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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO. 10928 OF 2025

Rawman Metal & Alloys]
Principle place of Business at,]
Floor,3rd, 13, Plot, Plot-44, Manak House,]
C P Tank road, Gulalwadi,]
Girgaon, Mumbai, 400004.]…Petitioner

Versus

The Deputy Commissioner of State]
Tax, Thane]
2nd Floor, MTNL Building, GST]
Office, Bhayander (W), Thane-401101]…Respondent

WITH

INTERIM APPLICATION (L) NO. 11003 OF 2025

IN

WRIT PETITION (L) NO. 10928 OF 2025

Rawman Metal & Alloys]
Prop. Pravin Mohanlalji Mehta Aged 39]
floor-3rd, 13, plot 44, manak house,]
cawasji patel tank road, gulalwadi,]
girgaon, mumbai, maharashtra 400004.]…Applicant

In the matter between

Rawman Metal & Alloys]
Prop. Pravin Mohanlalji Mehta]
floor-3rd, 13, plot 44, manak house,]
cawasji patel tank road, gulalwadi,]
girgaon, mumbai, maharashtra 400004.]…Petitioner

Versus

The Deputy Commissioner of State]

Tax, Thane]
GOODS AND SERVICE TAX DEPARTMENT]
(VASAI_505), 2ND Floor, MTNL Building]
GST Office, Bhayander (W), Thane-401101]...Respondent

Mr Parmeet Singh, *with Mr Vinit Dhage, for the Petitioner.*

Mr Amar Mishra, AGP, *for the Respondent No. 1 in WPL/10928/2025.*

CORAM M.S. Sonak &
Advait M. Sethna, JJ.
DATED: 07 October 2025

ORAL JUDGMENT: - *(Per M. S. Sonak, J)*

1. Heard learned Counsel for the parties.

2. Rule. The Rule is made returnable immediately at the request of and with the consent of the learned Counsel for the parties.

3. The Petitioner challenges the impugned order dated 9 December 2024 made by the Respondent purporting to invoke the provisions of Rule 86-A of the Central Goods and Services Tax Rules, 2017 (CGST Rules) to block the use of Input Tax Credit (ITC) in the Petitioner's Electronic Credit Ledger to the extent of Rs. 12,84,273/-.

4. Admittedly, at the time when the impugned order dated 9 December 2024 was made, the ITC available in the Petitioner's Electronic Credit Ledger was "Nil". Therefore, Mr Parmeet Singh, the learned Counsel for the Petitioner, urged that the Respondent was not entitled to invoke the provisions

of Rule 86-A and such invocation was ultra vires. He relied on the decision Gujarat High Court in the case of **Samay Alloys India Pvt Ltd Vs State of Gujarat**[1], the decision of the Telangana High Court in the case of **Laxmi Fine Chem Vs Assistant Commissioner**[2] and the decisions of the Delhi High Court in the cases of **Best Crop Science Pvt Ltd through Authorised Representative Vs Principal Commissioner, CGST Commissionerate, Meerut & Ors**[3] and **Karuna Rajendra Ringshia Proprietor R R Enterprises Vs Commissioner of Central Goods and Service Tax & Ors**[4] to support his contention.

5. Ms Chavan, the learned Additional Government Pleader, submitted that on a proper reading and construction of Rule 86-A, it was apparent that the blocking could not be restricted only to the amount available in the Electronic Credit Ledger as on the date of the order, but that the blocking would relate to the entire ITC fraudulently availed. She submitted that any other interpretation would virtually render Rule 86-A otiose. She submitted that the parties, who fraudulently availed of ITC, would then immediately utilise and exhaust the same, rendering it virtually impossible to exercise the powers conferred by Rule 86-A. She submitted that the legislative or executive intent behind enacting Rule 86-A was to block the utilisation of ITC that may have been fraudulently obtained. Such an intention cannot be frustrated by a narrow construction adopted by the Gujarat High Court and the Delhi High Court.

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1 Special Civil Application No. 18059 of 2021 decided on 03/02/2022

2 Writ Petition No. 5256 of 2024 decided on 18/03/2024

3 Writ Petition (c) 10980/2024 & Ors decided on 24/09/2024

4 Writ Petition (c) No. 7250/2024 decided on 21/10/2024

6. Instead, Ms Chavan relied on the decision of the Calcutta High Court in the case of **Basanta Kumar Shaw Vs Assistant Commissioner of Revenue, Commercial Taxes and State Tax, Tamluk Charge And Others**[5], which according to her has correctly interpreted Rule 86-A and held that the blocking can relate also to the ITC that would be available in the Electronic Credit Ledger to the extent of the ITC fraudulently availed. She submitted that the decision of the Calcutta High Court gives proper meaning to the letter and the legislative intent, and therefore, it must be preferred over the decisions of the Gujarat High Court and the Delhi High Court.

7. The rival contentions now fall for our determination.

8. The entire argument on either side turns on the interpretation of Rule 86-A, which reads as follows:-

> "**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

[5] (2023) 120 GSTR 864 (Cal)

> 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."

9. On a plain reading of the above Rule, it does appear that the powers of blocking the utilisation of ITC in the Electronic Credit Ledger can be exercised with regard to *"Input Tax available in the Electronic Credit Ledger"*. This appears to be the first prerequisite for exercising powers under Rule 86-A. The second would be the "*reason to believe that such credit of input available in the Electronic Credit Ledger has been fraudulently availed or is ineligible".* After this, there are requirements for recording the reasons in writing and other restrictions, such as not allowing the debit of an amount equivalent to such credit in the Electronic Credit Ledger for the discharge of any liability under Section 49 or for the claim of any refund of the unutilized amount.

10. Therefore, on a plain reading of the rule, if on the date of issuing the impugned order or on the date of making an

order under Rule 86-A blocking the ITC in the Electronic Credit Ledger, no ITC was found to be available there, then, there would be no question of exercising the powers under Rule 86-A or making any order under Rule 86-A to block such non-available ITC in the Electronic Credit Ledger.

11. The question of adverting to legislative intent or executive intent would arise only if there was any ambiguity in the provision. In the absence of ambiguity, it is ordinarily not open for the Court to adopt a construction or an interpretation that allegedly aligns with the intention, though not with the expressed or plain words employed to express such intention.

12. Further, the Rule with which we are concerned relates to taxes. Ordinarily, such a provision must be strictly construed, and there is no scope for implication. Nothing is to be read in such a provision unless there are exceptional circumstances. The argument that the Rule would be rendered otiose cannot be accepted because the Rule enables the proper officer to block the ITC as may be available in the Electronic Credit Ledger, upon there being reasons to believe that the same had been fraudulently availed or was ineligible. If the intention of the legislature or the rule makers was to enable the blocking of any future credit that might be available in the Electronic Credit Ledger, then the Rule would have been differently worded to expressly enable or permit such a consequence.

13. The Division Bench of the Gujarat High Court, comprising Hon'ble Mr Justice J. B. Pardiwala (as His Lordship then was) & Hon'ble Ms Justice Nisha M. Thakore, has analysed the provisions of Rule 86-A in detail and rejected

contentions almost identical to those now raised by Ms Chavan before us. The Court has held that if no input tax credit was available in the ledger, the blocking of the electronic credit ledger under Rule 86-A and insertion of a negative balance in the ledger would be wholly without jurisdiction and illegal. The Court held that on a plain reading of the opening part of Rule 86-A (1), powers can be exercised only if the credit of input tax is available in the electronic credit ledger and not when there is nil credit in the ledger.

14. The argument about the Rule being rendered otiose or toothless was considered in detail by the Gujarat High Court in paragraphs 38 to 44, and the said paragraphs are transcribed below for the convenience of reference:-

> *"38. The revenue may legitimately argue that such an interpretation may make the entire Rule 86A toothless as parties can claim and immediately utilise the credit fraudulently availed by filing monthly returns. Accordingly, it may be practically impossible to invoke Rule 86A in large number of cases. This may be the actual implication of the present interpretation, however, the Government in its wisdom has framed Rule 86A and this rule is not framed to recover the credit fraudulently availed. In case where credit is fraudulently availed and utilised, appropriate proceeding under the provisions of section 73 or section 74, as the case may be, can be initiated. Secondly, Rule 86A is not the rule which provides for debarring the registered person from using the facility of making payment through the electronic credit ledger. In case the intention was to disallow future debits or credit in electronic credit ledger, the text of the rule would be entirely different.*
>
> *39. Accordingly, even though Rule 86A may be invoked in very limited number of cases, this cannot be the basis to invoke the rule in the cases which are not supported by the plain language of the rule.*

40. The Rule 86A empowers the proper officer to disallow debit from the electronic credit ledger for an amount equivalent to the amount claimed to have been fraudulently availed. Accordingly, the rule provides for restriction on an amount and not on the very credit which is fraudulently availed. Accordingly, the rule can be invoked even when the credit fraudulently availed is utilised.

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.

> *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."*

15. The Gujarat High Court also took cognisance of the heading of Rule 86-A, which reads *"conditions of use of amount available in the Electronic Credit Ledger".* The Court held that on a plain reading of the heading itself, it was apparent that Rule 86-A could be invoked only if the amount was available in the Electronic Credit Ledger and not otherwise. The Court held that it was a settled rule of interpretation that the section heading or a marginal note could be relied upon to clear any doubt or ambiguity in the interpretation of the provision to discern the legislative intent. [vide **Uttamdas Chela Sunder Das Vs SGPC**[6] and **Bhinka & Ors. Vs Charan Singh**[7]].

16. The Gujarat High Court, referring to the decisions of the Hon'ble Supreme Court in the case of **Commissioner of Income Tax, Madras Vs Kasturi & Sons Ltd**[8] and **Kapil Mohan Vs Commissioner of Income Tax, Delhi**[9] held that the principle that a taxing statute should be strictly construed is well settled. Furthermore, the Court also held that it has long been

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6 (1996) 5 SCC 71

7 AIR 1959 (SC) 906

8 (1993) 3 SCC 346

9 (1999) 1 SCC 450

recognised that tax and equity are strangers. Just as reliance upon equity does not avail an assessee, so it does not avail the Revenue. The Court held that 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 86-A does not permit its exercise without the availability of credit, it could not have been invoked in the case where the ITC was nil on the date of exercise of the power.

17. The Gujarat High Court also relied upon Circular No. 4 of 2021 dated 24 May 2021 issued by the Commissioner of State Tax, State Goods & Services Tax Department Kerala emphasizing that if there was a nil balance or insufficient balance in the tax head to which the credit is to be blocked the credit available in other tax heads, equivalent to the amount fraudulent availed, can be blocked. In such a scenario, it should be kept in mind that this shall be subject to limitations imposed by law on cross-utilisation of ITC. That is, as cross-utilisation of CGST credit to SGST liability and vice versa is not permitted by the GST Laws. In case of blocking of CGST credit availed fraudulently, blocking of SGST credit shall not be done if no credit is available in the CGST tax head. As such, for blocking of IGST credit availed fraudulently, if there is no credit balance in IGST tax head, the amount equivalent to the credit fraudulently availed can be blocked from the ITC credit available in CGST head and/or SGST head and vice versa.

18. The Gujarat High Court also held that blocking of credit was only a temporary measure, and the Revenue is not rendered remediless merely because Rule 86-A is confined to

the blocking of credit available in the Electronic Credit Ledger and not future credit that might be available in the Electronic Credit Ledger. The admissibility of Input Tax Credit can be verified through the issuance of a show-cause notice and, thereafter, through the adjudication of the liability. The authorities have ample powers of recovery, including the power to provisionally attach under Section 83 of the CGST Act. However, the power under Rule 86-A cannot be invoked in the absence of any credit balance in the Electronic Credit Ledger. The Gujarat High Court allowed the Petition and directed the Respondents to withdraw the negative block of the Electronic Credit Ledger at the earliest after ruling that the condition precedent for exercising power under Rule 86-A was the availability of credit in the Electronic Credit Ledger, which was alleged to be ineligible or availed of fraudulently.

19. Ms Chavan was unable to say anything about whether the Revenue challenged the decision of the Gujarat High Court before the Hon'ble Supreme Court. This decision of the Gujarat High Court was followed by the Division Bench of the Telangana High Court by a Bench comprising Hon'ble Sri Justice P. Sam Koshy and Hon'ble Sri Justice N. Tukaramji in the case of *Laxmi Fine Chem* (supra).

20. The Delhi High Court in the case of *Best Crop Science Pvt Ltd* (supra) comprising Hon'ble Mr Justice Vibhu Bakhru and Hon'ble Mr Justice Sachin Datta and in the case of *Karuna Rajendra Ringshia* (supra) comprising Hon'ble Mr Justice Yashwant Varma and Hon'ble Mr Justice Ravinder Dudeja have also interpreted Rule 86-A to apply only in respect of ITC available in the Electronic Credit Ledge at the time of making a blocking order and not to any future ITC or providing for

any negative blocking, to borrow the phrase used by the Gujarat High Court.

21. As against the decision of the Delhi High Court in the case of *Karuna Rajendra Ringshia* (supra), the Revenue did carry the matter to the Hon'ble Supreme Court by instituting the Special Leave Petition (Civil) Diary No(s). 21136/2025. However, by order dated 9 July 2025, the Hon'ble Supreme Court declined to interfere with the decision of the Delhi High Court, leaving it open to the Revenue to pursue other remedies for recovery in accordance with law.

22. The Calcutta High Court in the case of *Basanta Kumar Shaw* (supra) has dissented from the decision of the Gujarat High Court in *Samay Alloys India Pvt Ltd* (supra). The Calcutta High Court has reasoned that Rule 86-A does not use the expression "negative blocking" and therefore, such a theory cannot be imported to justify the contention that there should be a positive balance to invoke Rule 86-A. The Court has also held that there was no requirement under Rule 86-A that the Electronic Credit Ledger should contain a sufficient balance to block the credit by invoking the Rule. The Court held that the Gujarat High Court's view, while laying excessive emphasis on the word "available", has not given due credence to the words "has been fraudulently availed or is ineligible".

23. The Calcutta High Court has held that it is a duty of the Court to examine the true intention of the legislature. In this case, the true intention was to block the Electronic Credit Ledger where ITC was availed of fraudulently or where the assessee was ineligible to avail of it. Any interpretation which would hamper such an intention should not be adopted.

24. As noted earlier by us, the first duty of the Court is to interpret the words of the statute as they read or stand, when such words are plain and unambiguous. The intention of the legislature must be gathered from the language used in the statute. **G.P. Singh's** locus classicus on the Interpretation of Statutes explains this principle by reference to several decided cases.

25. In **Crawford Vs Spooner**[10] and **Lord Howard De Walden Vs Inland Revenue Commissioners**[11]. It was held that the Courts can neither aid the legislature's defective phrasing of the act nor add or mend and, by construction, make up deficiencies which are left there. It is contrary to all rules of construction to read words into an act unless it is absolutely necessary to do so.

26. British India General Insurance Co. Ltd Vs Captain Itbar Singh & Ors[12], the Hon'ble Supreme Court, when interpreting Section 96(2) of the Motor Vehicles Act, 1939, held that it was exhaustive of the defenses open to an insurer. The Hon'ble Supreme Court refused to add the word "also" after the words "on any of the following grounds" and observed: "*this, the rules of interpretation, do not permit us to do unless the Section as it stands is meaningless or of doubtful meaning".*

27. In **Grey Vs Pearson**[13], LORD WENSLEYDALE stated the rule thus: "*In construing wills and indeed statutes and all written instruments, the grammatical and ordinary sense of the word is adhered to, unless that would lead to some*

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10 (1846) 6 Moore PC 1

11 (1948) 2 All ER 825 (HL)

12 AIR 1959 SC 1331

13 (1857) 6 HLC 61

absurdity, or some repugnance or inconsistency with the rest of the instrument in which case the grammatical and ordinary sense of the words may be modified, so as to avoid that absurdity, and inconsistency, but no further"[14]**.**

28. For a further statement of the rule, one may refer to the speech of LORD SIMON OF GLAISDALE in a case where he said: "*Parliament is prima facie to be credited with meaning what is said in an Act of Parliament. The drafting of statutes, so important to a people who hope to live under the rule of law, will never be satisfactory unless courts seek whenever possible to apply 'the golden rule' of construction, that is to read the statutory language, grammatically and terminologically, in the ordinary and primary sense which it bears in its context, without omission or addition. Of course, Parliament is to be credited with good sense; so that when such an approach produces injustice, absurdity, contradiction or stultification of statutory objective the language may be*

[14] Grey v. Pearson, (1857) 6 HLC 61, p. 106: 10 ER 1216, p. 1234 (HL); referred to in Walton, Ex parte, Re, Levy, (1881) 50 LJ Ch 657, p. 659 (JESSEL, M.R.); Caledonia Rly. v. North British Rly., (1881) 6 AC 114, p. 131 (HL) (LORD BLACKBURN); Vacher & Sons v. London Society of Compositors, (1913) AC 107: (1911-13) All ER Rep 241, p. 246 (HL) (LORD MACNAGHTEN); Corporation of the City of Victoria v. Bishop of Vancouver Island, AIR 1921 PC 240, p. 242 (LORD ATKINSON), Pakala Narayana Swami v. Emperor, AIR 1939 PC 47, p. 51 (LORD ATKINSON); Keshavananda Bharati v. State of Kerala, AIR 1973 SC 1461, p. 1538: (1973) 4 SCC 225; Nandini Satpathy v. P.L. Dani, AIR 1978 SC 1025, p. 1039: (1978) 2 SCC 424; Chandvarkar Sita Ratna Rao v. Ashalata S. Guram, (1986) 4 SCC 447, p. 476: AIR 1987 SC 117; Union of India v. Rajivkumar, (2003) 6 SCC 516, p. 526: AIR 2003 SC 2917. LORD WEN-SLEYDALE himself in Abbot v. Middleton [(1858) 28 LJ Ch 110, p. 114 (HL)], pointed out that the rule was in substance laid down by MR. JUSTICE BURTON in Warburton v. Loveland [(1828) 1 Hud & Brooke 623), was described as "a rule of commonsense as strong as can be" by LORD ELLENBOROUGH in Doe v. Jessep [(1810) 12 East 288, p. 292], was stated to be "a cardinal rule" by LORD CRANWORTH in Grundy v. Pinnigar, (1852) 1 De GM & G 502: (1852) 21 LJ Ch 404, p. 406 and "the golden rule", by JERVIS, C.J. in Mattison v. Hart, (1854) 14 CB 357: (1854) 23 LJCP 108, p. 114. In Becke v. Smith, (1836) 150 ER 724, p. 726, also PARKE, B (before he became LORD WENSLEYDALE) referred to the rule laid down by BURTON, J., in Warburton v. Loveland, supra, and called it a "very useful rule in the construction of a statute".

modified sufficiently to avoid such disadvantage, though no further"[15].

29. The Rules stated above have been quoted with approval by the Hon'ble Supreme Court in the cases of **Harbhajan Singh vs. Press Council of India**[16] and **Guru Jambheshwar University vs. Dharam Pal**[17].

30. Recently, in the case of **M/s Shiv Steel Vs State of Assam and Ors**[18]**,** the Hon'ble Supreme Court reiterated that strict interpretation must be applied when analysing fiscal statutes, and tax liability can only be imposed if the case falls clearly within the statutory provisions. No tax can be levied by inference, analogy, or presumed legislative intent. The Court held that if the revenue convincingly demonstrates that the

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15 Suthendran v. Immigration Appeal Tribunal, (1976) 3 All ER 611, p. 616: (1976) 3 WLR 725 (HL). See further Farrel v. Alexander, (1976) 2 All ER 721, p. 736: (1977) AC 59 (HL); Reference under section 48A of the Criminal Appeal Northern Ireland Act, 1968 (1976) 2 All ER 937, p. 957 (HL); Stock v. Frank Jones (Tipton) Ltd., (1978) 1 All ER 948, p. 952: (1978) 1 WLR 231 (HL); Applin v. Race Relations Board, (1974) 2 All ER 73, p. 91 (HL); (The golden rule "always potent is particularly so if there are forensic situations which Parliament seemingly either did not envisage or preferred not to deal with rather leaving them to the courts".). In Kehar Singh v. State, AIR 1988 SC 1883, p. 1945: 1988 (3) SCC 609, JA-GANNATH SHETTY J. observed: "During the last several years the golden rule has been given a go-bye" (para 228). What he here meant by the golden rule is stated by him earlier as "the grammatical or literal meaning unmindful of consequences" (para 227). The golden rule as stated in the text of which LORD SIMON'S formulation is a modern example, is not unmindful of consequences and the observations of JAGANNATH SHETTY, J., have no application to it. The confusion arises because the literal rule even without qualification as to consequences is sometimes spoken of as the golden rule. [See CROSS, "Statutory Interpretation", 3rd Edition, p. 16 (footnote)]. According to CROSS, the rule permitting departure from the literal rule by recourse to the consequences of applying the natural or ordinary meaning is com-literal and mischief rules. (CROSS, monly called the golden pp. golden rule to distinguish it from the litera 15, 16 supra.). For 'golden rule of construction' see also: Maulvi Hussein Haji Abraham Umarji v. State of Gujarat, (2004) 6 SCC 672, (para 23): AIR 2004 SC 3946; Lalu Prasad V. State of Bihar, (2007) 1 SCC 49 (para 8) : (2007) 1 JT 183.

16 (2002) 3 SCC 722

17 (2007) 2 SCC 265

18 Civil Appeal No. 4440 of 2014 & Ors, decided on 11/09/2025

case falls strictly within the law's provisions, the subject can be taxed. Conversely, if the case does not fall within the boundaries of the taxing statute, no tax can be imposed through inference, analogy, or by attempting to decipher legislative intent or examining the substance of the matter.

31. Since the Calcutta High Court decision in the case of *Basanta Kumar Shaw* (supra) has emphasised the presumed legislative intent, thereby paying less credence to the actual words used in Rule 86-A, we prefer to follow the views of the Gujarat High Court and Delhi High Court regarding the interpretation of Rule 86-A. Such interpretation aligns with the plain reading of the Rule as it stands without any additions or substitutions or without any undue emphasis on the presumed legislative intent.

32. However, at the request of Ms. Chavan, we clarify that Rule 86-A allows for the blocking of the Electronic Credit Ledger only to the extent of the credit available in it at the time of exercising the powers under Rule 86-A or when making the blocking order, even if the Revenue has reason to believe that the total credit the assessee might have fraudulently claimed or was ineligible to claim exceeds the amount actually present in the Electronic Credit Ledger. Thus, the blockage to the extent of credit available on the date of the order's communication would be intra vires and valid. What Rule 86-A, as it presently stands, does not permit is the blocking of any future credits the assessee might obtain, thereby introducing the concept of "negative blocking," despite Rule 86-A not allowing such a concept.

33. The ITC the assessee might acquire after the blocking order is issued may not even be tainted with any fraud or ineligibility. Rule 86-A, as it currently stands, would therefore not permit the blocking of such ITC, considering the language used by the rule framers. The rule may not explicitly refer to "negative blocking", but that would be the exact outcome if the rule were interpreted to block ITC unavailable on the order date or the ITC that might be availed in the future. Therefore, a construction based on a seemingly broad interpretation would contravene both the letter and the intention of the rule framers.

34. This is not a narrow interpretation of the rule. It is a case of literal reading in the absence of any ambiguity. Such an interpretation neither renders the rule useless nor makes the outcomes absurd. This interpretation is supported by the principle that taxing statutes must be strictly interpreted, and generally, there is no room for presumed intent.

35. For all the above reasons, we are satisfied that this Petition must succeed, and the impugned blocking notice must be quashed and set aside. As noted earlier, there is no dispute that as on the date of issuance of the impugned notices or the blocking orders, the ITC in the Petitioner's Electronic Credit Ledger was "Nil". Therefore, the powers under Rule 86-A could not have been exercised to block the ITC, which was not even available in the Petitioner's Electronic Credit Ledger on the date when the satisfaction was recorded or the impugned blocking orders made.

36. The Rule is accordingly made absolute by quashing and setting aside the impugned order dated 9 December 2024 and

directing the restoration of blocked Input Tax Credit equivalent to Rs. 12,84,273/-. This exercise must be completed within 15 days of the uploading of this order. There shall be no order for costs.

37. The Interim Application does not survive and is disposed of.

38. All concerned are to act on an authenticated copy of this order.

(Advait M. Sethna, J) **(M.S. Sonak, J)**