IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Sr. No. 283 CWP-5704-2026

Date of decision : 21.04.2026

M/s Kamal Foods ….. Petitioner

Versus

State of Punjab and others ..... Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MS. JUSTICE LAPITA BANERJI

Present **:** Mr. Amit Jhanji, Senior Advocate, with
Mr. Tarang, Advocate, and
Mr. Sachit Singla, Advocate, for the petitioner.

Mr. Saurabh Kapoor, Addl. A. G., Punjab.

Mr. Sourabh Goel, Advocate, for respondent No. 5.

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DEEPAK SIBAL, J**.** (Oral)

1. Mr. Amit Jhanji, learned senior counsel for the petitioner restricts his claim to the challenge to the blocking of the petitioner's input tax credit (for short, ITC) available in the petitioner's electronic credit ledger and further submits that so far as the show cause notices dated 16.02.2026 and 26.02.2026, issued to the petitioner under Section 74A(1) read with 74A(5)(ii) of the Punjab Goods and Services Tax Act, 2017/Central Goods and Services Tax Act, 2017, for the financial years 2025-26 and 2024-25 respectively are concerned, the petitioner shall face such notices, as per law.

2. Learned counsel for the parties have been heard.

3. Rule 86A of the Central Goods and Services Tax Rules, 2017 (hereafter referred to as 'the Rules') is relevant and the same is reproduced below for ready reference: -

"86A. Conditions of use of amount available in electronic credit ledger.-

(1) The Commissioner or an officer authorised by him in this behalf, not below the rank of an Assistant Commissioner, having reasons to believe that credit of input tax available in the electronic credit ledger has been fraudulently availed or is ineligible in as much as-

a) the credit of input tax has been availed on the strength of tax invoices or debit notes or any other document prescribed under rule 36-

i. issued by a registered person who has been found non-existent or not to be conducting any business from any place for which registration has been obtained; or

ii. without receipt of goods or services or both; or

b) the credit of input tax has been availed on the strength of tax invoices or debit notes or any other document prescribed under rule 36 in respect of any supply, the tax charged in respect of which has not been paid to the Government; or

c) the registered person availing the credit of input tax has been found non-existent or not to be conducting any business from any place for which registration has been obtained; or

d) the registered person availing any credit of input tax is not in possession of a tax invoice or debit note or any other document prescribed under rule 36, may, for reasons to be recorded in writing, not allow debit of an amount equivalent to such credit in electronic credit ledger for discharge of any liability under section 49 or for claim of any refund of any unutilised amount.

(2) The Commissioner, or the officer authorised by him under sub-rule (1) may, upon being satisfied that conditions for disallowing debit of electronic credit ledger as above, no longer exist, allow such debit.

(3) Such restriction shall cease to have effect after the expiry of a period of one year from the date of imposing such restriction."

4. As per the afore quoted provision, the Commissioner or an officer authorized by him in this regard, not below the rank of Assistant Commissioner, can block an assessee's ITC available in the assessee's electronic credit ledger but only when such officer has reasons to believe that the ITC available in the assessee's electronic credit ledger has been fraudulently availed by the assessee or that the assessee is ineligible to avail the ITC existing in its electronic credit ledger. "Reasons to believe" referred to in Section 86A(1) of the Rules are required to be recorded in writing and only thereafter the assessee's ITC, available in its electronic credit ledger, can be blocked.

5. In the case in hand, prior to blocking of the petitioner's ITC existing in its electronic credit ledger, no order whatsoever was passed by the competent authority recording therein the reasons as to why he believed that the petitioner's ITC, existing in its electronic credit ledger, should be blocked. What preceded such action was only an intimation of liability to the petitioner dated 05.12.2025, under Section 74A(1) of the State Goods and Services Tax Act, 2017/Central Goods and Services Tax Act, 2017/Integrated Goods and Services Tax Act, 2017, which notice was also vague and bereft of any worthwhile reasons. The gist of such notice reads as follows: -

> *"……However, it is noticed that no tax is deposited by the firms from which the ITC is claimed and availed and the transactions claimed are not backed by evidence and payment of tax at any level."*

6. In the light of the above, it is apparent that the petitioner's ITC, existing in its electronic credit ledger, has been blocked in violation of the principles of natural justice and the procedure prescribed under Rule 86A of the Rules and therefore, is unsustainable in law.

7. The above view of ours finds support from a Division Bench judgment of this Court in *Rajnandini Metal Ltd. vs. Union of India and others (2022) SCC online Punjab and Haryana, 4253*, where in a similar issue, as raised through this petition, was decided as follows: -

> *"9. From bare perusal of the aforesaid provision, it is evident that the power under Rule 86A of the CGST Rules is exercised where the prescribed officer has reason to believe that credit of input tax available in the Electronic Credit Ledger has been fraudulently availed or the assessee is ineligible. The exercise vested in the prescribed Authority is subject to a satisfaction recorded by the said Authority and forming opinion to the effect that the Credit Ledger has been fraudulently availed or the assessee is ineligible in the situations as prescribed under the Rule itself.*

10. xxx xxx xxx

11. The impugned order in the present case when tested on the touchstone of the provision contained in Rule 86A and the law referred to herein above, we find that the reason to invoke the power conferred under Rule 86A of CGST Rules against the petitioner is an intelligence report received from Principal Chief Commissioner, Central Excise and Central Tax, Vadodara Zone regarding a racket of firms indulging in fake judicial and passing of illicit ITC. Merely by recording that some investigation is going-on a drastic far-reaching action under Rule 86A of the CGST Rules cannot be sustained. There is no reason recorded by the Authority for exercising power under Rule 86A of the CGST Act, 2017 which would show independent application of mind that can constitute reasons to believe which is sine qua non for exercising power under Rule 86A of the CGST Rules. It is trite law that a speaking order has to be self sustainable and respondents at this stage cannot be allowed to justify the same by adding reasons to it by filing additional affidavits. From the reading of the order it is evident that it is bereft of any material or 'reason to believe' that the petitioner is guilty of fraudulent transaction or is ineligible under Section 16 of the CGST Act."

8. In view of the above, we unhesitantly hold the blocking the petitioner's ITC, existing in its electronic credit ledger, to be illegal and therefore, order its release forthwith. However, the respondents would be at liberty to proceed afresh, to block the petitioner's ITC, existing in its electronic credit ledger, but only after following the procedure established by law.

9. So far as the show cause notices dated 16.02.2026 and 26.02.2026 are concerned to which the petitioner has already filed its written responses, the respondents shall proceed to take a final decision thereupon, in accordance with law.

10. The petition is allowed in the above terms.

[DEEPAK SIBAL]
JUDGE

21.04.2026
shamsher

[LAPITA BANERJI]
JUDGE

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