Item No.
SL.27
27.1.26

In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side.

WPA 18933 of 2025

Gopal Metal Stores and Anr.
Vs.
The Assistnat Commissioner of State Tax, NS Road and MR Charge and Ors. .

Mr. Ankit Kanodia
Ms. M. Agarwal
Mr. P. Khaitan
Ms. Tulika Roy .... For the Petitioners.

Mr. Tanoy Cchakraborty
Mr. Saptak Sanyal .. For the State.

1. This writ petition is directed against an order dated June 3, 2025 passed by the Assistant Commissioner of State Tax whereby the petitioners' request for unblocking of the petitioner No. 1's(hereinafter the petitioner) electronic credit ledger as also for initiation and conclusion of adjudication proceedings have been turned down by the Proper Officer.

2. In the said order the Proper Officer has observed that the petitioner has availed Input Tax Credit (ITC) "*on the basis of some mere paper work without any involvement of goods*" and passed on "*such ITC" to the petitioners "beneficiaries without*

supply of goods” and declined the petitioners’ request to adjudicate upon the matter by observing that the *“act of violation is not suitable for adjudication”*.

3. Upon the petitioner’s electronic credit ledger being blocked and a communication to that effect being made to the petitioner on June 3, 2025, the petitioner made a request to the Proper Officer by a letter dated June 5, 2025 to unblock the electronic credit ledger and furnished relevant documents in support of the petitioner’s request. No action was taken by the Proper Officer despite such representation. The petitioner, therefore, followed up by another representation dated July 16, 2025 and while reiterating its request for unblocking the electronic credit ledger, the petitioner also requested for initiation and conclusion of adjudication proceedings in accordance with Section 73 or 74 of the Central Goods and Services Tax Act, 2017/West Bengal Good and Services Tax Act, 2017, as applicable.

4. The order impugned has been passed in response *inter alia* to the petitioner’s representation dated July 16, 2025.

5. Mr. Kanodia, learned Advocate appearing for the petitioners submits that the Proper Officer has

gone extremely over board in not only rejecting the petitioners' prayer for unblocking of the electronic credit ledger but also refusing to initiate and conclude adjudication proceedings despite the petitioner's request therefor.

6. It is further submitted that the continued blocking of the petitioners electronic credit ledger has been adversely affecting the petitioners' business and has financially crippled the petitioners.

7. It is further submitted that during the continuance of the blocking of the petitioner's electronic credit ledger entirety of the sum, in respect whereof the petitioner's electronic credit ledger was negatively blocked, has been realized.

8. Mr. Chakraborty, learned Advocate appearing for the respondents/CGST Authorities submits that he has no instruction as regards the aspect of realization of any amount as submitted by Mr. Kanodia.

9. Mr. Chakraborty, has however little resistance to offer insofar as the Proper Officer's observation to the effect that *'such act of violation is not suitable for adjudication'* is concerned.

10. The Provisions of Rule 86A of the CGST Rules, 2017/WBGST Rules, 2017 provide for conditions of use of any amount available in the electronic credit

ledger of the registered tax payer. In terms thereof if the revenue authorities mentioned therein, have reasons to believe that credit of input tax available in the electronic credit ledger has been fraudulently availed or is ineligible for any of the reasons mentioned in Clauses (a) to (d) of Rule 86A(1) then the said revenue authorities may upon recording reasons withhold debit of an amount equivalent to such credit in electronic credit ledger for discharge of any liability by the registered tax payer.

11. Such a provision is clearly aimed at securing the tax apprehended to be in default either due to fraudulent availment of ITC or availment of ITC despite ineligibility. It is therefore, supposed to be an interim measure pending adjudication. Once this provision is resorted to, it cannot be said by the Proper Officer that adjudication itself cannot be done.

12. In such view of the matter, the Proper Officer's observation that the *'act of violation is not suitable for adjudication'* cannot be sustained.

13. This court is cognizant of the aspect that the restriction imposed under Rule 86A can be continued for one year but in the case at hand the Proper Officer has simply abdicated his duty to adjudicate. It is noticed that blocking of the

petitioners electronic credit ledger has already been in place for a little more than seven months as of now.

14. By blocking the electronic credit ledger of a registered tax payer and then continuing with the same by observing that there will be no adjudication of the issues involved would be against the very grain of the said Act of 2017 itself.

15. In such view of the matter, the Proper Officer concerned is directed to initiate adjudication proceedings by issuing appropriate show cause notice to the petitioners within a week from the date of communication of this order.

16. The petitioners shall be entitled to file reply to the notice to show cause within a week thereafter.

17. The Proper officer shall thereafter conclude the adjudication proceedings by passing an appropriate order in accordance with law, upon giving an opportunity of hearing to the petitioner within a period of three weeks from the date of receipt of the petitioner's reply to the notice of show cause. It is made clear that the petitioners shall not be entitled to pray for any adjournment.

18. It is made clear that if the adjudication proceedings are not concluded within the period mentioned in this order, the Proper Officer

shall have to unblock the electronic credit ledger of the petitioners.

19. With the above observation the writ petition being WPA 18933 of 2025 stands disposed of. No costs.

(Om Narayan Rai, J.)