of Duty Credit Scrips) and, therefore, must operate retrospectively, in line with judicial precedents such as ***CIT v. Vatika Township Pvt. Ltd., 2015 (1) SCC 1*** and ***Principal Commissioner of Central Excise, Kolkata v. Himadri Speciality Chemical Ltd., 2022 SCC OnLine Cal 3348***, the learned Single Judge fails to consider the intent, context, and statutory purpose of the

amendment. It is submitted that the learned Single Judge has relied on cases such as ***Maruti Suzuki Limited*** (supra) and ***Gujarat Narmada Fertilizers Company Limited*** (supra) without appreciating that the legal and factual issues in those cases are entirely different from the present case. Those judgments deal with the reversal of CENVAT Credit for electricity sold to third parties and do not address whether township maintenance is a business activity. Reliance on these judgments is therefore misplaced.

16. Mr. Raichandani next submitted that the impugned order is arbitrary, non-speaking, and has been rendered without appreciating the statutory framework under Sections 2(17) and 16(1) of the CGST Act, the context of the amendment, the nexus between township maintenance and manufacturing operations, and the judicial precedents cited. Accordingly, it is submitted that the impugned common order dated 31.07.2025 is liable to be quashed and set aside, and the matter may be remitted to the appropriate authority or considered afresh in accordance with law.

17. On the other hand, Mr. Rahul Tamaskar, learned counsel for the State/respondents opposed the submissions of learned counsel for the appellant/writ petitioner and submits that the impugned common order dated 31.07.2025 is legally valid, reasoned, and does not suffer from any infirmity. The learned Single Judge has carefully considered the statutory provisions, judicial precedents,

and the submissions advanced by both parties before dismissing the writ petitions. The impugned judgment is speaking, detailed, and correctly applies the law to the facts of the case. It is submitted that the issue of Input Tax Credit (ITC) is governed by Sections 2(17) and 16(1) of the CGST Act, 2017. The impugned order correctly holds that ITC is not admissible for electricity supplied to the township since such consumption is not directly in the course or furtherance of business. The High Court's reliance on the Hon'ble Supreme Court judgments in ***Maruti Suzuki Limited*** (supra) and ***Gujarat Narmada Fertilizers Company Limited*** (supra) is correct, as those cases establish that ITC is available only for electricity used in manufacturing operations and not for electricity wheeled out or supplied for residential purposes. He next submits that the amendment vide Notification No. 14 inserting Explanation 1(d) is not clarificatory but merely expands the scope of exempt supplies. The impugned judgment rightly observes that the amendment cannot be considered retrospective, as Section 164(3) of the CGST Act, which empowers the Government to enact provisions retrospectively, has not been invoked. Further, ITC provisions are concessional in nature, and no vested right exists to claim credit for exempt or non-business purposes.

18. Mr. Tamaskar next submitted that the impugned judgment correctly examined the factual and statutory context. While the Appellant/Writ Petitioner claims that maintenance of township is

essential for manufacturing operations, the High Court has correctly observed that such a claim does not create a legal entitlement to ITC under the CGST Act. The nexus between electricity supplied to the township and the Appellant's manufacturing business is indirect and insufficient to attract ITC. He further submits that the Court has correctly distinguished the precedents cited by the appellant/writ petitioner, including judgments relating to residential colonies and industrial townships, on the ground that those cases dealt with different statutory frameworks or factual scenarios. The impugned order applies the law in the context of the CGST regime, which is distinct from the CENVAT credit rules under which those precedents arose. It is submitted that the impugned order is neither arbitrary nor non-speaking. The Court has considered the submissions, statutory provisions, and relevant case law in detail before arriving at its conclusion. The writ petitions were dismissed on sound legal reasoning and in accordance with settled principles of law. As such, the appeals filed by the appellant/writ petitioner lack merit and the impugned order dated 31.07.2025 should be upheld in its entirety, and the writ petitions dismissed by the learned Single Judge deserve no interference.

19. We have heard learned counsel for the parties at length and have carefully considered their rival submissions. We have also perused the record of the cases, including the impugned order dated 31.07.2025 passed in Writ Petition (T) Nos. 14/2021,

15/2021, 16/2021, 17/2021, and 18/2021, as well as the judicial precedents cited by the respective learned counsel for the parties.

20. After considering the submissions of learned counsel for the parties and the materials on record, the learned Single Judge framed the following two questions for the disposal of the writ petitions:-

> *(i) Whether the maintenance of township and supply of electrical energy thereof is in the course or furtherance of business in terms of Section 2(17) read with Section 16(1) of the CGST Act entitles the petitioner for Input Tax Credit?*
>
> *(ii) Whether the Input Tax Credit (ITC) will be available on effecting exempt supplies that is supply of DCS on or before 05.07.2022?*

21. While deciding the Question No.(i), the learned Single Judge while relying upon the judgments rendered by the Hon'ble Supreme Court in ***Godrej & Boyce Mfg. Co. Pvt. Ltd. And others v. Commissioner of Sales Tax and others, (1992) 3 SCC 624, State of Karnataka v. M.K. Agro Tech. Private Limited, (2017) 16 SCC 210, Jayam & Co. v. Commr., (2016) 15 SCC 125, Maruti Suzuki Limited*** (supra) and ***Gujarat Narmada Fertilizers Company Limited*** (supra) has held as under :-

> *"23. As such, ITC is a nature of benefit or concession extended to the dealer and it can*

be availed by the beneficiary as per the scheme of the statute subject to fulfillment of the conditions laid down in Section 16(4) of the CGST Act. It is not the substantive right of the dealer to claim ITC, it is a kind of concession provided by the legislature on fulfillment of certain conditions mentioned in the provision.

24. The petitioner in Form G submitted Electricity Duty under the Electricity Duty Rules mentioning therein that 1388641 KWH units have been consumed in the township colony for the month ending February, 2019. The competent authority by its order dated 22-6-2019 (rectification order dated 6-7-2019) held that the electricity generated by the petitioner to the extent of 1388641 KWH units has been supplied for township consumption by the taxpayer as evident from Form G provided by the taxpayer, as such, ITC of Compensation cess paid on coal attributable to 540 MW Power Plant is liable to be reversed under Rule 42 of the CGST Rules. The expression "in the course or furtherance of his business" employed in Section 16(1) of the CGST Act, has not been defined in the CGST Act and it may be referred to the activities which are integrally related to the business activity and not welfare activity. The appellate authority has held that the provision of electricity for the consumption of the residents of township is nothing but a prerequisite relying upon the

decision of the Supreme Court in Maruti Suzuki Limited (supra).

25. Before this Court, the respondents have placed reliance upon the decision of the Supreme Court in Gujarat Narmada Fertilizers Company Limited's case (supra). In the connected appeal i.e. Civil Appeal No.1862 of 2006 (CCE and Customs v. Gujarat Narmada Valley), the question for consideration was, whether the Department was right in reversing proportionate CENVAT credit to the extent of electricity wheeled out/cleared to the grid and to the township. Their Lordships held that the decision rendered in Maruti Suzuki Limited (supra) would apply and in Maruti Suzuki Limited (supra), their Lordships observed as under: -

> *"45. To sum up, we hold that the definition of "input" brings within its fold, inputs used for generation of electricity or steam, provided such electricity or steam is used within the factory of production for manufacture of final products or for any other purpose. The important point to be noted is that, in the present case, excess electricity has been cleared by the assessee at the agreed rate from time to time in favour of its joint ventures, vendors, etc. for a price and has also cleared such electricity in favour of the grid for distribution. To that extent, in our view, the assessee was not entitled to*

CENVAT credit.

46. In short, the assessee is entitled to credit on the eligible inputs utilised in the generation of electricity to the extent to which they are using the produced electricity within their factory (for captive consumption). They are not entitled to Cenvat credit to the extent of the excess electricity cleared at the contractual rates in favour of joint ventures, vendors, etc., which is sold at a price."

26. In Maruti Suzuki Limited (supra), their Lordships have clearly held that the assessee would be entitled to credit on the eligible inputs utilised in the generation of electricity to the extent to which they are using the produced electricity within their factory (for captive consumption) and they would not be entitled to CENVAT credit to the extent of the excess electricity cleared at the contractual rates in favour of joint ventures, vendors, etc., which is sold at a price.

27. In that view of the matter, as it is admitted case of the petitioner that the electricity generated in 540 MW Power Plant is used in the course of or furtherance of his business, which is evident from Form G provided by the taxpayer i.e. the petitioner herein, the petitioner would not be entitled for ITC to electrical energy consumed for maintenance of its township in light of the

decisions rendered by their Lordships of the Supreme Court in Gujarat Narmada Fertilizers Company Limited's case (supra) and Maruti Suzuki Limited (supra). Accordingly, the first question formulated is answered against the petitioner and in favour of the respondents.

28. In view of the decisions rendered by the Supreme Court in Gujarat Narmada Fertilizers Company Limited's case (supra) and Maruti Suzuki Limited (supra), the decisions relied upon by the petitioner in ITC Limited's case (supra), Ultratech Cement Ltd.'s case (supra), Cinemax India Limited (supra) and S.A. Builders Ltd. (supra) are not applicable to the facts of the present case and are clearly distinguishable."

22. Learned counsel for the appellant/writ petitioner submits that the learned Single Judge, in paragraph-25 of the impugned order, has wrongly applied the principles laid down in ***Maruti Suzuki Limited*** (supra). It is contended that the facts of the present case are distinguishable from the facts in ***Maruti Suzuki Limited*** (supra) and ***Gujarat Narmada Fertilizers Company Limited*** (supra), and, therefore, the reversal of Input Tax Credit (ITC) in respect of electricity supplied to the township is not justified. The appellant further argues that the supply of electricity to the township is integrally connected with the petitioner's business operations and serves as a prerequisite for maintaining the industrial/commercial establishment, rather than being a welfare

or extraneous activity, and, therefore, should fall within the ambit of ITC under Section 16(1) of the CGST Act.

23. This Court, however, after carefully considering the materials on record, including Form G submitted by the petitioner, the rectification order dated 06.07.2019, and the judicial precedents relied upon by the Single Judge, finds no illegality in the reasoning adopted. The Single Judge has correctly noted that ITC is a concessional benefit and is available only in accordance with the scheme of the statute. The electricity consumed for township purposes is neither used within the factory for manufacturing nor for captive consumption related to production of goods; it is supplied externally for residential consumption. The Supreme Court in ***Maruti Suzuki Limited*** (supra) and ***Gujarat Narmada Fertilizers Company Limited*** (supra) has clearly held that ITC is not admissible for electricity wheeled out or supplied externally, even if the excess electricity is used by related parties or for ancillary purposes.

24. The appellant's/writ petitioner's reliance on decisions such as ***Commissioner of Customs & Central Excise, Hyderabad-III v. ITC Limited, 2013 (32) STR 288 (AP)***, ***Commissioner of Central Excise, Nagpur v. Ultratech Cement Ltd., 2010 (260) ELT 369 (Bom.)***, ***Cinemax India Limited v. Union of India, 2011 (24) STR 3 (Guj.)***, and ***S.A. Builders Ltd. v. Commissioner of Income Tax (Appeals) Chandigarh and***

another, (2007) 1 SCC 781 is misplaced, as the facts and scope of ITC in those cases differ from the present case, particularly regarding the nature of supply and its connection with business operations. In the present case, the electricity supplied to the township is a welfare-related activity, not integrally connected with the manufacturing or business operations of the petitioner. Consequently, the first question formulated by the Single Judge whether ITC is available in respect of electricity consumed for township maintenance, is rightly answered against the appellant/writ petitioner.

25. In view of the above, this Court finds no merit in the appellant's contention and holds that the Single Judge has correctly applied the principles of law and relevant precedents.

26. Insofar the Question No.2 is concerned, the learned Single Judge, after considering Section 17 of the CGST Act, the amendment to Explanation 1 to Rule 43 of the CGST Rules, Section 164(3) of the CGST Act as well as Principles of Statutory Interpretation as also the judgments rendered by the Hon'ble Supreme Court in ***Sree Sankaracharya University of Sanskrit and others v. Dr. Manu and another, 2023 SCC OnLine SC 640*** and ***Union of India and others v. VKC Footsteps India Private Limited, (2022) 2 SCC 603***, has answered the said question in the following terms:

"*40. Reverting to the facts of the present case, it is*

quite vivid that clause (d) was enacted and inserted in Explanation 1 to Rule 43 of the CGST Rules based on the representations and recommendation made by the GST Council. Insertion of clause (d) has only expanded the scope of supplies which have to be excluded from the aggregate value of exempt supplies. Therefore, the amendment made in the explanation in shape of Rule 43, Explanation (1) (d), of the CGST Rules, is not clarificatory in nature. Though express power in Section 164(3) of the CGST Act has been conferred upon the rule-making authority, yet the rule-making authority did not choose to promulgate it with retrospective effect. ITC, as held earlier, is not the substantive right of the dealer, it is only a nature of benefit or concession extended to the dealer under the statutory scheme and it cannot be claimed as a matter of right as held by their Lordships of the Supreme Court in Jayam & Co. (supra). As such, it cannot be held that it was retrospective in nature and would not apply to the present pending cases. Accordingly, the learned appellate authority has rightly dismissed the appeals of the petitioner. The second question is also answered against the petitioner and in favour of the State/ respondents.

41. The judgment relied upon by the petitioner in Ascent Meditech Ltd. (supra) delivered by the High Court of Gujarat is completely distinguishable as in that case amendment to Rule 89(5) of the Central/Gujarat Goods and Services Tax Rules, 2017 was brought after

direction of the Supreme Court in the matter of Union of India and others v. VKC Footsteps India Private Limited, (2022) 2 SCC 603 wherein after noticing the anomalies in the formula it was specifically directed by their Lordships of the Supreme Court to remove the anomalies and to take decision in accordance with law. Similarly, the decision relied upon in Mysore Rolling Mills (P) Ltd. (supra) and other decisions, are clearly not applicable to the facts of the present case and are distinguishable.

42. In that view of the matter, the benefit of amendment in shape of Explanation 1(d) to Rule 43 of the CGST Rules would be available for the period after 5-7-2022 and no case for interference in the order impugned passed by the Joint Commissioner (Appeals) deciding both the issues against the petitioner, would be made out."

27. After a careful examination of the provisions of Section 17 of the CGST Act, the amendment made to Explanation 1 to Rule 43 of the CGST Rules, Section 164(3) of the CGST Act, the principles of statutory interpretation, as well as the judgments relied upon by the parties, it is evident that the learned Single Judge has applied the law correctly. The amendment in the form of Explanation 1(d) is prospective in nature, extending the scope of exempt supplies only for the period after 05.07.2022. ITC, being a statutory concession rather than a substantive right, cannot be claimed for periods prior to the effective date of the amendment.

28. The decisions cited by the petitioner, including ***Ascent Meditech***

Ltd. v. Union of India and others, 2024 : GUJHC : 62022-DB and ***Mysore Rolling Mills (P) Ltd. v. Collector of Central Excise, Belgaum, (1987) 1 SCC 695*** are distinguishable and do not apply to the facts of the present cases.

29. In view of these circumstances, the learned Single Judge has rightly dismissed the writ petition. There is no ground to interfere with the reasoning or findings recorded. Question No.2 is, therefore, conclusively answered against the appellant/writ petitioner and in favor of the State/respondents.

30. In the result, having considered the submissions of learned counsel for the parties, the material on record, and the judicial precedents cited, this Court finds no infirmity in the reasoning or conclusions recorded by the learned Single Judge in the common order dated 31.07.2025 passed in Writ Petition (T) Nos. 14/2021, 15/2021, 16/2021, 17/2021, and 18/2021.

31. On a careful consideration of the matter, it is evident that the learned Single Judge has correctly held the following:

(i) Input Tax Credit (ITC) is not admissible on the electricity supplied to the township maintained by the appellant/writ petitioner. This is because such supply cannot be said to have been made in the course or furtherance of the appellant's business, as contemplated under Sections 2(17) and 16(1) of the Central Goods and Services Tax (CGST) Act, 2017. In other words, the supply of electricity to the township is for the

appellant's own consumption and is not directly connected to any taxable supply of goods or services carried out by the appellant in the course of business. Consequently, the claim for ITC in respect of such electricity is not permissible under the statutory framework.

(ii) The amendment to Explanation 1(d) of Rule 43 of the CGST Rules, 2017, effected vide Notification No. 14/2022 – Central Tax dated 05.07.2022, is prospective in nature. It does not confer any retrospective right or entitlement to claim ITC for periods prior to the date of amendment. Therefore, any claim for ITC made in respect of periods antecedent to the notification cannot be sustained. The learned Single Judge, accordingly, was correct in holding that the appellant cannot rely on the amendment to justify any retrospective ITC claims.

32. The contentions advanced by the appellant/writ petitioner are wholly devoid of merit. A careful examination of the case record and the impugned order reveals that the appellant's reliance on the decisions cited is misplaced. The precedents invoked are distinguishable both on facts and in law, as they pertain to circumstances materially different from the present case. The appellant/writ petitoner has failed to demonstrate any legal or factual infirmity in the reasoning adopted by the learned Single Judge. The impugned order, having considered the relevant provisions of the Central Goods and Services Tax Act, 2017, the

CGST Rules, 2017, and the applicable notifications, reflects a correct application of law and is, therefore, unsustainable to challenge. The appellant's/writ petitioner's arguments do not warrant any interference with the well-reasoned findings recorded by the learned Single Judge.

33. In the light of the above, the writ appeals, being Writ Appeal Nos. 736/2025, 737/2025, 739/2025, 714/2025, and 724/2025, are accordingly **dismissed**. The common order dated 31.07.2025 passed by the learned Single Judge is affirmed in all respects. The learned Single Judge has meticulously addressed the issues raised, applied the statutory provisions correctly, and reached a conclusion that is legally sound. No ground has been made out to justify any modification or interference with the impugned order.

34. Considering the nature and circumstances of the appeals, and in the exercise of discretion under the law, there shall be no order as to costs. The parties shall bear their respective costs of the proceedings.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice

Anu