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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% ***Judgment reserved on: 17.08.2026***
***Judgment pronounced on:03.09.2026***
***Judgment uploaded on:03.09.2026***

\# **CNR No. DLHC010097752026**

\+ W.P.(C) 3418/2026, CM APPL. 16397/2026 & CM APPL. 16398/2026

SPHERION SOLUTIONS PRIVATE LIMITED .....Petitioner

Through: Mr. Abhishek Garg, Mr. Ranesh Singh and Ms. Mankotia, Advs.

versus

ADDITIONAL COMMISSIONER ADJUDICATION CGST DELHI NORTH & ORS. .....Respondents

Through: Mr. Akash Verma, SSC along with Ms Aanchal Uppal and Ms. Teevra Mishra, Advs.
Mr. Harpreet Singh, SSC.

**CORAM:**
**HON'BLE MR. JUSTICE ANIL KSHETARPAL**
**HON'BLE MS. JUSTICE SHAIL JAIN**

## J U D G M E N T

**ANIL KSHETARPAL, J.:**

1. Through the present Writ Petition, the Petitioner seeks rectification of the summary order in FORM GST DRC-07 dated 09.12.2025, issued pursuant to Order-in-Original dated 25.11.2025 (hereinafter referred to as ‘OIO’). The Petitioner further seeks a direction to appropriate ₹3,33,257/- out of the input tax credit blocked in its Electronic Credit Ledger (hereinafter referred to as ‘ECL’) towards the mandatory pre-deposit under Section 107(6) of the Central Goods and Services Tax Act, 2017 (‘CGST Act’), so as to enable it to file its statutory Appeal against the OIO.

2. The Petitioner is a company registered under the CGST Act in the State of Haryana.

3. Respondent No.2-Directorate General of GST Intelligence, Gurugram Zonal Unit (hereinafter referred to as 'DGGI'), initiated an investigation into an alleged network of entities connected with M/s N.K. Logistics Private Ltd. During the investigation, M/s Crimson International Private Ltd. ('Crimson International') was alleged to be a non-genuine entity which had issued invoices without any corresponding supply of goods or services. The Petitioner was identified as one of the recipients of invoices issued by Crimson International.

4. On the basis of the aforesaid investigation, DGGI issued a Show Cause Notice (hereinafter referred to as 'SCN') dated 27.06.2025, alleging that the Petitioner had wrongfully availed input tax credit amounting to ₹33,32,568/- without receiving the corresponding goods or services. The Petitioner submitted its reply to the SCN and participated in the personal hearings.

5. The Adjudicating Authority thereafter passed the OIO confirming an IGST demand of ₹10,40,472/- for the Financial Year 2020-21 and ₹22,92,096/- for the Financial Year 2021-22, together with interest and an equivalent penalty. Thus, the aggregate tax demand confirmed against the Petitioner was ₹33,32,568/-. The Petitioner intends to challenge the OIO by filing an Appeal under Section 107 of the CGST Act.

6. The summary of the OIO was uploaded on the GST portal in FORM GST DRC-07. However, instead of separately reflecting the

tax demand of ₹33,32,568/- and the equivalent penalty, FORM GST DRC-07 reflected the aggregate amount of ₹66,65,136/- under the head of "penalty". It also referred to the Financial Year 2018-19, although the demand pertained to the Financial Years 2020-21 and 2021-22.

7. Consequently, when the Petitioner attempted to file an Appeal on the GST portal on 24.02.2026, the portal computed the mandatory pre-deposit at ₹6,66,514/-, being ten per cent of ₹66,65,136/-. According to the Petitioner, the pre-deposit ought to have been computed at ₹3,33,257/-, being ten per cent of the disputed tax demand of ₹33,32,568/-.

8. The Petitioner claims to have attempted to file an application for rectification on 24.02.2026 and 25.02.2026, but could not do so on account of a technical error on the GST portal. It thereafter lodged a grievance with the Goods and Services Tax Network (hereinafter referred to as 'GSTN'), Respondent No.3, on 25.02.2026. The grievance was closed on 02.03.2026 on the ground that the requisite information had not been received. The Petitioner disputes the said position.

9. The Respondent No. 1, upon being apprised of the error through the present Writ Petition, exercised the power under Section 161 of the CGST Act and uploaded a fresh FORM GST DRC-07 on 16.03.2026, whereafter the Petitioner accepted that the tax demand and penalty have since been separately reflected.

10. The other relief sought by the Petitioner concerns the input tax credit blocked under Rule 86A of the Central Goods and Services Tax

Rules, 2017 (hereinafter referred to as 'CGST Rules'). The Blocked Credit Ledger placed on record reflects that, on 22.11.2024, DGGI blocked credit aggregating to ₹33,32,568/-. The said restriction was automatically removed through the system on 01.12.2025.

11. The Blocked Credit Ledger further reflects that an amount of ₹64,386/- was blocked on 03.10.2025 by the Excise and Taxation Officer of the State of Haryana. On 02.01.2026, the same officer blocked a further amount of ₹17,31,702/-. Thus, the two subsisting restrictions reflected in the ledger aggregate to ₹17,96,088/-. The officer who imposed these restrictions has not been impleaded in the present Writ Petition.

12. On 23.03.2026, this Court recorded the contention of the Petitioner that it remained unable to file the statutory Appeal notwithstanding the rectification of FORM GST DRC-07. GSTN was directed to clarify the position, and the Respondents were granted an opportunity to place their response concerning the blocked credit on record.

**SUBMISSIONS ON BEHALF OF THE PARTIES:**

13. Learned counsel representing the Petitioner submits that, although the error in FORM GST DRC-07 has been rectified, the Petitioner continues to face a technical difficulty while filing the Appeal on the GST portal. He accordingly prays that the Petitioner be permitted to file the Appeal manually and that the period commencing from 24.02.2026 until disposal of the present Writ Petition be excluded while computing limitation.

14. Learned counsel further submits that input tax credit aggregating to ₹17,96,088/- is already blocked in the Petitioner's ECL, whereas the pre-deposit required under Section 107(6) of the CGST Act is only ₹3,33,257/-. It is contended that requiring the Petitioner to make a further payment in cash, despite the Revenue having restricted credit substantially exceeding the pre-deposit, would impose a double burden upon the Petitioner.

15. It is submitted that, if the Petitioner does not succeed in the statutory Appeal, the disputed input tax credit would, in any event, be liable to be reversed. The Petitioner should therefore be permitted to utilise ₹3,33,257/- out of the blocked credit towards the mandatory pre-deposit.

16. In support of the aforesaid contention, reliance is placed upon Section 49(4) of the CGST Act, Rule 86(2) of the CGST Rules and Circular No.172/04/2022-GST dated 06.07.2022. Reliance is also placed upon the decisions in ***Oasis Realty v. Union of India***[1] and ***Yasho Industries Limited v. Union of India***[2] to contend that the pre-deposit prescribed under Section 107(6) of the CGST Act may be made by utilising the amount available in the ECL.

17. Learned counsel representing the Petitioner also questions the successive restrictions imposed under Rule 86A of the CGST Rules. It is submitted that the restriction imposed on 22.11.2024 ceased to operate upon expiry of the period prescribed under Rule 86A(3). However, further restrictions were imposed on 03.10.2025 and

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[1] 2022 SCC OnLine Bom 11891
[2] 2024 SCC OnLine Guj 4390

02.01.2026, including after the OIO had been passed. It is further submitted that the Petitioner's bank account has also been provisionally attached, leaving it without sufficient liquidity to make the pre-deposit in cash.

18. *Per contra*, learned counsel representing the Respondents submits that the principal error in FORM GST DRC-07 was rectified on 16.03.2026. Insofar as the subsequent difficulty in filing the Appeal is concerned, it is submitted that the error displayed on the portal indicates that the particulars under the IGST head have not been correctly entered by the Petitioner. The matter was nevertheless referred to GSTN for examination.

19. During the course of arguments, learned counsel representing the Respondents did not dispute that credit ordinarily available in an ECL may be utilised towards the pre-deposit under Section 107(6) of the CGST Act. He, however, submits that the present case concerns credit whose availment has been held to be inadmissible in the OIO and whose utilisation presently stands restricted under Rule 86A of the CGST Rules.

20. It is submitted that a restriction imposed under Rule 86A is preventive in nature and does not amount to recovery or appropriation of the credit towards the adjudicated demand. The mere blocking of credit cannot therefore be treated as satisfaction of the statutory requirement of pre-deposit.

21. The Respondents distinguish the decisions in ***Oasis Realty*** *(supra)* and ***Yasho Industries Limited*** *(supra)* on the ground that those cases concerned credit available for utilisation and not credit

blocked under Rule 86A. Reliance is placed upon the decisions in ***Jyoti Construction v. Deputy Commissioner of CT & GST***[3] and ***KOG-KTV Food Products (India) Private Limited v. Joint Commissioner (Appeals)***[4]**.**

22. Learned counsel representing the Respondents lastly submits that the admissibility of the input tax credit depends upon examination of the underlying transactions and evidence. Since the Petitioner has an appellate remedy under Section 107 of the CGST Act, these disputed questions ought not to be examined in exercise of writ jurisdiction.

## ANALYSIS AND FINDINGS:

23. This Court has considered the submissions advanced by learned counsel representing the parties and examined the material placed on record. Respondent No.1 has rectified FORM GST DRC-07 by separately reflecting the tax demand of ₹33,32,568/- and an equivalent penalty. Accordingly, the first relief sought by the Petitioner has become infructuous.

24. The surviving issue is whether ₹3,33,257/- out of the input tax credit presently blocked under Rule 86A of the CGST Rules can be appropriated towards the mandatory pre-deposit under Section 107(6) of the CGST Act.

25. Section 107(6) of the CGST Act, insofar as relevant, provides as under:

> *"(6)* ***No appeal shall be filed under sub-section (1), unless the***

[3] 2021 SCC OnLine Ori 1511
[4] W.P.(MD) No.21581 of 2022, Madras HC, decided on 17.04.2024.

***appellant has paid***—

*(a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and*

*(b) a sum equal to ten per cent of the remaining amount of tax in dispute arising from the said order, subject to a maximum of twenty crore rupees, in relation to which the appeal has been filed."*

26. Section 49(4) of the CGST Act permits utilisation of the amount available in the ECL towards payment of output tax, subject to the conditions and restrictions prescribed under the Act. The provision reads as under:

*"(4) The amount available in the electronic credit ledger may be used for making any payment towards output tax under this Act or under the Integrated Goods and Services Tax Act in such manner and subject to such conditions and restrictions and within such time as may be prescribed."*

27. Rule 86A of the CGST Rules[5] authorises the competent officer, upon recording reasons to believe that input tax credit has been fraudulently availed or is otherwise ineligible, to restrict its utilisation for reasons to be recorded in writing. The relevant portion of Rule 86A(1) provides that the officer may:

*"…for reasons to be recorded in writing, not allow debit of an amount equivalent to such credit in electronic credit ledger for discharge of any liability under section 49 or for claim of any refund of any*

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[5] **Rule 86A. Conditions of use of amount available in electronic credit ledger.-**
(1) The Commissioner or an officer authorised by him in this behalf, not below the rank of an Assistant Commissioner, having reasons to believe that credit of input tax available in the electronic credit ledger has been fraudulently availed or is ineligible in as much as-
(a) the credit of input tax has been availed on the strength of tax invoices or debit notes or any other document prescribed under rule 36-
i. issued by a registered person who has been found non-existent or not to be conducting any business from any place for which registration has been obtained; or
ii. without receipt of goods or services or both; or
(b) the credit of input tax has been availed on the strength of tax invoices or debit notes or
any other document prescribed under rule 36 in respect of any supply, the tax charged in respect of which has not been paid to the Government; or
(c) the registered person availing the credit of input tax has been found non-existent or not to be conducting any business from any place for which registration has been obtained; or
(d) the registered person availing any credit of input tax is not in possession of a tax invoice or debit note or any other document prescribed under rule 36,
may, for reasons to be recorded in writing, not allow debit of an amount equivalent to such credit in electronic credit ledger for discharge of any liability under section 49 or for claim of any refund of any unutilised amount.
(2) The Commissioner, or the officer authorised by him under sub-rule (1) may, upon being satisfied that conditions for disallowing debit of electronic credit ledger as above, no longer exist, allow such debit.
(3) Such restriction shall cease to have effect after the expiry of a period of one year from the date of imposing such restriction.

*unutilised amount.”*

Rule 86A(3) further provides that such restriction shall cease to have effect after expiry of one year from the date of its imposition.

28. A conjoint reading of the aforesaid provisions shows that Section 107(6) requires payment of the prescribed amount, while Section 49(4) permits utilisation of credit available in the ECL, subject to the restrictions prescribed under the CGST Rules. Where a restriction under Rule 86A is in operation, the corresponding amount cannot be debited from the ECL unless the restriction is removed or modified by the competent authority.

29. Learned counsel representing the Respondents has not disputed that credit ordinarily available in the ECL may be utilised towards the pre-deposit under Section 107(6) of the CGST Act. The decisions in ***Oasis Realty*** *(supra)* and ***Yasho Industries Limited*** *(supra)* also concern utilisation of credit available in the ECL. Neither decision deals with credit whose utilisation was restricted under Rule 86A. It is therefore not necessary for this Court to examine the wider controversy regarding utilisation of ordinarily available credit towards pre-deposit.

30. The mere blocking of input tax credit does not amount to its payment or appropriation towards an adjudicated demand. A restriction under Rule 86A only prevents debit of the specified amount from the ECL. Unless the amount is actually debited or appropriated towards the liability, the requirement of pre-deposit cannot be treated as satisfied merely because the credit has been placed beyond the use of the registered person.

31. The OIO itself draws a clear distinction between appropriation and mere confirmation of a demand. While dealing with Crimson International, the Adjudicating Authority appropriated the amount of ITC available in its credit ledger against the demand confirmed against it. However, while confirming the demand against the Petitioner, the Adjudicating Authority did not pass any corresponding direction for appropriation of the credit available in the Petitioner's ECL. The credit blocked under Rule 86A has therefore not been treated in the OIO as payment or appropriation towards the demand.

32. There is another aspect which prevents the relief sought by the Petitioner from being granted. The Blocked Credit Ledger reflects that the subsisting restrictions dated 03.10.2025 and 02.01.2026 were imposed by the Jurisdictional officer, an Excise and Taxation Officer of the State of Haryana. Neither the said officer nor the competent authority of the State of Haryana has been impleaded in the present Writ Petition.

33. None of the existing Respondents presently exercises control over the subsisting restrictions. Respondent No.1 passed the OIO but did not impose the said restrictions. The restriction imposed by Respondent No.2 on 22.11.2024 was automatically removed on 01.12.2025. Respondent No.3, GSTN, only administers the common GST portal. A direction to appropriate the blocked credit would, in effect, require modification of restrictions imposed by an Authority which is not before this Court.

34. The orders imposing the restrictions dated 03.10.2025 and 02.01.2026 have also not been placed on record. The material

considered by the concerned officer and the reasons recorded under Rule 86A are therefore not available for examination by this Court. The descriptions appearing in the Blocked Credit Ledger cannot substitute the reasons required to be recorded by the officer exercising power under Rule 86A.

35. Respondent No.1 has sought to explain the basis of the subsisting restrictions in its counter affidavit. However, those restrictions were imposed by an officer of the State of Haryana and not by Respondent No.1. The satisfaction contemplated under Rule 86A is that of the officer who imposes the restriction. The reasons supporting such satisfaction must therefore emerge from the record of that officer and cannot subsequently be supplied by an Authority which neither imposed nor presently controls the restriction.

36. Further, the Blocked Credit Ledger filed by the Petitioner also does not reflect the running balance in the Petitioner's ECL. It merely records the amounts which were blocked or unblocked on different dates. It does not establish that the entire amount of ₹17,96,088/-, or any specified part thereof, would presently be available for debit but for the subsisting restrictions.

37. In view of the aforesaid, the prayer seeking appropriation of ₹3,33,257/- out of the blocked input tax credit towards the mandatory pre-deposit cannot be granted.

38. The Petitioner shall remain at liberty to seek removal or modification of the aforesaid restrictions from the competent authority or to challenge the same in appropriately constituted proceedings. All rights and contentions of the Petitioner and the concerned authority in

that regard are left open.

39. Insofar as the OIO is concerned, the Petitioner has a statutory remedy of Appeal under Section 107 of the CGST Act. Examination of the transactions with Crimson International, the services allegedly received by the Petitioner and the admissibility of the input tax credit would involve disputed questions of fact and appreciation of evidence. These questions ought to be considered by the Appellate Authority.

40. However, the Petitioner attempted to file the Appeal on 24.02.2026. The Petitioner also attempted to seek rectification and lodged a grievance with GSTN on 25.02.2026. Admittedly, FORM GST DRC-07 contained an error attributable to the Adjudicating Authority, which was rectified only on 16.03.2026.

41. The Petitioner cannot be deprived of its appellate remedy on account of the time consumed in obtaining rectification of the erroneous FORM GST DRC-07 and in prosecuting the present Writ Petition. Accordingly, it would be appropriate to grant the Petitioner an opportunity to file the statutory Appeal within a stipulated period, subject to compliance with Section 107(6) of the CGST Act.

**CONCLUSION:**

42. In view of the aforesaid discussion, the present Writ Petition is disposed of with the following directions:

42.1. Since the error in FORM GST DRC-07 has admittedly been rectified, the prayer seeking its rectification has become infructuous. Respondent No.1 shall furnish a copy of the corrected FORM GST DRC-07 to the Petitioner within a period of one week, if not already furnished.

42.2. The prayer seeking appropriation of ₹3,33,257/- out of the input tax credit presently blocked under Rule 86A of the CGST Rules cannot be granted in the present Writ Petition. However, the Petitioner shall be at liberty to seek removal or modification of the restrictions dated 03.10.2025 and 02.01.2026 from the competent authority or to challenge the same in appropriately constituted proceedings.

42.3. The Petitioner is permitted to file its Appeal under Section 107 of the CGST Act against the OIO within a period of four weeks from the date of this judgment. If the Appeal is filed within the aforesaid period, it shall not be rejected on the ground of limitation and shall be considered on merits, subject to compliance with Section 107(6) of the CGST Act.

42.4. In terms of the stand taken by the Respondents before this Court, the Petitioner shall not be required to make the pre-deposit exclusively through the Electronic Cash Ledger. The Petitioner may utilise any amount otherwise lawfully available and capable of being debited from its ECL. However, the credit presently blocked under Rule 86A shall not be treated as payment of the pre-deposit unless the concerned restriction is removed or suitably modified by the competent authority.

42.5. Respondent Nos.1 and 3 shall render the necessary assistance to enable the Petitioner to file the Appeal electronically. In case the GST portal continues to prevent filing of the Appeal despite correct completion of FORM GST APL-01 and compliance with Section 107(6) of the CGST Act, the Petitioner shall be permitted to submit the Appeal manually before the competent Appellate Authority, which shall accept and process it in accordance with law.

42.6. No coercive steps for recovery of the demand confirmed by the OIO shall be taken against the Petitioner for a period of four weeks from the date of this judgment. If the Petitioner files the Appeal within the aforesaid period after complying with Section 107(6) of the CGST Act, the consequences contemplated under Section 107(7) shall follow. In case no Appeal is filed within the stipulated period, the protection shall cease automatically.

43. This Court has not expressed any opinion on the merits of the OIO or upon the validity of the restrictions imposed under Rule 86A of the CGST Rules. All rights and contentions of the Petitioner and the concerned authorities in that regard are left open.

44. The pending applications also stand closed.

**ANIL KSHETARPAL, J.**

**SHAIL JAIN, J.**

**SEPTEMBER 03, 2026**

*sp/ad*