



2026:AHC:93798-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT TAX No. - 1861 of 2026

M/S Shree Salasar Metals

.....Petitioner(s)

Versus

Union Of India And 2 Others

.....Respondent(s)

Counsel for Petitioner(s) : Kushagra Agrawal, Suresh Kumar Maurya
Counsel for Respondent(s) : Amit Mahajan, A.S.G.I., Dhananjay Awasthi

Court No. - 3

**HON'BLE SAUMITRA DAYAL SINGH, J.
HON'BLE SWARUPAMA CHATURVEDI, J.**

1. Heard Sri Kushagra Agrawal, learned counsel for the petitioner and Sri Amit Mahajan, learned counsel for the Central GST Authority.

2. Counter Affidavit filed today, is taken on record.

3. Present writ petition has arisen against the order passed under Rule 86-A(1) of the CGST Rules, 2017 (hereinafter referred to as the 'Rules'). By that order, the Assistant Commissioner, CGST (ZY05), Mirzapur has blocked Input Tax Credit (ITC) Rs.2,68,416/- available to the petitioner in its Electronic Credit Ledger (ECL in short).

4. Short ground pressed in the petition is that the above extreme action taken by the revenue authority, is devoid of jurisdiction. In any case no 'reason to believe' has been recorded nor any tangible material exists in the hands of respondent no.3 as may have led that authority to form a 'reason to believe' that the ITC (in ECL) available to the petitioner had been fraudulently availed or that the petitioner was otherwise ineligible to such ITC. At present, only this much has been recorded by way of reason :

"As per recommendation of Superintendent (AE), Mirzapur."

5. To the extent respondent no.3 has acted purely on the subjective

satisfaction and the consequential recommendation made to him by the Superintendent (AE), Mirzapur, there is no independent application of mind applied by respondent no.3 as may have led him to form a 'reason to believe' to block the ITC.

6. Sri Amit Mahajan, learned counsel for the Central GST Authority has relied upon the counter affidavit. We have perused the same.

7. Through the counter affidavit, it has been suggested, acting on intelligence report, certain search and survey proceedings had been conducted against one M/s Kaveri Merchant- one of the suppliers of the petitioner. Referring to the Panchnama drawn and the tentative opinion of the investigation branch of the revenue department, Alert Circular dated 11.02.2026 has been issued informing all revenue authorities of persons who may have received supplies from M/s Kaveri Merchant. Sri Amit Mahajan, learned counsel for the Central GST Authority would submit, acting on such Alert Circular and information, the ITC of the petitioner deserves to be blocked.

8. As to the jurisdictional fact of 'reason to believe', required to be recorded to block ITC, co-ordinate bench in M/s Pilcon Infrastructure Pvt. Ltd. v. State of U.P. and Another 2025:AHC:190271-DB has observed as below :

"10. Primarily, no 'reason to believe' has been 'recorded in writing' by respondent no.2, to block the ITC of the petitioner. Once the Rule requires 'reasons to believe' to be 'recorded in writing', the jurisdiction and authority to be exercised under Rule 86A of the Rules must subscribe to that mandatory condition. Though such reasons may be recorded ex-parte against the assessee, at the same time, the requirement of the statute to record the reasons is a non-negotiable condition. It is wholly mandatory. As to what constitutes 'reason to believe' is not a matter of speculation, especially in this branch of law.

11. On that principle, in The Commissioner of Sales Tax, U.P. Vs M/S. Bhagwan Industries (P) Ltd., Lucknow (1973) 3 SCC 265, it was observed as under:

"11.Question in the circumstances arises as to what is the import of the words "reason to believe", as used in the section. In our opinion, these words convey that there must be some rational basis for the assessing authority to form the belief that the whole or any part of the turnover of a dealer has, for any reason, escaped assessment to tax for some year. If such a basis exists, the assessing authority can proceed in the manner laid down in the section. To put it differently, if there are, in fact, some reasonable grounds for the assessing authority to believe that the whole or any part of the turnover of a dealer has escaped assessment, it can take action under the section. Reasonable grounds necessarily postulate that they must be germane to the formation of the belief regarding escaped assessment. If the grounds are of an extraneous character, the same would not warrant initiation of proceedings under the above section. If, however, the grounds are relevant and have a nexus with the formation of belief regarding escaped assessment, the assessing authority would be clothed with jurisdiction to take action under the section. Whether the grounds are adequate or not is not a matter which would be gone into by the High Court or this Court; for the sufficiency of the grounds which induced the assessing authority to act is not a justiciable issue. What can be challenged is the existence of the belief but not the sufficiency of reasons for the belief. At the same time, it is necessary to observe that the belief must be held in good faith and should not be a mere pretence."

12. As to the material that may give rise to a "reason to believe" that any part of the turnover of an assessee escaped assessment to tax, the Supreme Court in the case of State of Uttar Pradesh And Others Vs. Aryaverth Chawal Udyog & Others (2015) 17 SCC 324 has observed in paragraph nos.28 and 30, thus:

"28. This Court has consistently held that such material on which the assessing authority bases its opinion must not be arbitrary, irrational, vague, distant or irrelevant. It must bring home the appropriate rationale of action taken by the assessing authority in pursuance of such belief. In case of absence of such material, this Court in clear terms has held the action taken by the assessing authority on such ""reason to believe"" as arbitrary and bad in law. In case of the same material being present before the assessing authority during both, the assessment proceedings and the

issuance of notice for reassessment proceedings, it cannot be said by the assessing authority that ""reason to believe"" for initiating reassessment is an error discovered in the earlier view taken by it during original assessment proceedings. (See Delhi Cloth and General Mills Co. Ltd. v. State of Rajasthan [Delhi Cloth and General Mills Co. Ltd. v. State of Rajasthan, (1980) 4 SCC 71 : 1980 SCC (Tax) 348] .

30. In case of there being a change of opinion, there must necessarily be a nexus that requires to be established between the "change of opinion" and the material present before the assessing authority. Discovery of an inadvertent mistake or non-application of mind during assessment would not be a justified ground to reinitiate proceedings under Section 21(1) of the Act on the basis of change in subjective opinion (CIT v. Dinesh Chandra H. Shah [CIT v. Dinesh Chandra H. Shah, (1972) 3 SCC 231] ; CIT v. Nawab Mir Barkat Ali Khan Bahadur [CIT v. Nawab Mir Barkat Ali Khan Bahadur, (1975) 4 SCC 360 : 1975 SCC (Tax) 316])."

13. Reliance placed by learned Standing Counsel on the 'Reason' as mentioned in the Electronic Credit Ledger, namely, "Supplier found non-functioning", does not fulfill the requirement of Rule 86A(1) of the Rules, to the extent it does not reflect any application of mind to reach that conclusion. Though it may be true that the respondent no.2 had received intimation dated 13.06.2025 from the DGGI, Raipur Zonal Unit, perusal of that communication (as extracted above) only reflects a generic/non-specific conclusion drawn by that authority. Thus, the said communication reflects a conclusion that a supplier - M/s Maa Kamakhaya Trading, Sarguja has passed on fraudulent ITC without supplying any goods, on the basis of bogus invoices, etc. That the goods claimed to have been supplied to the petitioner by the said supplier M/s Maa Kamakhaya Trading, Sarguja was a bogus transaction, may not be readily inferred, merely on the generic allegation made by DGGI, Raipur Zonal Unit that that dealer had made some non-generic transactions.

14. Clearly, the investigation by DGGI, Raipur Zonal Unit, would be ex-parte against the petitioner. In any case, no order appears to have been passed in the case of M/s Maa Kamakhaya Trading, Sarguja, or the present petitioner as may support the inference drawn by respondent

no.2, that the said supplier had reflected bogus transactions in favour of the petitioner.

15. When the Rules require recording of 'reasons to believe', 'in writing', there must not only exist material that may give rise to the belief necessary to be recorded by respondent.2 but the reasons must spring from material on record/leading to the necessary belief. It necessarily involves application of mind by the competent authority, here respondent no.2, to the facts brought before it.

16. Even though exercise of power under Rule 86A(1) of the Rules remained ex-parte to the assessee, yet, more especially for that reason, the requirement of the statute to first record 'reasons to believe', 'in writing' must be strictly enforced on the revenue authorities.

17. It may not forgotten, granting ITC and maintaining its chain is the soul of a successful GST regime. Therefore, any doubt or suspicion alone may not lead an action by the authorities to block the ITC of the assessee and disrupt the entire value addition chain and consequentially tax payments without fulfilling the mandatory requirement of law - to record 'reasons to believe', 'in writing'."

9. Seen in that light, at present, no reason may have been recorded by the respondent no.3. By merely stating that he has acted as recommended by the Superintendent (AE), Mirzapur, it has been indicated otherwise. Thus, the said respondent has acted on the dictate or a recommendation, without anything more. Unless application of mind had been made by the authority passing the order to block the ITC of the petitioner and unless 'reason to believe' was recorded by that authority, considering such material, the petitioner's remedy to seek recall of such order under Rule 86 (A) of the CGST Rules, 2017, may remain ineffective or incomplete remedy. While availing that remedy, a person such as the petitioner may only question the existence of 'reason to believe' or the relevancy of the material on the strength of which such 'reason to believe' may be recorded. Once the authority chose not to disclose either an objective 'reason to believe' or the material giving rise to such 'reason to believe', it has left everything to the imagination and has thus avoided a

basic scrutiny to the relevancy of the 'reason to believe' and the material on which such 'reason to believe' may have been recorded.

10. In view of the above, the impugned order cannot sustain. It is set-aside. It is left open to the respondent no.3 to pass a fresh order strictly in accordance with law keeping in mind the observations made above.

(Swarupama Chaturvedi,J.) (Saumitra Dayal Singh,J.)

April 27, 2026

Shiv

