PMB

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3954 OF 2021

M/s. Guru Nanak Motor House .. Petitioner
Vs.
Union of India and ors. .. Respondents

Mr. Brijesh Pathak for petitioner.
Mr. Pradeep Jetly, Senior Advocate a/w Mr. J.B. Mishra and Smt. Maya Majumdar for respondents.

C0RAM: DIPANKAR DATTA, CJ &
M. S. KARNIK, J.

DATE: OCTOBER 8, 2021

P.C. :

1. The Joint Commissioner (Anti-Evasion) CGST & CX. Belapur passed an order dated May 8, 2019 of provisional attachment of the petitioner's bank account in exercise of power conferred by section 83(1) of the Central Goods and Service Tax Act, 2017 (hereafter "the CGST Act" for short) read with Rule 159(1) of the Central Goods and Services Tax Rules, 2017 (hereafter "the CGST Rules" for short) considering that the proceedings initiated against the petitioner under section 67 of the CGST Act was pending.

It is not in dispute that the period of one year from the date the attachment order was made under sub-section (1) of section 83 has expired.

2. It is urged by the petitioner in support of the relief claimed in this writ petition that by operation of law, the provisional attachment order ceases to exist.

3. Learned counsel for the petitioner submits that he does not press prayer clause (a) of the petition. He seeks relief to the extent of prayer clauses (b) and (c). In this view of the matter, the controversy in the present petition is considerably narrowed down for consideration of petitioner's prayer that the provisional attachment order ceases to exist by operation of law. Mr. Jetly, learned senior advocate appearing on behalf of the respondents, was not able to controvert the factual position that a period of one year from the date of attachment has in fact expired.

4. Having heard learned counsel for the parties, it is apparent that a period of one year from May 8, 2019 when the petitioner's bank account came to be attached provisionally under section 83(1) of the said Act has

expired. Section 83(1) and section 83(2) of the CGST Act reads thus :-

> "(1) Where during the pendency of any proceedings under section 62 or section 63 or section 64 or section 67 or section 73 or section 74, the Commissioner is of the opinion that for the purpose of protecting the interest of the Government revenue, it is necessary so to do, he may, by order in writing attach provisionally any property, including bank account, belonging to the taxable person in such manner as may be prescribed.
>
> (2) Every such provisional attachment shall cease to have effect after the expiry of a period of one year from the date of the order made under sub-section (1)."

5. Considering that a period of one year from the date of provisional attachment under section 83(1) of the CGST Act has expired despite which the order of provisional attachment has not been lifted, we allow this petition as by operation of law the provisional attachment order ceases to exist.

6. The Joint Commissioner is directed to immediately communicate to the petitioner's banker that the attachment order ceases to be operative and that the petitioner may be permitted to operate the relevant bank account which was under attachment. Let this exercise be completed as earlier as possible, but not later than seven days from date.

7. In so far as prayer clause (c) is concerned, the appeal shall obviously be decided by the Respondents in due course on its own merits and in accordance with law. Considering the nature of the relief prayed for, we request the respondent No.4 to decide the appeal as expeditiously as possible bearing in mind the number of appeals that may be pending before him.

8. The writ petition stands allowed. There shall be no order as to costs.

(M.S. KARNIK, J.) **(CHIEF JUSTICE)**