

CWP-31747-2025

2025:PHHC:162128-DB



288-a **IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-31747-2025

Date of Decision: November 19, 2025

INTERIOR ZONE

.....Petitioner

Versus

UNION OF INDIA AND OTHERS

..... Respondents

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MR. JUSTICE PARMOD GOYAL**

Present: Mr. Anurag Sharma, Advocate for the petitioner.

Mr. Sourabh Goel, Senior Standing counsel for the respondents.

LISA GILL, J.

1. It is submitted that prayer in this writ petition is restricted to action of respondents blocking Electronic Credit Ledger (ECL) of petitioner and for deleting entries dated 24.04.2025, 08.05.2025 and 07.10.2025 through which Input Tax Credit has been blocked in negative by the respondents, statedly in violation of provisions of Rule 86A of Central Goods and Services Tax Act, 2017 and Punjab Goods and Services Tax Act, 2017 and in violation of principles of natural justice.

2. Learned counsel for parties are *ad idem* that question which arises for consideration in the writ petition is:

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“Whether Rule 86-A of Goods and Services Tax Rules, 2017 (for short Rules, 2017) permit the Commissioner or an officer authorized by him to block a tax payer’s ECL by an amount exceeding the credit available at the time of issuance of said order?”

3. Learned counsel for parties agree that in view of said sole question of law being the subject matter of adjudication, it is not necessary to postpone the hearing for filing of formal reply on behalf of respondents.

4. Learned counsel for petitioner submits that petitioner is an active business concern registered under the provisions of Central Goods and Services Tax Act, 2017 (for short – ‘CGST Act’). Grievance raised is that on 24.04.2025, 08.05.2025 and 07.10.2025, respondent No. 2 without any prior intimation, notice and in alleged violation of principles of natural justice besides guidelines issued by Central Board of Indirect Taxes and Customs (CBIC), negatively blocked Input Tax Credit (ITC) in Electronic Credit Ledger (ECL) of petitioner under Rule 86A of Act/Rules, 2017 thus showing negative balance as reflected from copy of ECL entries attached as Annexure P-1. It is argued that the provision does not mandate or authorize blocking of ITC in excess of the ITC already available to the credit of registered dealer in its ECL. It is further submitted that an artificial negative balance is created in the petitioner’s ECL which disables it from utilising the ITC availed by it for payment of its dues leading to a situation where it is only the remaining ITC after adjusting negative balance which would become available to petitioner for discharging its dues. Learned counsel for petitioner further submits that power of competent Officer in terms of Rule 86A of 2017 Rules is confined to the ITC which is available at the relevant time in the tax payers ECL.

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5. Learned counsel for petitioner refers to decision of Gujarat High Court in *Samay Alloys India Pvt. Ltd. Vs. State of Gujrat, 2022(2) TMI 843* and of Delhi High Court in *Best Crop Science Pvt. Ltd. Vs. Principal Commissioner and another, 2024 (9) TMI 1543, Kings Security Guard Services Pvt. Ltd. Vs. Deputy Director, Directorate General of GST Intelligence, 2024(12) TMI 1513* and *Karuna Rajendra Ringshia Vs. Commissioner of Central Goods and Service Tax and others, 2024(11) TMI 190*. It is submitted that decisions of Delhi High Court in *Kings Security* and *Karuna Rajender Ringshias'* cases (supra), which are based on its earlier judgment in *Best Crop Science P. Ltd.'s* case (supra) have been upheld with SLP(c) Nos.014493/2025 and 017723/2025 challenging said decisions being dismissed by Hon'ble Supreme Court on 17.05.2025 and 09.07.2025, respectively. Learned counsel further submits that this High Court vide decision dated 04.11.2025 in CWP-23675-2025 and other writ petitions has endorsed the view taken by the Delhi High Court in the cases of *Best Crop Science Pvt. Ltd. (supra)*, *Kings Security Guard Services Pvt. Ltd. (supra)* and *Karuna Rajendra Ringshia (supra)*. Present writ petition, it is submitted, is squarely covered in favour of petitioner in view of abovesaid decision dated 04.11.2025 passed in CWP-23675-2025 (**M/s Shyam Sunder Strips versus Union of India and others**). It is, thus, prayed that present writ petition be allowed.

6. Learned counsel for respondents opposes the petition, however, he is unable to deny that controversy and issue as raised is squarely covered in favour of petitioner and against the Department/Revenue in terms of decision dated 04.11.2025 passed in **CWP-23675-2025 (M/s Shyam Sunder Strips versus Union of India and others)** and other connected matters.

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7. We have heard learned counsel for parties and have perused the file with their able assistance.

8. It is a matter of record that petitioner is registered with respondent authorities under CGST Act, 2017 having GST Identification No. (GSTIN 03ADJPS6876Q1ZJ). Learned counsel for respondent, on advance notice, was unable to deny that ECL of petitioner was blocked on 24.04.2025, 08.05.2025 and 07.10.2025 from 01.12.2024 to 13.10.2025. Negative balance is thus reflected from the copy of ECL entries attached as Annexure P-1.

9. At this stage, it is relevant to refer to decision dated 04.11.2025 in the case of **M/s Shyam Sunder Strips** (supra) wherein judgments of Gujarat High Court in the case of **Samay Alloys**, of Delhi High Court, in **Best Crop Science Pvt. Ltd.** (supra); **Kings Security Guard Services Pvt. Ltd.** (supra) and **Karuna Rajendra Ringshia** (supra), in **M/s Laxmi Fine Chem Vs. Assistant Commissioner (2024) SCC OnLine TS 2328** of Telangana High Court and of Bombay High Court in **Rawman Metal and Alloys Vs. The Deputy Commissioner of State Tax, Thane, 2025(10) TMI 489** as well as decisions of Calcutta High Court in **Basanta Kumar Shaw Vs The Assistant Commissioner of Revenue, and State Tax, Tamluk Charge and others, 2022 SCC Online Cal 4544** and of Allahabad High Court in **M/s. RM Dairy Products LLP Vs. State of U.P. and others, 2021 SCC Online All 1144** besides decision of High Court of Andhra Pradesh in **Sugna Sponge and Power Pvt. Ltd. Vs. Superintendent of Central Tax and others, 2024 SCC Online AP 5756**, were noted and discussed in detail. View expressed by High Courts of Gujarat, Delhi, Bombay and

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Telangana has been endorsed. Relevant portion of order dated 04.11.2025 reads as under:-

“13. It is to be reiterated that right to avail and utilize ITC is clearly a statutory right subject to conditions as set out in the applicable statutory provisions. Gujrat High Court in its judgment in ***Samay Alloys India Pvt. Ltd.’s*** case (supra), after discussing manner of ITC utilization and concept of ECL in GST, concluded that availability of credit in the ECL is a condition precedent for exercise of power under Rule 86-A of Rules, 2017. Relevant portion of decision of Gujrat High Court in ***Samay Alloys India Pvt. Ltd.’s*** case (supra) reads as under:-

“28. Rule 86A of the CGST Rules empowers the Commissioner or his subordinates to freeze the debit in the electronic credit ledger provided he has reasons to believe that the credit of input tax available in the electronic credit ledger has been fraudulently availed or is ineligible. Thus, the condition precedent is that the input tax credit should be available in the electronic credit ledger before the power under Rule 86-A is invoked by the authority. In the case on hand, it is not in dispute that the amount of input tax credit available in the electronic credit ledger as on the date of blocking of ledger was Nil. If no input tax credit was available in the ledger, the blocking of electronic credit ledger under Rule 86-A of the Rules and insertion of negative balance in the ledger would be wholly without jurisdiction and illegal.

29. On a plain reading of the opening part of Rule 86A(1) of CGST Rules, 2017, it transpires that the power conferred under Rule 86A can be exercised by the Commissioner or an officer authorised by him (not below the rank of an Assistant Commissioner). Further the powers can be exercised if the following cumulative conditions are satisfied. i) Credit of input tax should be available in the electronic credit ledger, ii) The Commissioner or an officer authorised by him should have reason to believe that such credit has been fraudulently

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availed or is ineligible, iii) The reason to believe are be recorded in writing.

30. In case the above referred conditions are satisfied, a proper officer can invoke Rule 86A. Upon invocation of Rule 86A, a proper officer can - a) Disallow debit from the electronic credit ledger for discharge of any liability under section 49 or for claim of any refund of any unutilised amount. b) Such restriction should be for an amount equivalent to the amount claimed to have been fraudulently availed or is ineligible

31. Rule 86A (1) of CGST Rules, 2017 is broadly divided into two parts. The opening part of the rule deals with the conditions required to be fulfilled in order to invoke the powers under the rule. The second part of the rule provides for the consequences in case Rule 86A is invoked.

32. In other words, in case the conditions prescribed for the invocation of Rule 86A are not fulfilled, the officer cannot invoke the rule, and in such scenario, the consequences provided in the rule becomes ex-facie inapplicable.

33. One of the primary conditions in order to invoke Rule 86A is that the Credit of input tax should be available in the electronic credit ledger. Further, such credit should be claimed to have been (supported by reason to believe recorded in writing) fraudulently availed.

34. Accordingly, in case where (i) Credit of input tax is not available in the electronic credit ledger or (ii) such credit has already been utilised, the powers conferred under Rule 86A cannot be invoked.

35. Further, Rule 86A is not the rule which entitled the proper officer to make debit entries in the electronic credit ledger of the registered person. The rule merely allows the proper officer to disallow the registered person debit from the electronic credit ledger for the limited period of time and on a provisional basis. In case debit entries are made by the proper officer, the same will tantamount to permanent recovery of the input tax credit and

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certainly permanent recovery is governed by the statutory provisions (Section 73 of 74 of CGST Act) and it certainly travels beyond the plain language and underlined intent Rule 86A.

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41. In the aforesaid regard, first the language of an amount equivalent appears in the later portion of the rule which provides for the consequences in case the conditions for invocation of the rule are satisfied. As already discussed, the rule itself can be invoked only in case where the credit of input tax is available in the electronic credit ledger and accordingly, the consequence of the invocation cannot determine the applicability of the rule. Secondly, once the input tax credit is claimed in electronic credit ledger, the credit becomes part of one fungible pool and the credit cannot be separately identified. Having regard to the same, the rule provides for restriction on an equivalent amount and not the credit itself. However, the rule presupposes existence of such credit in the electronic credit ledger.

42. A doubt may also arise that a registered person may persistently and continuously avail and utilise the fraudulent credit and in such scenario the strict interpretation of Rule 86A will defeat the underlying purpose of enacting such a preventive provision. In this regard. Rule 86A is not the only measure available with the Government. The Government can certainly initiate proceedings under the provisions of section 73 or section 74, as the case may be, for recovery of credit wrongly claimed. Further, the Government in an appropriate case may initiate proceeding for Cancellation of registration (either of the supplier of the recipient or both) under Section 29 of CGST Act. Furthermore, the Government can also provisionally attach any property, including bank account, belonging to the taxable person under Section 83 of CGST Act.

43. Accordingly, the fact or possibility of registered person availing and utilising the fraudulent credit persistently and continuously cannot be the basis to invoke Rule 86A.

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44. The power to restrict debit from the electronic credit ledger is extremely harsh in nature. The rule outreaches the detailed procedure provided in the legislature for determination of input tax credit wrongly availed or utilised provided in Section 73 and 74 of CGST Act and empowers the officer to unilaterally impose certain restrictions in compelling circumstances. In other words, Rule 86A is invoked at a stage which is anterior to the finalization of an assessment or the raising of a demand. Accordingly, it should be governed strictly by specific statutory language which conditions the exercise of the power.

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“49. Thus, the principle of law discernible from the aforesaid two decisions of the Supreme Court is that there can be no action based on any supposed intendment of the provision. Since the plain language of Rule 86A does not permit its exercise without there being availability of credit, the same could not have been invoked in the present case.”

10. View expressed by High Courts of Gujarat, Delhi, Telangana and Bombay was endorsed by this Court to the effect that there is no ambiguity in the plain language of Rule 86A of 2017 Rules and neither does literal construction of this Rule lead to any absurdity; not allowing debit of ITC is a temporary measure which is to be imposed only if the conditions set out in Rule 86A of 2017 Rules are satisfied, thus, enabling the Commissioner to withhold available ITC in ECL when there is a reason to believe that it has been fraudulently availed or is ineligible. As the provision is for meeting an emergent situation, the view that prior notice (Show Cause Notice) is not required was endorsed. However, at the same time, without availability of credit in the ECL, there cannot be ‘negative blocking’. It is always open to the authorities to resort

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to statutory measures available for recovery of amount. Whether input tax credit was wrongly availed or utilised would be determined by competent authority in terms of Section 73 and 74 of CGST/PGST.

11. After a detailed discussion of applicable provisions and various judgments of the High Courts, as detailed in the foregoing paras, it was held in the case of **M/s Shyam Sunder Strips** (supra) as under:-

“18. In the given facts and circumstances, we are in respectful agreement with the view of Gujrat High Court and High Courts of Delhi and Telangana as expressed in the decisions referred to in foregoing paras. We are respectfully unable to agree with the view and interpretation expressed by the High Courts of Calcutta, Allahabad and Andhra Pradesh in matters of **Basanta Kumar Shaw, M/s. RM Dairy Products LLP** and **Sugna Sponge and Power Pvt. Ltd.’s** cases (supra), respectively. Moreover, it is to be noted that the view of Delhi High Court in **King Security** and **Karuna Rajender Ringshia’s** cases (supra) has been duly upheld by Hon’ble the Supreme Court.

19. We do not find any merit in the argument raised by learned counsel for respondent that as decisions dated 17.05.2025 and 09.07.2025 of Hon’ble the Supreme Court, challenging judgment passed in **King Security** and **Karuna Rajender Ringshia’s** cases (supra), have been passed in *limine*, therefore, present writ petitions should be dismissed in consonance with the view taken by High Courts of Calcutta, Allahabad and Andhra Pradesh. This argument has been noticed only to be rejected in the given factual matrix.

20. We do not find any merit in the argument raised by learned counsel for respondent that as decisions dated 17.05.2025 and 09.07.2025 of Hon’ble the Supreme Court, challenging judgment passed in **King Security** and **Karuna Rajender Ringshia’s** cases (supra), have been passed in *limine*, therefore, present writ petitions should be dismissed in consonance with the view taken by High Courts of Calcutta, Allahabad and Andhra Pradesh. This argument has been noticed only to be rejected in the given factual matrix.

21. In the given facts and circumstances, we find impugned orders/entries to be unsustainable which are, thus, set aside to the extent that they disallow debit from respective ECLs of petitioner(s) in excess of ITC available therein at the time of passing of/taking of said decision(s).”

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12. Keeping in view the facts and circumstances as above, present writ petition is allowed in the same terms as CWP-23675-2025 (**M/s Shyam Sunder Strips versus Union of India and others**) decided on 04.11.2025.
13. Respondents are at liberty to undertake and resort to remedy(ies) available for recovery in accordance with law.
14. Pending miscellaneous application(s), if any, stand(s) disposed of accordingly.

(LISA GILL)
JUDGE

(PARMOD GOYAL)
JUDGE

November 19, 2025
Rts

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No