

SAYALI
DEEPAK
UPASANI

Digitally signed
by SAYALI
DEEPAK
UPASANI
Date: 2025.09.20
09:52:57 +0530

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

WRIT PETITION NO.11646 OF 2025

DDS Jewels Private Limited ... Petitioner

Versus

State of Maharashtra and Others ... Respondents

**Mr. Brijesh Pathak with Mr. Dulraj Jain with Ms. Vaishnavi with
Ms. Aditi, for Petitioner.**

**Ms. S. D. Vyas, Additional GP with Mr. Aditya Deolekar, AGP for
State.**

**CORAM : M.S. Sonak &
Advait M. Sethna, JJ.**

DATED : 18 September 2025

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

1. Heard Mr. Pathak, learned Counsel for the Petitioner and Ms. Vyas, appearing with Mr. Deolekar, learned Counsel 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 orders dated 02 July 2025 for the restriction of use of fraudulent ITC under Rule 86-A(2) of the CGST/MGST Rules. These orders are at Exhibits F and G to the Petition.

4. Before the impugned orders were issued, the department addressed notices dated 30 June 2025 to the Petitioner, which are at Exhibits B and C. Mr Pathak contends that these are the show cause notices as to why the powers under Rule 86-A should not be exercised.

5. Ms Vyas, however, contends that these were not show-cause notices but were only intimations regarding the proposal to exercise powers under Rule 86 (A) of the MGST Rules.

6. The last paragraph of the notices dated 30 June 2025 reads as follows: -

“In view of the above fact, and circumstances and provision of Rule 86A of CGST/MGST Rules 2017, I have reason to believe that, the ITC availed by the Taxpayer, has been fraudulently availed. Hence proceeding u/r 86A of CGST/MGST Rules2017 has been initiated.

In view of the above fact and circumstances. You are hereby served the notice to show-cause and explain their reason for fraudulent availed ITC.

It is hereby show cause why fraudulent ITC availed has not been restricted to use for payment from Electronic Credit Ledger.

In this regard the reply should be reach to this office online or physical mode or presence of authorized representative with authority letter, to be produced before the undersigned on or before- 03/7/2025 at the office address mentioned above.

Failure to which by invoking u/r 86 A of CGST/MGST Act 2017, fraudulent ITC availed will be restricted to use form Electronic Credit Ledger.”

7. From the above, we are inclined to agree with Mr Pathak that the notices dated 30 June 2025 were indeed show-cause notices which required the Petitioner to file a reply on or before 03 July 2025. The notices stated that failure would result

in invoking the provisions of Rule 86-A and imposing restrictions on the use of the electronic credit ledger.

8. The Petitioner filed its reply on 02 July 2025 (Exhibit-D), and the same was received in the department's office on 03 July 2025, as evidenced by the endorsement on the copy of the reply at Exhibit-D to this Petition.

9. However, the impugned orders were made on 02 July 2025 without even waiting for the time limit indicated in the notices dated 30 June 2025 to expire. The Petitioner's reply filed on 03 July 2025, i.e., within the time limit allowed by the notices dated 30 June 2025, was completely ignored.

10. Ms. Vyas tried to contend that no show-cause notice is contemplated before the exercise of powers under Rule 86-A of the MGST Rules, 2017. At this stage, we do not propose to go into this issue because this is a case where the department deemed it appropriate to issue the notices dated 30 June 2025, which, in our judgment, were nothing but show-cause notices. Having done this, the principle of fairness required the department to at least wait for the time limit prescribed in the said notices to expire before rushing to make the impugned orders dated 02 July 2025. The Petitioner in this case filed its reply within the timeline indicated in the notices dated 30 June 2025. Even that reply was not investigated, because the impugned orders were made a day prior to the receipt of such reply.

11. On the grounds stated above, we quash and set aside the impugned orders dated 02 July 2025. As a result of this quashing, the department's action and the Petitioner's electronic ledger must be immediately reversed. This entails restoring the status quo ante, prior to the issuance of the impugned orders dated 02 July 2025. It also includes the deblocking and reversing of the negative credit in the Petitioner's electronic credit ledger. This process must be completed by 24 September 2025 at the latest.

12. Ms. Vyas argued that this was not a case of debit but rather a case of blockage. Based on the negative balance shown in the ledger, Mr. Pathak disputed this claim. At this stage, we are not examining the controversy about whether this was a matter of mere blockage or a debit of credit entries. This question remains open to be decided in an appropriate case. But now that the impugned action is quashed, the status quo ante must be restored latest by 24 September 2025.

13. Since we have interfered with the department's action only on the grounds of violation of natural justice, we clarify that the department would now be at liberty to dispose of the show-cause notices dated 30 June 2025 after considering the Petitioner's reply dated 02 July 2025 and hearing the representative of the Petitioner by 10 October 2025, at the latest.

14. The above time limit is imposed because Mr. Pathak, based on instructions from the Petitioner, now makes a statement before us that even upon the restoration of the credit

into the Petitioner's electronic credit ledger, until the department disposes of the show-cause notices dated 30 June 2025, the Petitioner shall not utilise any credit from its electronic credit ledger. This statement is accepted, and the Petitioner is directed to act accordingly.

15. However, if the department does not dispose of the show-cause notices dated 30 June 2025 by 10 October 2025 at the latest, then the Petitioner will not be bound by the above statement and will be free to utilise the credit. Since, in the peculiar facts of this case, we have directed that the Petitioner be granted a personal hearing, we expect that the Petitioner's representative will attend the personal hearing on the appointed date and not contribute to any delay in the disposal of the notices dated 30 June 2025 latest by 10 October 2025.

16. All contentions of all parties on the merits are left open. The show-cause notices issued by the department under Section 74 of the MGST Act can also proceed, and nothing in this order is intended to affect the proceedings pursuant to the said notices, which are not even challenged before us in this Petition.

17. The rule is made absolute in the above terms without any order for costs.

18. All concerned must act on an authenticated copy of this order.

(Advait M. Sethna, J)

(M.S. Sonak, J.)