$~43 to 50 & 52 to 71 (SDB)

* **IN THEHIGH COURTOF DELHIAT NEW DELHI**

\+ **W.P.(C) 6293/2019**

BHARTI TELEMEDIA LTD. .....Petitioner

versus

UNION OF INDIA & ORS. .....Respondents

WITH

\+ **W.P.(C) 6895/2020**

BHARTI TELEMEDIA LIMITED .....Petitioner

versus

UNION OF INDIA & ORS. .....Respondents

WITH

\+ **W.P.(C) 13097/2019 & CM APPL. 53392/2019**

SALES TAX, BAR ASSOCIATION (REGD.) & ANR. .....Petitioners

versus

UNION OF INDIA & ORS. .....Respondents

WITH

\+ **W.P.(C) 13154/2019**

HIMANSHU MOHTA AND ASSOCIATES .....Petitioner

versus

UNION OF INDIA & ORS. .....Respondents

WITH

\+ **W.P.(C) 6914/2020**

BHARTI AIRTEL LIMITED .....Petitioner

versus

UNION OF INDIA & ORS. .....Respondents

WITH

\+ **W.P.(C) 10385/2020 & CM APPL.32887/2020**

INSTAKART SERVICES PRIVATE LIMITED .....Petitioner

versus

DIRECTORATE GENERAL OF GST INTELLIGENCE HEADQUARTERS - THROUGH SENIOR INTELLIGENCE OFFICER .....Respondent

WITH

\+ **W.P.(C) 1668/2021**

UFLIX INDUSTRIES .....Petitioner

versus

UNION OF INDIA & ORS. .....Respondents

WITH

\+ **W.P.(C) 14350/2021**

NORTH INDIA LEAD MANUFACTURERS ASSOCIATION(NILMA) .....Petitioner

versus

UNION OF INDIA AND ORS .....Respondents

WITH

\+ **W.P.(C) 5908/2023**

NGKA & ASSOCIATES LLP THROUGH ITS PARTNER, MR. SHUBHAM AGARWAL, .....Petitioner

versus

UNION OF INDIA THROUGH SECRETARY, MINISTRY OF FINANCE, DEPARTMENT OF REVENUE & ORS......Respondents

WITH

\+ **W.P.(C) 3129/2024**

M/S KANAK CCR LTD .....Petitioner

versus

UNION OF INDIA & ORS. .....Respondents

WITH

\+ **W.P.(C) 5336/2024**

M/S. PCJ POLYMERS THROUGH ITS PROPRIETOR SH. YOGESH JAIN .....Petitioner

versus

UNION OF INDIA AND ORS. .....Respondents

WITH

\+ **W.P.(C) 13279/2024 & CM APPL. 55480/2024**

NAVBHARAT PAPER .....Petitioner

versus

DEPUTY COMMISSIONER, CENTRAL TAXES GST MUNDKA DIVISION NEW DELHI .....Respondent

WITH

\+ **W.P.(C) 15098/2024 & CM APPL. 63230/2024**

M/S UPPALS EXCLUSIVE RESIDENCE LLP .....Petitioner

versus

UNION OF INDIA & ORS. .....Respondents

WITH

\+ **W.P.(C) 16593/2024 & CM APPL.70147/2024**

M/S SHUDH GARWHAL PANEER NIRMATA SANGH THROUGH ITS PROPRIETOR SH ASHWANI KUMAR ....Petitioner

versus

UNION OF INDIA & ORS. .....Respondents

WITH

\+ **W.P.(C) 17053/2024 & CM APPL. 72323/2024**

M/S WELLNESS MARKETING EXI PVT. LTD. .....Petitioner

versus

UNION OF INDIA AND ORS. .....Respondents

WITH

\+ **W.P.(C) 17057/2024 & CM APPL. 72327/2024**

M/S. RPJ POLYMERS THROUGH ITS PROPRIETOR SH. RAHUL JAIN .....Petitioner

versus

UNION OF INDIA AND ORS. .....Respondents

WITH

\+ **W.P.(C) 17540/2024 & CM APPL. 74706/2024**

M/S. AUTHENTIC EXPORT THROUGH ITS PROP. SH. PULKIT GUPTA .....Petitioner

versus

UNION OF INDIA AND ORS. .....Respondents

WITH

\+ **W.P.(C) 94/2025 & CM APPL. 372/2025**

PARDEEP KUMAR SHARMA PROPRIETOR SHARMA STEEL AND SONS .....Petitioner

versus

THE UNION OF INDIA REVENUE SECRETARY, MINISTRY OF FINANCE & ORS. .....Respondents

WITH

\+ **W.P.(C) 7014/2025 & CM APPL.31589/2025**

M/S UPPAL HOUSING PVT. LTD. .....Petitioner

versus

UNION OF INDIA & ORS. .....Respondents

WITH

+ **W.P.(C) 9035/2025, CM APPLs.38455/2025, 59001/2025, 27386/2026**

SHRI KRISHNA IMPEX .....Petitioner

versus

UNION OF INDIA & ORS. .....Respondents

WITH

+ **W.P.(C) 10402/2025 & CM APPL. 43245/2025**

M/S MOHAN ENTERPRISES THROUGH ITS PROPRIETOR PALKUSH SINGHAL .....Petitioner

versus

SALES TAX OFFICER CLASS II AVATO WARD 21 ZONE 2 DELHI & ORS. …. Respondents

WITH

+ **W.P.(C) 11258/2025 & CM APPL. 46259/2025**

RAJESH KUMAR SHARMA PROPRIETOR DEVESHI STEELS .....Petitioner

versus

GOVT OF NCT OF DELHI THROUGH CHIEF SECRETARY & ORS. .....Respondents

WITH

+ **W.P.(C) 13441/2025 & CM APPL. 55219/2025**

M/S NAMAN VIDYUT ENTERPRISES LLP THROUGH ITS PARTNER SH. ASHISH KRIPLANI .....Petitioner

versus

UNION OF INDIA AND ORS. .....Respondents

WITH

+ **W.P.(C) 14336/2025, CM APPLs.58762-64/2025**

VINOD KUMAR PROPRIETOR JANAKNANDINI STEELS .....Petitioner

versus

GOVT OF NCT OF DELHI THROUGH CHIEF SECRETARY & ORS. .....Respondents

WITH

+ **W.P.(C) 14536/2025 & CM APPL. 59658/2025**

KARAN KUMAR AGARWAL & HUF PROPRIETOR M/S MANYATA ENTERPRISES .....Petitioner

versus

GOVT OF NCT OF DELHI THROUGH CHIEF

SECRETARY & ORS. …. Respondents

WITH

\+ **W.P.(C) 16908/2025 & CM APPL. 69535/2025**

KIRAN AGARWAL PROPRIETOR JAI SHRI SANWARIYA TRADERS .....Petitioner

versus

GOVT OF NCT OF DELHI THROUGH CHIEF SECRETARY & ORS. .....Respondents

AND

\+ **W.P.(C) 17294/2025 & CM APPL. 71227/2025**

PCJ POLYMERS THROUGH ITS PROPRIETOR SH. YOGESH JAIN .....Petitioner

versus

COMMISSIONER OF CGST, DELHI WEST AND ORS. .....Respondents

AND

\+ **W.P.(C) 9072/2026 &CM APPL. 42619-20/2026**

M/S SHREE SHYAM CREATION .....Petitioner

versus

UNION OF INDA AND ORS. ....Respondents

**<u>Appearances:</u>**
**<u>For Petitioners:</u>**

Mr. Tarun Gulati, Sr. Adv. with Mr. Kishore Kunal, Ms. Ashome Shandilya & Ms. Runjhun Pare, Advs. (M: 9871278561)
Ms. Ajinkya Tiwari with Mr. Sanjay Sharma, Advs.. (M: 8989428226)
Mr. Tushar Jarwal, Mr. Rahul Sateeja, Ms. Daliya Singh & Mr. Faraahat Ashar Shahab, Advs. (M: 9999359028)
Ms. Kavita Jha, Sr. Adv. with Mr. Shammi Kapoor & Mr Sandeep Gupta, Advs. (M: 9810148827)
Mr. A. K. Babbar & Mr. Ankur Sethi, Advs. (M:9899760090)
Dr. Avinash Poddar, Ms. Samiksha Goswami, Mr. Awadhesh Sharma, Advs. (M: 7503304002)
Mr. Puneet Agrawal, Ms. Mansi Khurana, Ms. Shruti Garg & Mr. Chetan Kumar Shukla, Advs.
Mr. Sameer Sood with Mr. Jatin Mandovaria, Advs. (M: 9999345900)
Mr. Rajat Mittal, Mr. Subham Kumar, Ms. Akriti Anand, Ms. Krati Agrawal and Mr. Priyanshu, Advs. (M: 6200388793)

Mr. Vineet Bhatia & Mr. Keshav Garg, Advs. (M: 9811081159)
Mr. Chetan Sharma, ASG, Ms. Manisha Agrawal Narain, CGSC with Mr. Amit Gupta, Mr. R.V. Prabhat, Mr. Shubham Sharma, Mr. Yash Wardhan Sharma, Mr. Naman, Ms. Aditi Singh and Mr. Nipur Jain, Advocates.
Ms. Kashish Kumar Gupta and Ms. Anchal Gupta, Advocates.

**For Respondents:**

Mr. Premtosh K Mishra, CGSC with Mr. Jagdish Chandra Solanki CGSC, Radhika Vishwajeet Dubey CGSC with Mr. Atul Tiwari, Adv. for UOI. (M: 9670407033)
Mr. Syed Abdul Haseeb, CGSC with Mr. Muhammad Aamir Khan Advocate for UOI (M: 9811962385)
Ms. Shagun Shahi Chugh, Mr. Varun Chugh and Ms. Ayushi Agarwal, Advs. for UOI. (M: 8630164988)
Ms. Anushree Narain, SSC with Mr. Naman Choula& Mr. Yamit Jetley, Advs. (9620577466)
Mr. Avni Singh with Mr. Abhimanyu Kapoor, Advs.
Mr. Anurag Ojha, SSC with Mr. Dipak Raj, Mr. Vipul Kumar & Mr. Avinash Shukla, Adv. (M: 9650143585)
Mr. Aditya Bharat Manubarwala, Mr. Gopal Singh Ms. Tanishka Grover & Mr. Harsh Tyagi, Advs. (M:7017406831)
Mr. Akash Panwar, SSC, with Ms. Jasleen Kaur Anan, Adv. (9953908411)
Mr J K Tripathi, SPC for UOI (M: 9810643077)
Mr. Rajesh Gogna, Ms. Rebina Rai & Mr. Shivam Tiwari Advocates (7865913196)
Ms. Nidhi Gupta, Advocate for R-7. ( 9810854786)
Mr. Ravi Kant Srivastava, SPC with Mr. Robert Laishram & Ms. Sneha Ojha, Advs. in Item 12, 24. (9654431773)
Ms. Urvi Mohan, Adv. for GNCTD
Mr. Akash Verma, SSC, CBIC with Mr. Teevra Mishra, Mr. Archit Dwivedi& Ms. Aanchal Uppal, Advs. (M:9697980007)
Mr. Ruchir Mishra, Mr. Sanjiv Kumar Saxena, Mr. Mukesh Kumar Tiwari, Ms. Poonam Shukla, Ms. Reba Jena Mishra, Advs. (M: 9811673689)
Mr. Abhinav Singh & Mr. Bharti Yadav, Adv. for GNCTD

(8505903191)
Mr. Sumit K. Batra & Ms. Priyanka Jindal, Advs. for GNCTD in (M:9711147495)
Mr Rakesh Kumar, SPC with Mr. Sunil, Adv. for UOI in (9811549455)
Mr. Piyush Beriwal, SSC with Ms. Ruchita Srivastava, Adv. for R-2 & 3. (M:9910396352)
Mr. Gibran Naushad, SSC with Mr. Suraj Shekhar Singh & Mr. Harsh Singha, Advs. (9560430864)
Ms. Nidhi Raman, CGSC with Mr. Akash Mishra, Adv. for UOI (M: 9891088658)
Mr. Ashish Kr. Dixit, CGSC with Mr. Umar Hashmi, Mr Gautam Yadav, Ms. Iqra Shiekh and Ms. Namita, Advs. for UOI in (M:9999900412)
Mr. Harpreet Singh, SSC, CBIC with Ms. Suhani Mathur, Mr. Jatin Gaur, Advs.
Mr. Pranay Mohan Govil, SSC with Ms. Priya Katare, Advocate for R-1, 3 to 6 (7000968027).
Ms. Manisha Agrawal Narain, CGSC with Ms. Aditi Singh, Adv. for UOI (M: 9205646604)
Mr. Manish Rohilla SPC with Mr. Pradeep Kumar Yadav, Adv. for R-1 (M:7054817475)
Mr. Kushagra Kumar, SPC with Mr. Pankaj Singh, Adv. for UOI. (M: 9910770710)
Ms. Shiva Lakshmi and Mr Madhav Bajaj, Advs. for UOI (M: 89290 15368)
Mr. Manish Kumar, SPC for UOI (M: 9971493975)
Ms. Vaishali Gupta and Ms. Rashi Aggarwal, Advs. for GNCTD (M:8383031929, 8076720913)
Mr. Atul Tripathi, SSC, CBIC with Mr. Shubham Mishra, Mr. Gaurav Mani Tripathi and Mr. Akshay Sagar, Advs. for R-4 (M: 9560018960)
Mr. Akshay Amritanshu, Senior Standing Counsel with Ms. Drishti Rawal, Mr. Abhay Nair, Mr. Mayur Goyal & Mr. Sarthak Srivastava, Advs. (9931282222)
Ms. Sangita Malhotra, SPC. (M:8826587368)
Mr. R. Ramachandran, Sr. Standing Counsel, (M:9868211477)
Mr. Aakarsh Srivastava, Sr. Standing Counsel for CBICwith Mr. Anand Pandey, Mr. Dhananjay Parth and Ms. Farah Shah, Adv. for R-3 (M: 9871094948)

Mr. Himanshu Pathak, SPC for UOI. (M: 8810457098)
Mr. K.G. Gopalakrishnan, Mr. Girish Kal & Ms. Aishwarya Singh Rana, Advs. (9810813707).
Mr.Dhruv Rohatgi,Panel Counsel GNCTD, Ms.Chandrika Sachdeva Mr.Dhruv Kumar, Advs. (9891558131).
Mr. Abhishek Maratha, Sr. Panel Counsel with Ms. Nupur Sharma and Mr. Himanshu Gaur, Advocates.
Mr. Shashank Sharma, SSC with Ms. Malika Kumari, Advocates for R-2 and 3.
Mr. Vedansh Anand, SPC with Mr. Shivam Kumar, GP.
Mr. Aditya Singla, SSC with Ms. Arya Suresh Nair and Ms. Nehaol, Advocates.

**CORAM:**
**JUSTICE PRATHIBA M. SINGH**
**JUSTICE SHAIL JAIN**

**O R D E R**

**% 21.08.2026**

1. This hearing has been done through hybrid mode.

2. Ld. Counsels for the Respondents have placed before the Court the decision of the Gujarat High Court in ***Maruti Enterprises vs. Union of India, 2026 SCC Online Guj 4013***, wherein the Constitutional validity of Section 16(2)(c) of the Central Goods and Services Tax Act, 2016 has been upheld.

3. The said decision has also been affirmed by the Supreme Court on 24th July, 2026 in ***Bhandari Scrap Traders vs. Union of India, SLP(C) 23931/2026***, where the Supreme Court has observed as under:

> *"Though we are informed that a special leave petition has been entertained in relation to the decision of the Tripura High Court in Sahil Enterprises v. Union of India (2026) 154 GSTR 108 (Tri.), we find from the judgment passed by the High Court of Tripura that the exercise undertaken by the High Court of Gujarat in the judgment, presently under challenge, was not undertaken by it.*

*2. The distinction and differences between the provisions of the Delhi Value Added Tax Act, 2004, and the Central Goods and Services Tax Act, 2017, brought out by way of a detailed analysis from paragraph 42 onwards in the impugned judgment along with the scheme of availing Input Tax Credit (ITC) under the GST regime, as set out in paragraph 56 of the impugned judgment, clearly demonstrate that there is no possibility of drawing parity between the provisions of the two enactments, so as to treat a purchasing dealer under the CGST Act on par with a purported bona fide purchasing dealer under the Delhi VAT Act in relation to ITC, when the supplier-dealer fails to pay the requisite tax.*

*3. Further, the High Court of Gujarat has also referred to the provisions of Section 41 of the CGST Act and also Sections 73 and 74 thereof in the context of the purchasing dealer under the CGST regime being entitled to re-avail the reversed ITC after the supplier-dealer is made to discharge the tax liability.*

*4.* ***In that view of the matter, the High Court was fully justified in holding that no grounds were made out to declare Section 16(2)(c) of the CGST Act as unconstitutional or read down the provisions thereof. We find ourselves in complete and respectful agreement with the views expressed by the High Court of Gujarat and affirm and uphold the impugned judgment****.*

*5. The special leave petitions are, accordingly, dismissed.*

*6. Pending application(s), if any, shall stand disposed of."*

4. The Court has heard Mr. Puneet Agarwal, Mr. Tushar Jarwal and Mr. Kishore Kunal, ld. Counsels on behalf of the Petitioners.

5. Ld. Counsels for the Petitioners have sought to draw a distinction between the challenge before the Gujarat High Court from the challenge raised before this Court in these cases. Broadly, it is their submission that the Gujarat High Court in ***Maruti Enterprises (supra)*** has merely considered the statutory scheme of the CGST Act post 1st October, 2022, when the Finance Act, 2022 had carried out amendments, *inter alia*, in Section 41 of the CGST Act.

6. According to the Petitioners, in these petitions, the challenge to Section 16(2)(c) of the CGST Act is in respect of the statutory scheme prior to 1st October, 2022. Specific reliance has been placed upon Section 41 of the CGST Act as it then existed, whereby the Input Tax Credit was credited on a provisional basis and the scheme has subsequently been changed. Accordingly, it is their submission that notwithstanding the decision of the Supreme Court upholding the judgement of Gujarat High Court in ***Maruti Enterprises (supra),*** the challenge in the present petitions would have to be considered by this Court.

7. On behalf of the Respondents, ld. Counsels have placed reliance upon the decision of the Kerala High Court in ***M. Trade Links v. Union of India***, ***2024 SCC Online Ker 2744***, where even for the period prior to 2022, a similar view as that of the Gujarat High Court has been taken by the Kerala High Court.

8. At this stage, ld. Counsels for the Petitioners submit that there is another challenge pending before the Supreme Court which would have a bearing on the present case. It is submitted that the decision of the Tripura

High Court in ***Sahil Enterprise v. Union of India, (2026) 154 GSTR 108 (Tri.),*** is now coming before the Supreme Court on 25th August, 2026.

9. In view of the above, it is prayed that these matters be listed after 25th August, 2026.

10. ***CM APPL. 27386/2026*** in ***W.P.(C) 9035/2025*** has been filed seeking marking of appearance of Mr. Kashish Kumar Gupta and Ms. Anchal Gupta, ld. Counsels for the respective Petitioner in the orders dated 24th March, 2026, 24th April, 2026 and 23rd July, 2026. For the reasons stated in the said application their appearance is recorded in the orders dated 24th March, 2026, 24th April, 2026 and 23rd July, 2026. ***CM APPL. 27386/2026*** in ***W.P.(C) 9035/2025*** is disposed of.

11. The appearance of Mr. Abhishek Maratha, ld. Sr. Panel Counsel for the Union of India is recorded in all the matters for today and in the previous order dated 23rd July, 2026.

12. List on 1st September, 2026 at 2:30 PM.

**PRATHIBA M. SINGH, J.**

**SHAIL JAIN, J.**

**AUGUST 21, 2026/MR/msh**