IN THE HIGH COURT JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3452 OF 2026

Hemang Bipin Varaiya
Proprietor of M/s. Mahavir Metal Industries …Petitioner

Versus

The State of Maharashtra & Ors …Respondents

Mr. Nirmal Pagaria for Petitioner.

Ms. Shruti D. Vyas, Addl.G.P a/w Aditya Deolekar, AGP for the State.

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

DATE: 18th MARCH 2026

P.C.

1. Rule. Rule made returnable forthwith. By consent of parties heard finally.

2. This petition under Article 226 of the Constitution of India is filed praying for the following substantive reliefs: -

> "a) This Hon'ble Court be pleased to issue any appropriate Writ or order or direction under Article 226 of the Constitution of India thereby calling for relevant record and proceedings from the office of respondent no. 3 and after going through the same, be pleased to quash and set aside impugned order dated 19.6.2025 which has been passed by the Respondent no.3 in violation of principle of Natural Justice and the Act.
>
> b) This Hon'ble Court be pleased to issue an appropriate writ of Certiorari, or a Writ in the nature of Certiorari, or any other appropriate writ Order or direction to the Respondents to unblock the Input Tax Credit to the tune of Rs. 4.82 Crore blocked by Respondent no.3.
>
> c) This Hon'ble Court be pleased to issue any appropriate Writ or order or direction under Article 226 of the Constitution of India to

> Respondents to remove negative balance of Rs. 4.38 Crore of Electronic Credit Ledger which is not permissible under Rule 86A of the Rules.
>
> d) Pending the hearing and final disposal of this writ petition be pleased to order to Respondents to remove negative balance of Electronic Credit Ledger which is impermissible under Rule 86A of the Rules."

2. In the present petition, the Petitioner has challenged the order dated 19th June 2025 passed by Respondent No. 3 under Rule 86A of Central/Maharashtra Goods and Services Tax Rules (hereinafter referred to as the "Rules") read with Central/Maharashtra Goods and Services Tax Act (hereinafter referred to as the "Act") on the ground that the same has been passed in breach of principles of natural justice and in contravention of Rule 86A of the Rules.

3. Briefly the facts are: -

i. The Petitioner is an individual and proprietor of M/s. Mahavir Metal Industries having registration no. 27ACWPV6853C1ZV and is *inter alia* engaged in the manufacture of copper and brass utensils, which is a registered brand as 'CUBRAL' and trades in non-ferrous metals like copper scrap, brass scrap, brass ingot, aluminum scrap and zinc ingot.

ii. On 22nd April 2025, Respondent No. 3 issued a show-cause notice of the even date for blocking Input Tax Credit (ITC) Of Rs. 4.82 Crores for the Financial Year 2022-23 and 2023-24. It is the Petitioner's contention that the aforesaid show cause notice was forwarded on a wrong email-id, and only when the Petitioner visited the office of Respondent No. 3 on 5th June 2025 to verify certain

documents, he was made aware of the aforesaid show-cause notice. In the said show-cause notice, Respondent No. 3 blocked ITC of Rs. 4.82 Crores on the basis of information received from Economic Intelligence Unit (EIU) for ITC verification claim from suppliers whose registration was cancelled and were non-genuine suppliers. In response to the aforesaid show-cause notice, the Petitioner filed his reply on 19th June 2025, and on the same date, Respondent No. 3 passed the impugned order dated 19th June 2025 blocking the ITC to the tune of Rs. 4.82 Crores and showed a negative balance of ITC in the electronic credit ledger the Petitioner. It is against this blocking that the Petitioner is aggrieved and has filed the present petition.

4. Learned counsel Mr. Nirmal Pagaria appeared on behalf of the Appellant. Learned counsel Ms. Shruti Vyas, along with Mr. Aditya Deolekar appeared on behalf of the Respondent Department. It is the Petitioner's contention that in the present case the conditions as mandated under Rule 86A of the Rules have not been followed inasmuch as Respondent No. 3 has not recorded any reasons in the impugned order dated 19th June 2025 to block the ITC. It is further the Petitioner's submission that Respondent No. 3 has also not considered the documents submitted by the Petitioner prior to the passing of the impugned order. Further, the most crucial submission of the Petitioner is that there was no balance available of ITC at the time of blocking, and there cannot be negative blocking of ITC as per Rule 86A of the Rules. It is the Petitioner's contention that the amount of blocking cannot be higher than the balance available in the electronic credit ledger of the ITC. This negative blocking is not sustainable in law and not as per the mandate of

Rule 86A of the Rules.

5. Learned Counsel on behalf of the Petitioner also pointed out the electronic credit ledger (ECL), which is attached at Page 38 of the Petition, clearly shows that when the ITC was blocked on 19th June 2025 and 24th July 2025, there was a consistent negative balance in the ECL and particularly on 19th June 2025 and 24th July 2025, there was a debit balance in the ECL. In view thereof, this negative blocking was arbitrary and hence the impugned order was liable to be set aside.

6.Per contra, learned counsel on behalf of Respondent Department Ms. Vyas submitted that at the time of blocking, the ECL of the Petitioner did not show a negative balance and in fact an amount of Rs. 43,19,259/- was available in so far as the ITC was concerned. It is further her submission that the blocking of the ECL was done in view of the fact that the ITC which the Petitioner had availed was in respect of suppliers who were either non-existent, or their registration had been cancelled, and hence the provisions of Rule 86A of the Rules have been rightly invoked in the facts of the present case.

7. We have heard learned counsel on behalf of the parties and perused the papers and proceedings with their assistance. We are of the view that negative blocking of ITC under Rule 86A of the Rules cannot be made in as much as the section itself mandates that there has to be credit available in the ECL for the purposes of blocking the same. If there is no balance available/negative balance is available in the ECL, then the same cannot be blocked. We are therefore in agreement with the contention as raised on behalf of the Petitioner that in the present case the blocking

which was done is against the mandate of law. However, as pointed out by learned AGP Ms. Vyas, appearing on behalf of the Respondent Department, it is seen that on 15th May 2025, a positive balance of Rs. 43,19,259/- was available in the ECL, and the same was available to be blocked pursuant to the investigations that had been carried out, and to that extent the impugned order has been correctly passed. It is her submission that for the balance amount of Rs. 4,38,80,741/- (Rs. 4.82 Crores - Rs. 43,19,259/-), the Department would issue a show-cause notice to adjudicate whether the ITC has been rightly availed by the Petitioner. Learned Counsel on behalf of the Petitioner fairly submits that the ITC could be blocked to the extent of Rs. 43,19,259/- and so far as the remaining amount of Rs. 4,38,80,741/- (Rs. 4.82 Crores - Rs. 43,19,259/-) is concerned, he would face adjudication proceedings post the issuance of show-cause notice by the Respondent Department.

8. A coordinate bench of this Court in the case of **Rawman Metal & Alloys vs. The Deputy Commissioner of State Tax, Thane**[1] has also taken a view, while interpreting the provisions of Rule 86A of the Rules, that if on the date of issuing the impugned order or on the date of making an order under Rule 86A blocking the ITC in the ECL, if no ITC was found to be available there, then, there would be no question of exercising the powers under Rule 86A or making any order under Rule 86A to block such non-available ITC in the ECL. Relevant paras of the aforesaid judgment are reproduced below:-

11. The question of adverting to legislative intent or executive intent would

1 WRIT PETITION (L) NO. 10928 OF 2025

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 and Bhinka & Ors. Vs Charan Singh].

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 and Kapil Mohan Vs Commissioner of Income Tax, Delhi 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 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, 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 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".

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

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.

30. Recently, in the case of M/s Shiv Steel Vs State of Assam and Ors, 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 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."

8. Considering the aforesaid position adopted by the parties and the settled principles of law, we deem it appropriate to pass the following order which will meet the ends of justice:-

ORDER

i. Impugned order dated 19th June 2025 is quashed and set aside to the extent it blocks the ITC of Rs. 4,38,80,741/-. Respondent No. 3 is permitted to block the credit of Rs. 43,19,259/- pending adjudication of the show-cause notice which will be issued by Respondent No. 3.

ii. Respondent No.3 to issue show-cause notice for amount of Rs. 4,38,80,741/- within a period of two weeks from the date this order is made available to the Respondent No. 3 by the Petitioner.

iii. All contentions of the parties are expressly kept open. Writ petition disposed of in the above terms. Rule made absolute. No costs.

(AARTI SATHE, J.) (G. S. KULKARNI, J.)