

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1768 OF 2025

Procter and Gamble Home Products Pvt. Ltd. ... Petitioner
Versus
Union of India & Ors. ... Respondents

Mr. Rohan Shah, Senior Advocate, Ms. Vidushi Maheshwari, Mr. Mohammed Anajwalla, Ms. Chandni Tanna and Mr. Prathamesh Chavan i/b. India Law Alliance for the petitioner.

Ms. Jyoti Chavan, Addl. G.P. for the State.

Ms. Maya Mazumdar a/w. Mr. Suman Kumar Das for respondent nos. 2 and 3.

CORAM: G. S. KULKARNI &
AARTI SATHE, JJ.

DATE: 25 FEBRUARY 2026

P.C.

1. We have heard Mr. Rohan Shah, learned senior counsel for the petitioner, Ms. Chavan, Addl. GP for the State and Ms. Mazumdar, learned counsel for respondent nos. 2 and 3 for sometime.

2. At the outset, Mr. Shah has drawn our attention to the decision of the High Court for the State of Telangana at Hyderabad in **M/s. BirlaNu Ltd. vs. Union of India & Ors.**¹ whereby the Division Bench struck down Rule 39 (1)(a) of the CGST Rules, 2017, to the extent it mandates that Input Tax Credit available for distribution in a month shall be distributed in the same month, being *ultra vires* to the provisions of Section 20 of the CGST Act, 2017 and accordingly consequential reliefs are granted. Mr. Shah submits that although a broader relief

¹ Writ Petition No. 14564 of 2024 dated 30.12.2025

has been sought in prayer clause (a), the petitioner, in effect, presses prayer clause (b), seeking a declaration that Rule 39 of the CGST Rules being *ultra vires* to the provisions of Sections 16, 20 and 31 of the CGST Act.

3. On behalf of the respondents, an objection is raised to the maintainability of this petition on the ground that the petitioner has an alternate remedy of approaching the tribunal. It is, therefore, contended that this petition challenging the order in appeal, ought not to be entertained.

4. We have heard learned counsel for the parties. Ms. Maya Mazumdar, learned counsel for respondent nos. 2 and 3 has informed that department has taken a decision to assail the judgment of High Court for the State of Telangana before the Supreme Court and the correct position in that regard would be informed to the Court on the adjourned date of hearing, as the approval in that regard is pending consideration before the Board.

5. Considering the fact that Rule 39 had already been struck down by the Telangana High Court and that the petitioner is presently facing recovery proceedings for the alleged non-compliance with the requirements of Rule 39, we are of the view that before examining the rival contentions, including on the judgment of High Court for the State of Telangana in **M/s. BirlaNu Ltd.** (supra), the petitioner would be required to be granted an ad-interim protection. This more particularly considering the decision of the Supreme Court in **Kusum Ingots & Alloys Ltd. vs. Union of India & Anr.**².

² (2004) 6 SCC 254

6. Thus, at this stage of the proceedings, till the respondents are heard on the issues as involved, we are inclined to grant ad-interim relief to the petitioner in terms of prayer clause (b), which shall continue to operate till the adjourned date of hearing.

7. A reply affidavit shall be filed within two weeks from today and a copy of the same be served on the advocate for the petitioner.

8. Stand over to **18 March, 2026**.

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)