

TAX INFO

Dated 13/08/2022

Latest update on GST Law: **Blocking of electronic credit ledger be done only to the extent of demand** as given in judgement by **Calcutta High Court**.

We expressly disclaim liability to any person in respect of anything done in reliance of the contents of this publication.

Name of Petitioner	Jyoti Commotrade Private Limited
Name of Respondent	State of West Bengal
Court	Calcutta High Court
Date of Judgement	21.06.2021
Appeal No.	MAT 854 of 2022

Brief Facts of the Case Law:

The appellant is aggrieved by the communication dated October 22, 2021 blocking electronic credit ledger thereby leaving a negative balance of Rs.1,14,30,608/-. The reasons cited by the authorities for blocking of the electronic credit ledger are absolutely untenable and factually incorrect. On going through the communication received by the assessee on 22.10.2021 it seems that during the period of December 2017 to January 2018 certain claim on account of input tax credit had disallowed on the ground being that the party with whom the assessee had transaction is non-existing at the declared place of business and the registration has been obtained by exercising fraud and willful misstatement/suppression of fact. Therefore, the authority having reason to believe that ITC had been fraudulently availed and the same had been blocked. Due to pending finalization of the proceedings regarding blocking of the electronic credit ledger, the business activity of the appellant has come to a standstill.

The allegations relate to transactions pertaining to financial year 2017-2018 and accordingly by a communication dated October 22, 2021, the alleged claim of ITC had been disallowed. By doing so, the remaining credit which the assessee will be otherwise entitled to is also blocked on account of blocking of the electronic credit ledger and thereby the entire business activity has come to a standstill. The registration of the assessee has been suspended on account of non-filing of the return. In fact, this is a very drastic step taken by the authority, more particularly when the Department has not yet issued any show cause notice.

Decision of the Court:

The Court directed the Department to issue a show cause notice upon the appellant within a period of 10 days from receipt of the server copy of the order and thereafter shall afford a reasonable time to the appellant to submit its reply to the show cause notice, after which the appellant be afforded an opportunity of personal hearing and an order be passed on merits in accordance with law. So far as blocking of the electronic credit ledger beyond the amount indicted above, the authorities were directed to lift the same and consequently registration of the assessee under the relevant Act be restored so far as it enables the appellant to file its return.

Suresh Aggarwal, Advocate

Compliance & Litigation under GST

Address: House No. 54, Pocket A-3, Sector-5, Rohini- 110085

Phone: 91-9810032846; 011 - 45131427

Email: sureshagg@gmail.com

Website: <http://www.sureshtaxation.com>