

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 4815 OF 2024

NZS Traders Pvt. Ltd.

...Petitioner

Versus

Union of India & Ors.

...Respondents

Mr. Bharat Raichandani a/w Bhagrati Sahu i/b. UBR Legal Advocates for  
Petitioner.

Mr. Karan Adik a/w Sangeeta Yadav for Respondent No.1 to 3.

Ms. Jyoti Chavan, Addl.G.P. a/w Mr. Amar Mishra, AGP for Respondent-State.

CORAM: G. S. KULKARNI &  
AARTI SATHE, JJ.

DATE: 25<sup>th</sup> MARCH 2026

P.C.

1. This Petition under Article 226 of the Constitution of India is filed  
praying for the following reliefs:-

“(a) that this Hon'ble Court be pleased to issue a Writ of Certiorari/Mandamus or a writ in the nature of Certiorari/Mandamus or any other writ, order or direction under Article 226 of the Constitution of India calling for the records pertaining to the Petitioner's case and after going into the validity and legality of the provisions direct the respondent no. 3 to unblock the Credit ledger of the Petitioner (Exhibit "A");

(b) that this Hon'ble Court be pleased to issue a Writ of Certiorari/Mandamus or a writ in the nature of Certiorari/Mandamus or any other writ, order or direction under Article 226 of the Constitution of India calling for the records pertaining to the Petitioner's case and after going into the validity and legality of the provisions quash and set-aside the impugned attachment dated 16.02.2024 (Exhibit "A")

(c) that this Hon'ble Court may be pleased to issue Any writ, order or direction more particularly in the nature of a Writ of Declaration to declare Rule 86A of CGST and MGST Rules, 2017 as null, void and ultra vires of CGST and MGST Act, 2017 and thereof direct the

respondent no. 3 to unblock the Credit ledger of the Petitioner (Exhibit "A1");

(d) that this Hon'ble Court may be pleased to issue Any writ, order or direction more particularly in the nature of a Writ of Declaration to declare Rule 86A of CGST and MGST Rules, 2017 is in contravention to Articles 14, 19 and 21 of the Constitution of India and thereof direct the respondent no. 3 to unblock the Credit ledger of the Petitioner (Exhibit "A1");

(e) that this Hon'ble Court be pleased to issue a Writ of Certiorari/Mandamus or a writ in the nature of Certiorari/Mandamus or any other writ, order or direction under Article 226 of the Constitution of India calling for the records pertaining to the Petitioner's case and after going into the validity and legality of the provisions thereof not to suspend/cancel petitioner's registration in case of default in filing returns due to illegal blocking of ITC;"

2. The grievance of the Petitioner is primarily based on the applicability of Rule 86A(3) of the Central Goods and Services Tax (CGST) Rules, 2017. The relevant facts, which are required to be noted, are as under:-

i. On 16<sup>th</sup> February 2024, Respondent No.3 without putting the Petitioner to notice and without issuing any specific orders, attached an amount of Rs. 4,25,75,682/-. Subsequent thereto, by letter dated 29<sup>th</sup> February 2024, the Petitioner informed Respondent No.5 that the Input Tax Credit (hereinafter referred to as "ITC") availed is eligible and availed in complete compliance with the CGST Act, 2017 and requested Respondent No.5 to remove the attachment of the ITC. It was also informed that the GSTR 3B for January 2024 could not be filed due to such attachment. No response was received by the Petitioner to the said letter. By a further letter dated letter dated 27<sup>th</sup> March 2024 inter-alia contended that no show cause notice, no personal hearing, and no order had been

issued/passed before the blocking of ITC. It is in the above circumstances, the present Petition has been filed.

3. Mr. Raichandani, learned Counsel for the Petitioner, has invited our attention to Rule 86A(3) of the CGST Rules, 2017, which mandates that the restriction shall cease to have effect upon the expiry of a period of one year from the date of its imposition. It is his contention that, in the present case, the said period expired in February 2025; however, the Respondents have failed to lift the restriction even after the lapse of the statutory period of one year, which is in clear violation of Rule 86A(3) of the CGST Rules, 2017. He submits that the Petitioner is, therefore, entitled to the reliefs as prayed for in the present Petition, particularly in respect of the ITC. In support of his contention, Mr. Raichandani has placed reliance on *Seya Industries Ltd. Vs. State of Maharashtra*<sup>1</sup>, wherein, in similar circumstances, the benefit of Rule 86A(3) of the CGST Rules, 2017 was recognized, and it was held that such restriction could not continue beyond the period of one year as prescribed under the said Rule.

4. An affidavit in reply on behalf of the Department has been filed by Mr. Kailash Chandra Meena, Assistant Commissioner, Division VIII, CGST and Central Excise, Mumbai West. In the said affidavit, it is categorically acknowledged that, in terms of Rule 86A(3) of the CGST Rules, 2017, the attachment cannot remain in operation beyond a period of one year. The explanation in respect of the provisional attachment is set out in paragraph 23 of the said affidavit.

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5. Mr. Adik, learned Counsel for the Respondent-Department, has submitted that, as stated in the reply affidavit, the GST registration of the Petitioner has already been cancelled. He submits that, subject to appropriate action that may be taken by the Department, the credit can be unblocked. It is, therefore, his submission that the Petition be dismissed.

6. Having heard learned Counsel for the parties and having perused the record, we find much substance in the contentions as urged on behalf of the Respondents. Rule 86A(3) of the CGST Rules, 2017 clearly mandates that the restriction on the electronic credit ledger cannot continue beyond a period of one year from the date of imposition of such restriction. In the present case, the restriction was imposed on 16<sup>th</sup> February 2024, and thus, upon expiry of one year, the same could not have been continued. This position is also acknowledged by the Department in its reply affidavit. Therefore, by operation of law, the credit ought to have been unblocked. The Petitioner was not required to approach this Court seeking a declaration, as the benefit flows directly from the statutory provision itself.

7. Mr. Raichandani is justified in placing reliance on the decision in *Seya Industries Ltd. vs. State of Maharashtra* (supra), wherein a similar view has been taken.

8. Insofar as the contention raised by Mr. Adik, learned Counsel for the Respondent-Department, that the registration of the Petitioner stands cancelled and that unblocking of the credit would be subject to any further action the

Department may propose to take, including issuance of a show cause notice, the same cannot be accepted for the purposes of the present proceedings.

9. Insofar as the reliefs sought in the present Petition are concerned, it is required to be observed that any consequences in law arising out of cancellation of the Petitioner's registration, including issues relating to eligibility or utilization of credit, would necessarily have to be dealt with in accordance with the provisions of the Act and the Rules. However, insofar as the Petitioner's entitlement to the relief prayed for is concerned, the same flows by operation of law, and accordingly, it is required to be held that the impugned attachment/blocking of the credit has ceased to operate.

10. In view of the above, we are not required to delve into the other issues. All contentions of the parties are expressly kept open.

11. The Petition is disposed of by setting aside the impugned blocking of the Petitioner's credit dated 16th February 2024, as the same has ceased to operate upon expiry of the statutory period of one year.

12. It is clarified that both the Petitioner and the Respondent-Department shall be at liberty to adopt appropriate proceedings in accordance with law in respect of any other issues, including those relating to Input Tax Credit (ITC).

13. The Petition is disposed of in the aforesaid terms. No order as to costs.

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)

