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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 5094 OF 2025

King Enterprises ...Petitioner

Versus

Union of India & Ors ...Respondents

Mr. Makarand Joshi, (*through VC*), with *Ms. Shamiyana H, i/b, Max Legal, for the Petitioner.*

Mrs. Shehnaz V Bharucha, with *Mr. Abhishek Mishra, for the Respondent.*

**CORAM M.S. Sonak &
 Advait M. Sethna, JJ.**
DATED: 18 November 2025

ORAL ORDER: - (*Per M. S. Sonak, J*)

1. Heard Mr Makarand Joshi, who appears with Ms Shamiyana for the Petitioner and Ms Bharucha for the Respondents.

2. Rule. The Rule is made returnable immediately at the request of and with the consent of the learned Counsel for the parties.

3. The Petitioner challenges the communication/order dated 8 January 2025 made in the purported exercise of powers conferred by Rule 86A of the Central Goods and Services Tax Rules, 2017, blocking the use of Input Tax Credit

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(ITC) in the Petitioner's electronic ledger to the extent of Rs. 2.66 Crores.

4. Admittedly, as on the date of communication/order of 8 January 2025, the ITC available in the Petitioner's electronic ledger was to the extent of Rs. 07,06,770/-. However, the impugned communication/order seeks to block ITC to the extent of Rs. 2.66 Crores. Thus, this is a case of "negative blocking" to the extent, it concerns ITC over Rs. 07,06,770/-.

5. Ms Bharucha defended the impugned communication/order based upon the arguments reflected in the affidavit of Mr Mihir Kumar, the Principal Commissioner of CGST and Central Excise, Pune, as contained in paragraph 8 of the affidavit.

6. The contents of paragraph 8 of the above affidavit are transcribed below for the convenience of reference and taken as Ms Bharucha's arguments in defense of this Petition.

"8. With reference to Paras I to K of the Grounds of the Petition I deny the contents thereof and put the Petitioner to strict proof thereof. It is submitted that Rule 86A (1)(a) to (d) specifically states that the Commissioner or an authorized officer, not below the rank of an Assistant Commissioner, may, for reasons to be recorded in writing, not allow the debit of an amount equivalent to such credit in the electronic credit ledger for the discharge of any liability under section 49 or for claiming any refund of any unutilized amount.

According to Rule 86A, it is clear that the amount fraudulently availed and utilized by the petitioner must be blocked, even if it exceeds the ledger balance. The petitioner s had previously availed ineligible ITC and used it to pay GST liabilities, resulting in a significant loss to government revenue. Therefore, the respondent's action of

blocking ITC in excess of the balance, as per Rule 86A of the CGST Act 2017, is justified by treating it as a lien.

It is pertinent to refer to the ruling of the Hon'ble Allahabad High Court in the case of R. M. Dairy Products LLP vs. State of U.P & others, where it was held that Rule 86A does not involve the recovery of tax due from an assessee. Instead, it allows for certain amounts to be held back and not utilized by the assessee for discharging liabilities or claiming refunds under specific conditions. This rule creates a lien without actual recovery. The respondents alleged fraudulent utilization of input tax credit because the supplier of the petitioner was found to be non-existent at the disclosed business location. The respondents had 'reason to believe that the petitioner had fraudulently availed credit. Rule 86A enables the authorized officer to prevent the debit of an amount equivalent to 'such credit,' using the term 'not allow debit.' This provision is not for recovery but to secure revenue interests. If there is no positive credit in the electronic credit ledger on the date of the Rule 86A order, the order creates a lien up to the specified limit. As credit entries arise, the lien attaches to those entries up to the limit set by the order. The debit entry in the electronic credit ledger is read accordingly, and the petition is dismissed."

7. The arguments urged on behalf of the Respondents in the affidavit filed on behalf of the Respondents opposing the grant of any relief in this Petition run directly contrary to the following decisions: -

(i) **Samay Alloys India Pvt Ltd Vs State of Gujarat¹**,

(Decision of the Gujarat High Court).

(ii) **Laxmi Fine Chem Vs Assistant Commissioner²**

(Decision of the Telangana High Court).

¹ (2022) SCC OnLine 2595 Guj.

² (2024) SCC OnLine 2328 TS

(iii) **Best Crop Science Pvt Ltd through Authorised Representative Vs Principal Commissioner, CGST Commissionerate, Meerut & Ors³**

(iv) **Karuna Rajendra Ringshia Proprietor R R Enterprises Vs Commissioner of Central Goods and Service Tax & Ors⁴**

(both Decisions of the Delhi High Court).

8. Besides, the arguments in the affidavit on behalf of the Respondents also run counter to this Court's decision in *Rawman Metal & Alloys* (supra). Accordingly, we cannot accept such arguments and, on that basis, permit the blocking of ITC from the Petitioner's electronic ledger to the extent it exceeds Rs. 07,06,770/-.

9. As noted above, the High Courts of Gujarat, Telangana, and Delhi have held that such negative blocking was ultra vires Rule 86A. Similarly, this Court, in the case of **Rawman Metal & Alloys Vs. Deputy Commissioner of State Tax, Thane⁵**, after considering the decisions of various High Courts and after noting that Special Leave Petitions against some of them were dismissed, has also held similarly. This Court has also considered the contrary view taken by the Calcutta High Court. This view of the Calcutta High Court is similar to that of the Allahabad High Court in the case of **R. M. Dairy Products LLP Vs. State of Uttar Pradesh⁶**, which is relied upon in the affidavit filed on behalf of the Respondents in this Petition.

³ (2024) SCC OnLine 7992 (Del).

⁴ Writ Petition (c) No. 7250/2024 decided on 21/10/2024

⁵ 2025 10 TMI 489

⁶ 2021 (7) TR 4405

10. Therefore, by following the reasoning in our decision in *Rawman Metal & Alloyes* (supra), we quash and set aside the impugned communication/order dated 8 January 2025 to the extent it purports to block ITC in the Petitioner's electronic ledger account more than Rs. 07,06,770/-. The blocking of ITC to the extent of Rs. 07,06,770/- is not objected to by the Petitioner, and this was clearly stated by Mr Joshi, the learned Counsel for the Petitioner. Therefore, the impugned communication/order shall be restricted to blocking of credit to the extent of Rs. 07,06,770/- only.

11. A consequential Writ of Mandamus is issued to the Respondent to unblock the blocked ITC, to the extent the same exceeds 07,06,770/-. This exercise must be completed within 15 days of the uploading of this order.

12. The Rule is made partly absolute in the above terms without any order for costs. All concerned are to act on an authenticated copy of this order.

(Advait M. Sethna, J)

(M.S. Sonak, J)