



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

D.B. Civil Writ Petition No. 10383/2020

Vinayak Plylam Marketing, Having Its Office At F-939, Road No. 14 Vki Area, Jaipur, Rajasthan 302001 Through Its Partner Mr. Vinay Gupta S/o B.s. Gupta, Aged About 48 Years, R/o 601, Sector 1, Vidyadhar Nagar, Jaipur, Rajasthan 302039.

-----Petitioner

Versus

1. Superintendent, Central Goods And Services Tax, Range-II, Central Gst Building, Cp-21, 22 And 23, Road No. 1 D, Vki Area, Jaipur.
2. Deputy Commissioner, Central Goods And Services Tax, Division-A, Central Gst Building, Cp-21, 22 And 23, Road No. 1D, Vki Area, Jaipur.
3. Commissioner, Officer Of The Commissioner, Central Goods And Services Tax Jaipur, New Central Revenue Building, C-Scheme, Statue Circle, Jaipur 302005.
4. Union Of India, Ministry Of Finance, Department Of Revenue, Room No. 46, North Block, New Delhi - 110 001 Through Its Secretary.
5. State Of Rajasthan, Finance Department (Tax Division) 1St Floor, Main Building, Gate 2, Government Secretariat, Jaipur, Rajasthan 302005 Through Its Joint Secretary.
6. The Goods And Service Tax Council (Gst Council), Office Of The Gst Council Secretariat, 5Th Floor, Towe Ii, Jeevan Bharti Building, Janpath Road, Connaught Place, New Delhi-110001 Through Its Secretary.
7. M/s Sterling Lam Limited, A Comapny Having Its Office Address At Mahiyal Road, Mahiyal, Ta-Talod, Dist Sabarkantha, State Gujarat Through Its Authorised Signatory For Gst.

-----Respondents

For Petitioner(s) : Mr. Prakul Khurana,
Mr. Rahul Lakhwani,
Ms. Shradha Agarwal

For Respondent(s) : Mr. Sandeep Pathak



HON'BLE THE CHIEF JUSTICE MR. AKIL KURESHI
HON'BLE MR. JUSTICE UMA SHANKER VYAS

Order

15/12/2021

The petitioner's main grievance is with respect to the blocking of the input tax credit to the tune of Rs.3,43,630/- by the respondent authorities on the petitioner's GST portal under an order dated 18.03.2020. It appears that invoking clause (b) of sub-rule (2) of Rule 86 of GST Rules, 2017 the department has taken the said action. The petitioner had therefore challenged the vires of the said provision. However the main thrust of the advocate for the petitioner at this stage was that in terms of sub rule (3) of the said Rule 86A in any case upon expiry of a period of one year from the date of imposition of restriction, the same would no longer survive. In support of his contention in addition to relying upon sub rule (3) of Rule 86A counsel has also placed reliance on the decision of the Karnataka and Bombay High Courts in case of **Aryan Tradelink Vs. Union of India- [2021] 128 taxmann.com 268 (Karnataka)** and **Advent India PE Advisors Private Limited Vs. The Union of India and Ors.** dated 03.12.2021 respectively.

Learned counsel for the department stated that the credit has already been unblocked and therefore the main grievance of the petitioner no longer survives. He clarified that the department has already issued notice for disallowing the claim of input tax credit of much larger amount which the petitioner must face.

In view of the statement made by the counsel for the respondents, it is not necessary to go into the question of continuing the restriction imposed on the petitioner enjoying the



input tax credit in question. If this unblocking of the tax credit is not already reflected on the GST portal in the account of the petitioner, the same shall be done forthwith.

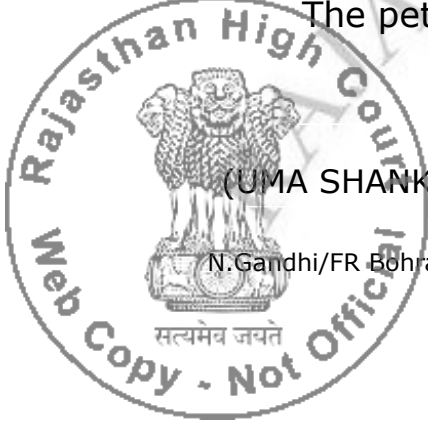
In view of these observations and developments learned counsel for the petitioner does not press to challenge the vires of Rule 86A in this petition.

The petition is disposed of accordingly.

(UMA SHANKER VYAS),J

(AKIL KURESHI),CJ

N.Gandhi/FR Bohra/46



सत्यमेव जयते