



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 5645 OF 2022

PETITIONER : M/s Guru Storage Batteries,
a partnership firm, through its partner,
Surjit Singh Sabarwal having office at Plot
No.122, Wanjara Layout, Pili Nadi,
Industrial Area, Nagpur – 440026
Email – surjitsabharwal@gmail.com

Vs.

- RESPONDENTS :** 1. The State of Maharashtra,
Department of Goods and Services Tax,
through Joint Commissioner State Tax,
Nagpur Division, GST Bhavan, Civil Lines,
Nagpur – 440001
2. The Deputy Commissioner of State Tax
NAG BST-E-001, Nagpur having office at
GST Bhavan, Civil Lines, Nagpur - 440001
3. State Tax Officer, Kamptee,
District Nagpur

Mr. Firdos Mirza, Advocate for the Petitioner
Mrs. K.S. Joshi, Addl. G.P. for respondents / State

**CORAM: AVINASH G. GHAROTE &
URMILA JOSHI-PHALKE, JJ.**

DATED : 13th SEPTEMBER, 2023

ORAL JUDGMENT : (PC)

Rule. Rule made returnable forthwith. Heard
finally with the consent of learned counsel for the parties.

2. The petition questions the action on the part of the respondent No.3 in blocking the Electronic Credit Ledger of the petitioner. On 14/09/2022, after hearing the learned counsel for the petitioner, this Court had passed the following order.

“1. Heard learned counsel for the petitioner.

2. The contention is that blocking of the Electronic Credit Ledger (ECL) has been done by one Mr. Ujval Shrirampant Deshmukh, State Tax Officer, Kamptee, as per the impugned communication at page No.16 of the petition and that it cannot be done by State Tax Officer being an Officer below the rank of Assistant Commissioner. He submits that under Rule 86A of the Central Goods and Services Tax Rules, 2017, such blocking can be done either by the Commissioner or any Officer authorised by the Commissioner, who is not below the rank of an Assistant Commissioner. He further submits that prerequisites before blocking order is passed, as highlighted in paragraph No.32 of the judgment of this Court in the case of **Dee Vee Projects Ltd. Vs. Government of Maharashtra and ors.** reported in **2022(2) Bom.C.R. 239** have also not been fulfilled in the present case, at least as seen from the impugned communication. He further submits that now, illegal notices of recovery are also being issued by the respondents.

3. The points raised by the learned counsel for the petitioner require consideration by this Court although, much of the law in relation to them has already been settled by this Court in the case of **Dee Vee Projects Ltd. Vs. Government of Maharashtra and ors.**(supra). Therefore, issue notice for final disposal at admission stage to the respondents, returnable after three weeks.

4. Learned Additional Government Pleader waives service of notice for respondent Nos.1 to 3.

5. Meanwhile, having considered the submissions made across the bar, we direct that there shall be stay to the effect and operation of the impugned communication until further orders. We further direct that the ECL be unblocked without any further delay.”

3. It is not in dispute that the Electronic Credit Ledger has been blocked by respondent No.3. A perusal of Rule 86A of the Central Goods and Services Tax Rules, 2017, indicates that such a blocking can be done by the Commissioner or an officer authorized by him in this behalf, not below the rank of Assistant Commissioner. Admittedly, the respondent No.3 does not fall within that category and is an Officer of the rank below that of the Assistant Commissioner. Though the Notification dated 24/1/2020 has been relied upon to contend that the power has now been delegated by the Commissioner to the respondent No.3 (page 104), the same is under the State GST Act, whereas Rule 86-A of the aforesaid Act would contemplate a delegation by way of amendment to the Rule. The Notification dated 24/01/2020, would be of no assistance to the respondents. In that view of

the matter the action on behalf of the respondent No.3 in blocking the Electronic Credit Ledger of the petitioner cannot be sustained and the same is hereby quashed and set aside. The petition is allowed in the above terms. No costs.

Rule is made absolute in the above terms.

(URMILA JOSHI-PHALKE, J.)

(AVINASH G. GHAROTE, J.)

MP Deshpande