



W.P.No.22196 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.08.2023

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.22196 of 2023

and

W.M.P.No.21589 of 2023

M/s.Sri Rameswar Metal House,
Old No.5 (New Street No.26),
Zinda Sahib Street,
Kondithope, Chennai - 79.

... Petitioner

Vs.

1.The Assistant Commissioner (ST),
Review and Appeal, Zone - II,
Elephant Gate Bridge,
Veperiy, Chennai - 600 003.

2.The Commissioner of GST,
110, Nungambakkam High Road,
Sadras, Thousand Lights,
Chennai - 600 006.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records of the first respondent in the impugned intimation dated 26.06.2023 with reference to GSTIN 33ABCPH7498C1ZR and quash the same, consequentially direct



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the first respondent to unblock the credit available in the Electronic Credit Ledger of the petitioner in GST Portal.

For Petitioner : Mr.K.Senguttuvan

For Respondents : Mrs.E.Ranganayaki
Special Government Pleader

ORDER

Mrs.E.Ranganayaki, learned Special Government Pleader takes notice on behalf of the respondents.

2. The petitioner, a wholesale dealer in stainless steel items appears to have purchased steel products from M/s.Kiran Distributors and resorted to have passed on ineligible Input Tax Credit to numerous tax payers including the petitioner.

3. Therefore, input tax credit lying in the Electronic Credit Ledger to the extent of Rs.18,49,230/- of the petitioner was blocked twice by the CGST authorities on 16.01.2020 and thereafter on 15.04.2022. The credit was unblocked on 04.05.2023 at the expiry of the period. Meantime, the petitioner had also filed W.P.No.17408 of 2020. The said writ petition was



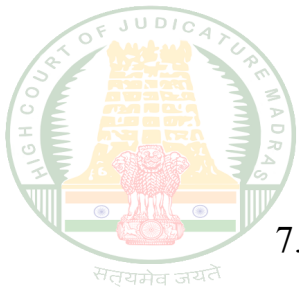
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withdrawn as the credit was unblocked on 04.05.2023 by the CGST authorities under the Central Goods and Services Tax (CGST) Act, 2017.

4. Now, the State GST authorities, the respondents herein have invoked some provision namely Rule 86A of the Tamil Nadu Goods and Services Tax (TNGST) Rules, 2017 and have blocked a sum of Rs.67,75,144/- vide impugned intimation dated 26.06.2023 under Rule 86-A(1)(a) and (c) of the TNGST Rules, 2017.

5. The case of the petitioner is that blocking of the Input Tax Credit is incorrect as the petitioner is being denied the utilization of input tax credit availed on the purchases made from various buyers for discharging tax liability.

6. The learned counsel for the petitioner has placed reliance on the decision of the Punjab and Haryana High Court in **Rajnandini Metal Limited Vs. Union of India**, [2022] 140 taxmann.com 325 (Punjab and Haryana).



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7. A specific reference was made to Paragraph 11 from the said

WEB DECISION, which reads as under:-

"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 including 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. *Prima facie*, there is no case made out for interfering with the steps taken by the respondents blocking the Input Tax Credit amounting to Rs.67,75,144/- as the petitioner appears to have availed Input Tax Credit on the strength of invoices of the trader/supplier namely M/s.Kiran Distributors, why is not having any business that was reportedly engaged in passing on



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ineligible input tax credit to various/numerous tax payers including the
WEB COURT petitioner.

9. The decision of the Punjab and Haryana High Court in **Rajnandini Metal Limited case** (referred to supra) is distinguishable in the facts of the present case as the intimation issued to the petitioner categorically states that the Office of the respondents has received report that the trader/supplier namely M/s.Kiran Distributors was non-existing entity and had not conducted any business activity at the address for which, registration was obtained and found to have passed on ineligible input tax credit to numerous tax payers.

10. Considering the same, I do not find any merits to interfere with the impugned order. However, liberty is given to the petitioner to challenge the impugned order before the Appellate Authority. Meanwhile, the respondents are directed to initiate appropriate proceedings under Section 73 or 74 of the Act as the case may be to recover the ineligible input tax credit availed by the petitioner.



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WEB COPY11. This Writ Petition is dismissed with the above observations. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

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Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No

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To

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