

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO.7579 OF 2019
WITH
WRIT PETITION NO.7580 OF 2019**

Bhattad Industries Pvt. Ltd. Through
Director Shekhar Bhattad

.. Petitioner

v/s.

Union of India Through Asstt. Commissioner
of Central Goods And Service Tax

.. Respondent

....

Mr. A.M. Sachwani, a/w. Mr. V.M. Advani and Mr. R.P. Shah, for the
Petitioner.

Mr. Pradeep S. Jetly, a/w. Mr. J.B. Mishra, for the Respondent.

....

**CORAM: M.S.SANKLECHA, &
S.C. GUPTA, JJ.**

DATE : 1 AUGUST, 2019.

P.C:-

. At the request of the Petitioner, the petitions are taken up
for final disposal at the stage of admission.

2. These two petitions, under Article 226 of the Constitution of
India, challenge the action of Respondent Nos. 1 – the Assistant
Commissioner of Central Goods And Service Tax under the Goods &
Service Tax Act, 2017 (the Act) in having directed the Petitioner's
bankers, viz. Indusind Bank, Miraroad Branch and Axis Bank, Tardeo
Branch to freeze the Petitioner's accounts with them.

3. The grievance of the Petitioner is that the action of freezing the two bank accounts is arbitrary and high handed for the reason that no show cause notice in respect of any alleged violation of the Act has been issued till date. It is further submitted that the impugned freezing of the accounts is in defiance of and contrary to Section 83 of the Act, which allows the provisional attachment of bank accounts to protect the Revenue only by an order in writing by the Commissioner. In this case, no such order has been passed. Therefore, the action of freezing the Petitioner's bank accounts is without jurisdiction.

4. We are of the view that given the drastic nature of this power, the Parliament has provided that such provisional attachment can only be done consequent to an order of the Commissioner. This ensures due application of mind by a senior officer to the facts of the case before an attachment of a bank account is ordered.

5. Mr. Jetly, learned Counsel appearing for the Respondent, very fairly states that no order is available on file. This would indicate that there was no application of mind by the Commissioner before the Petitioner's bank accounts in Axis Bank, Tardeo Branch and Indusind Bank, Miraroad Branch were frozen/attached.

6. In the above view, we hold that the impugned action of attaching the Petitioner's bank accounts is without authority of law. Thus set aside. The Respondent is directed to immediately vacate the freezing/attachment of bank accounts and inform the two banks

concerned to vacate the attachment/freezing of the bank accounts.

7. Both the petitions are allowed in the above terms.

(S.C. GUPTE,J.)

(M.S.SANKLECHA,J.)

Smita
Gonsalves

Digitally signed by
Smita Gonsalves
Date: 2019.08.06
16:06:23 +0530