

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/SPECIAL CIVIL APPLICATION NO. 17567 of 2021

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE J.B.PARDIWALA **Sd/-**
and
HONOURABLE MS. JUSTICE NISHA M. THAKORE **Sd/-**

1	Whether Reporters of Local Papers may be allowed to see the judgment ?	NO
2	To be referred to the Reporter or not ?	NO
3	Whether their Lordships wish to see the fair copy of the judgment ?	NO
4	Whether this case involves a substantial question of law as to the interpretation of the Constitution of India or any order made thereunder ?	NO

BARMECHA TEXTFAB PVT. LTD.
Versus
COMMISSIONER, GOVT. OF GUJARAT

Appearance:

MR AVINASH PODDAR, ADVOCATE for the Petitioner(s) No. 1
MR UTKARSH SHARMA, AGP for the State – Respondent(s).

CORAM: HONOURABLE MR. JUSTICE J.B.PARDIWALA
and
HONOURABLE MS. JUSTICE NISHA M. THAKORE

Date : 12/01/2022

ORAL JUDGMENT
(PER : HONOURABLE MS. JUSTICE NISHA M. THAKORE)

1. The writ-applicant has invoked the extraordinary writ jurisdiction of this Court under Article 226 of the Constitution of India and has prayed for a direction to the respondent no.3 to

unblock the Electronic Credit Ledger, more particularly, when the period of one year as prescribed under sub-rule 3 of Rule 86A of the CGST/GGST Rules has elapsed from the date of order of blocking of the Electronic Credit Ledger.

2. This Court, vide Oral Order dated 1st December 2021, had issued notice for final disposal. The order reads thus :

“The petitioner before this Court seeking to unlock the Electronic Credit Ledger that the period as prescribed under Sub Rule 3 of Rule 86A of the Central Goods and Service Tax Rules, 2017 (“CGST Act” hereinafter) has elapsed. Following prayers are made by the petitioner:

(a) to direct the respondent No.3 to unblock the Electronic Credit Ledger as the period of one one year as prescribed in sub-rule 3 of Rule 86A the CGST/GGST Rules, has been elapsed from the date of order of blocking Electronic Credit Ledger.

Issue Notice for final disposal returnable on 22.12.2021. Over and above regular mode of service, service through the speed post is permitted.”

3. Today, when the matter is taken up for hearing, the learned AGP Mr.Utkarsh Sharma has appeared on behalf of the respondent authorities and has fairly stated that the period of one year has elapsed in terms of sub-rule 3 of Rule 86A of the CGST Rules, 2017 and GGST Rules, 2017.

4. The rule itself has provided that the Electronic Credit Ledger can be blocked for a period of one year. On expiry of a period of one year, it would automatically get unblocked. In fact, it was the duty of the authority concerned to permit the assessee, i.e. the writ-applicant, to avail the input credit available in his ledger. Once the statutory period comes to an end, the authority has no further discretion in the matter, unless a fresh order is passed. In the case on hand, it is very unfortunate to note that despite the fact that the period of one year elapsed, the authority did not permit the writ-applicant to avail the credit available in his ledger. Even representation was filed in this regard but the authority thought fit not to pay heed to such representation.

5. We may further note that the authority did not permit the writ-applicant to avail the input credit available in his ledger for about more than two and a half months after the statutory life of the order came to an end.

6. We make it clear that next time if we come across such a case, then the concerned authority would be held personally liable for the loss which the assessee might have suffered during the interregnum period.

7. With the aforesaid, this writ-application is disposed of.

(J. B. PARDIWALA, J.)

(NISHA M. THAKORE, J.)

/MOINUDDIN