

## BirlaNu Ltd. (ISD) vs. Union of India & Ors.

*Validity of Rule 39(1)(a) of CGST Rules, 2017 - Distribution of Input Tax Credit by Input Service Distributor - Section 20 of the CGST Act, 2017 and Penalty under Section 122(1)(ix) of the CGST Act, 2017.*

**Date of Order:** December 30, 2026  
**Case Law No:** GIB-TELHC-2025-16  
**Source:** GST INDIA Biz (www.gstindia.biz)

### CASE DESCRIPTION / SUMMARY

#### Facts:

The petitioner, registered as an Input Service Distributor (ISD), accumulated Input Tax Credit during FY 2017-18 and 2018-19 and distributed the credit in March instead of distributing it month-wise. During audit, the department alleged violation of [Rule 39\(1\)\(a\)](#) of the CGST Rules which requires ITC available in a month to be distributed in the same month and issued a show cause notice proposing penalty of ₹8,38,67,332 under [Section 122\(1\)\(ix\)](#) of the CGST Act. The petitioner challenged the constitutional validity of [Rule 39\(1\)\(a\)](#) and the consequential proceedings.

#### Court Decision:

The High Court held that [Section 20](#) of the CGST Act, as it stood prior to 01.04.2025, did not prescribe any time limit for distribution of Input Tax Credit by an Input Service Distributor. [Rule 39\(1\)\(a\)](#), by mandating that the credit available in a month must be distributed in the same month, introduced a substantive restriction not contemplated under the parent statute.

The Court held that the rule-making authority cannot impose a limitation period through delegated legislation when the parent statute does not provide for such limitation. Consequently, [Rule 39\(1\)\(a\)](#) of the CGST Rules, to the extent it mandates distribution of ITC in the same month, was declared ultra vires [Section 20](#) of the CGST Act.

The Court further held that the audit proceedings and show cause notice were also vitiated due to violation of principles of natural justice and improper invocation of extended limitation when all details were disclosed in GST returns. Accordingly, [Rule 39\(1\)\(a\)](#) was struck down to that extent and the final audit report dated 22.01.2024 and show cause notice dated 30.01.2024 along with consequential proceedings were quashed.

#### Cases Referred by Court:

- Lakshmi Rattan Engineering Works Ltd. vs. CST
- Sales Tax Officer vs. K. I. Abraham
- Global Energy Ltd. vs. Central Electricity Regulatory Commission
- Kunj Behari Lal Butail vs. State of H.P.
- Kirloskar Brothers Ltd. vs. State of Jharkhand
- Bharat Barrel and Drum Manufacturing Company Ltd. vs. ESI Corporation
- Pushpam Pharmaceuticals Company vs. CCE

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