14.10.2026
01 Ct. No.10
AGM

WPA 6228 of 2026
With
CAN 1 of 2026

M/s. Mishka Steels LLP & Anr.
vs.
Superintendent of Central Goods and Service Tax & CX & Ors.

Md. T. M. Siddiqui. Sr. Adv.
Mr. Subhasish Podder.
Ms. Aashiya Rahman.
....For the petitioners.

Mr. Bhaskar Prosad Banerjee.
Mr. Tapan Bhanja.
Mr. Gourab Karmakar.
... For the CGST Authority.

Mr. Subham Chatterjee.
Ms. Bisakha Pal.
... For the respondent no. 7.

Ms. Sipra Chanda.
... For the Union of India.

1. The matter has appeared in the list under the heading 'To Be Mentioned' for correction of the order dated 12th October, 2026.

2. In the second line of paragraph 2, the date shall be read as **'14th October 2026'** in place and stead of '14th December, 2026'.

3. The order dated 12th October, 2026 is corrected accordingly. The remaining part of the said order will remain unaltered.

4. Let this order be read along with the order dated 12th October, 2026.

5. The petitioners have filed the present writ petition challenging inter alia, the legality, validity

and sustainability of the issuance of the show cause notice dated 17.1.2025 in Form GST DRC 01 along with the consequential order dated 14.01.2026 passed under Central Goods and Services Act, 2017 including the show cause notice for cancellation of registration and the order of cancellation of registration dated 19.08.2026 is arbitrary, illegal and in excess of jurisdiction and is not sustainable in the eye of law.

6. Learned counsel appearing for the petitioners submits that despite filing a reply to the show cause notice dated 17.01.2025, the Adjudicating Authority has observed that the petitioners did not file any reply and also erroneously arrived at a finding that ample opportunities were given to the petitioners by granting personal hearing.

7. During the pendency of the writ petition, the petitioners received an intimation for suspension and notice for cancellation of registration dated 29.05.2026 in Form GST Reg- 31 and order of cancellation of registration dated 19.08.2026. Due to the suspension of the registration, the Electronic Credit Ledger has also been made inoperative and the petitioners are unable to run their business and it has come to a standstill, causing undue hardship.

8. It is further submitted by the petitioners that no order has been passed by the GST Authorities for negative blocking of the Electronic Credit Ledger.

9. In this context, he places reliance upon paragraph 82 of the **Best Crop Science Pvt. Ltd. – versus- Principal Commissioner, CGST Commissionerate, Meerut** reported in (2024) 22 Centax 531 (Del.), which is reproduced below:

> ***"82.*** *Rule 86A(1) of the Rules does not contemplate an order, the effect of which is to require a taxpayer to replenish his FCL with valid availment of ITC, to the extent of ITC used in the past, which the Commissioner or an officer authorized by him has reasons to believe, was fraudulently availed or was ineligible. Such an interpretation would in effect amount to construe an order under Rule 86A(1) of the Rules as an order for recovery of tax. This is obvious because the taxpayer would now have to incur a larger cash outflow for payment of taxes as he would be denied utilization of validly availed ITC, which he would require to accumulate to compensate for the ITC availed and utilized which the Commissioner or an officer authorized by him, has reasons to believe was fraudulently availed or was ineligible.***"**

10. Learned counsel appearing for the CGST Authorities vehemently opposes the submission made by the petitioner and submits that due to non-filing of the returns for the last six months, the registration of the petitioners has been cancelled.

Moreover, on the basis of an investigation initiated against the petitioners for availment of inadmissible/fake Input Tax Credit (ITC) on invoices issued by non-existent/non-functioning entities without having any underlying supply of goods/services, the Electronic Credit Ledger has been made inoperative.

11. It is further submitted that the petitioners are habitual offender and is indulged in the practice of taking fake ITC every year from various non-existent suppliers through GSTR-2A/2B and forwarding it to the various recipients via GSTR-1. As per initial investigation, the taxpayer has availed and utilized huge inadmissible/fake ITC of Rs. 3,96,96,478/- which has already been admitted in a voluntary statement dated 9.12.2025 by one Sri Han Raj Gupta, one of the partners of M/s Mishka Steels LLP.

12. On the basis of such investigation report, the GST Authorities were compelled to initiate proceedings against the petitioners by blocking the Electronic Credit Ledger negatively.

13. Having heard the parties and upon considering the materials on record available on record, this Court has taken a judicial notice of all the relevant documents annexed to the writ petition including the show cause notices dated 17.01.2025,

19.08.2026 and Form GST REG-31 dated 29.05.2026 and the same be kept on record.

14. This Court is of the considered view that despite filing a reply to the show cause notice dated 16.2.2025 and the same be uploaded on the common portal of the GST Authorities in Form GST DRC 06 which is evident from page 91 of the writ petition, the Adjudicating Authority has arrived at an erroneous finding and has passed an order ex parte confirming the demand of Rs. two crores 90 lakhs including tax and penalty.

15. Since the petitioners have not filed the returns for the last six months as supported by the GST Authorities, the registration of the petitioners were cancelled. Such decision taken by the authority concerned including blocking the ECL negatively is dehors the mandate of the settled principles of law.

16. In light of **Deputy Director, Directorate General of GST Intelligence, DZU –versus- Kings Security Guard Services Pvt. Ltd.** reported in **(2025) 30 Centax 404 (S.C.)**, wherein the Hon'ble Apex court has been pleased to observe that the Electronic Credit Ledger cannot be negatively blocked for wrongful availment of ITC.

17. In view of the above, the impugned order dated 14.1.2026 is hereby quashed and set aside and the respondent no. 3 is directed to re-visit the issue by

considering the reply filed by the petitioners dated 16.02.2025 within a period of four weeks from the date of communication of this order and shall dispose of the same by passing a reasoned and speaking order in accordance with law upon affording opportunity of personal hearing to the petitioner and other stakeholders, if any. Such decision shall be communicated within a week thereafter.

18. However, it is made clear that the Adjudicating Authority shall consider the issue of non-filing of the returns for the six months including the negative blocking of the ECL in the light of the judgments in **Best Crop Science Pvt. Ltd. –versus- Principal Commissioner, CGST Commissionerate, Meerut** (supra) and **Deputy Director, Directorate General of GST Intelligence, DZU –versus- Kings Security Guard Services Pvt. Ltd.** (supra).

19. It is further made clear that upon being satisfied, the Adjudicating Authority shall forthwith direct the authority concerned to take necessary steps in accordance with law subject to compliance of all statutory formalities for revocation of the cancellation of the registration and to unlock and make the Electronic Credit Ledger operational, permitting, the petitioners to run the business in a

seamless manner. In the event, the petitioners have been found to have committed the same offence, the authorities shall not be debarred from taking necessary steps in accordance with law.

20. The Adjudicating Authority shall take n independent decision without being influenced by the observation made hereinabove, the petitioners shall not seek unnecessary adjournments and the entire exercise shall be completed within four weeks from date on or before 15.11.2026.

21. With the above observations and directions, the writ petition along with CAN 1 of 2026 are disposed of.

22. Since no affidavit in opposition has been called for, the allegations contained in the writ petition are deemed to have been denied and not admitted.

23. Urgent Photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Smita Das De, J.)