

GIB/GJ/Kalpsutra/04.09.2020/HC-146

High Court Category : ITC Blockage

State : Gujarat

Order No.: GIB/GJ/Kalpsutra/04.09.2020/HC-146

Name of Entry :

M/s Kalpsutra Gujarat Vs The Union of India

Date : 04-09-2020

Breif Issue :

Facts&Issue of The Case:

In case **M/s Kalpsutra Gujarat Vs The Union of India (Gujarat High Court)** whereby the writ application, the writ applicant, a partnership firm through one of its partners had prayed for:-

Issue of an appropriate writ, direction or order, striking down Rule 86A of CGST Rules, 2017 in so far as it gives power to block the ITC at no fault of the registered recipient and declare it ultra vires of Section 16 of the CGST Act, 2017.

Issue an appropriate writ, direction or order, to the respondents to allow petitioner to utilize the ITC until it is proved that the supplier did not pay the tax after following up the provisions of CGST Rules, 2017.

Decision of Advance Ruling Authority :

Decision

Having heard the applicant and having gone through the material on record, the High Court was inclined to issue notice to the respondents with respect to the reliefs prayed in the draft amendment and the main petition. The division bench issued notice to the respondents with respect to the reliefs prayed.

High court wanted to understand from the respondents whether the omission on the part of the third party (Seller) in filing the GSTR-3B for the relevant period would be sufficient to block the Input Tax Credit of the writ applicant. They also wanted to understand whether for such action, the Department had invoked Rule 86A of the Central Goods and Services Tax Rules, 2017.

Therefore, It would like to understand from the respondents whether the omission on the part of the third party (Seller) in filing the GSTR-3B for the relevant period would be sufficient to block the Input Tax Credit of the writ applicant. We would also like to understand whether for such action, the Department has invoked Rule 86A of the **Central Goods and Services Tax Rules, 2017.**