Klassic Traders vs. State of Karnataka & Others

Quashing of ECL blocking order under Rule 86A of CGST Rules, 2017 passed without pre-decisional hearing and without independent 'reasons to believe', based solely on borrowed satisfaction from Enforcement authority reports

Date of Order: September 25, 2024
Case Law No: GIB-KHC-2024-12
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

Background

The petitioner, Klassic Traders, a proprietary concern registered under GST, had ITC of Rs.43,18,514 available in its Electronic Credit Ledger (ECL). By order dated 06.06.2024, the Assistant Commissioner of Commercial Taxes, LGSTO-16, Bengaluru blocked the petitioner's ECL by invoking Rule 86A of the CGST Rules. No pre-decisional hearing was given to the petitioner before passing this order. The blocking order contained no independent reason to believe as to why the ECL needed to be blocked; it merely relied upon Enforcement authority reports stating that a registered supplier was found non-existent or not conducting business from its registered place. No independent application of mind was applied by the blocking authority. The petitioner challenged the blocking order by way of a writ petition before the Karnataka High Court seeking quashing of the order and unblocking of ITC, and also sought a declaration that Rule 86A is ultra vires Section 16(2) of the CGST Act.

Court Observations (Verbatim / Near-Verbatim)

"*In the instant case, since no pre-decisional hearing was provided/granted by the respondents before passing the impugned order, coupled with the fact that the impugned order invoking Section 86A of the CGST Rules by blocking of the Electronic credit ledger of the petitioner does not contain independent or cogent reasons to believe except by placing reliance upon the reports of Enforcement authority which is impermissible in law, since the same is on borrowed satisfaction as held by the Hon'ble Division Bench of this Court, the impugned order deserves to be quashed.*"

"*It is also pertinent to note that in the impugned order except stating that 'a registered supplier who has been found to be non-existent or not to be conducting business from his place of registration', no*

other reasons are forthcoming in the impugned order. On this ground also, the impugned order dated 06.06.2024 deserves to be quashed."

The Court further relied upon and reproduced the binding ratio from K-9-Enterprises (Division Bench), including:

"*The expression 'reason to believe' would necessarily mean that the respondents must arrive at a satisfaction based on their own independent inquiry and not upon borrowed inquiry.*"

"*A bonafide purchaser cannot be denied ITC on account of a supplier's default and the recipient cannot be made to suffer denial of ITC for the wrong doings of the supplier.*"

"*The impugned orders are bald, vague, cryptic, laconic, unreasoned and non-speaking and deserve to be set aside.*"

Final Verdict

The writ petition was allowed. The blocking order dated 06.06.2024 was quashed. The respondents were directed to **immediately unblock the ECL** of the petitioner upon receipt of the order to enable filing of returns forthwith. Liberty was reserved to the respondents to proceed against the petitioner in accordance with law and in terms of the Division Bench judgment in K-9-Enterprises.

ADDITIONAL FOOTNOTES

Cases Referred / Citation

Sr.	Case Name	Citation
1	K-9-Enterprises vs. State of Karnataka (Division Bench)	W.A. No. 100425/2023 & Connected Matters (NC: 2024:KHC-D:6957-DB)
2	CBIC Circular on Rule 86A	No. CBEC-20/16/05/2021-GST/1552, dated 02.11.2021

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