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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISIDITION**

WRIT PETITION NO. 3710 OF 2021

Implement Impex Private Limited .. Petitioner

Versus

State of Maharashtra & Ors. .. Respondents

Mr. Brijesh Pathak for petitioner.
Ms. R. A. Salunkhe, AGP for State.

**CORAM : DIPANKAR DATTA, CJ &
G. S. KULKARNI, J.**

DATE : AUGUST 4, 2021

PC:

1. The Joint Commissioner of State Tax, Investigation Branch-B, Mumbai passed an order dated February 14, 2020 of provisional attachment of the petitioner's bank account in exercise of power conferred by Section 83(1) of the Central Goods and Services Tax Act (hereinafter "the CGST Act", for short) read with Rule 159(1) of the Central Goods and Services Rules (hereinafter "the CGST Rules", for short) considering that proceedings initiated against the petitioner under Section 67 of the CGST Act were pending.

2. It is not in dispute that the proceedings stand terminated by an order dated August 28, 2020. Such order has been carried in appeal by the petitioner on October 27, 2020. An amount of Rs.1,25,392/- has been deposited by the petitioner

on account of pre-deposit in terms of sub-section (6) of Section 107 of the CGST Act.

3. The grievance that has been voiced in this writ petition is that despite lapse of more than a year from the date provisional attachment of the petitioner's bank account was ordered, the Joint Commissioner has not lifted such order of provisional attachment.

4. Section 83 of the CGST Act provides as follows:

"83(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. In ground (I), urged in support of the relief claimed in this writ petition, the petitioner has urged that by operation of law, the provisional attachment order ceases to exist. In the reply-affidavit, the Joint Commissioner has very conveniently not adverted to the legal issue raised by the petitioner, obviously because he had no answer.

6. Having heard learned advocates for the parties and considering the facts and circumstances of this particular case, we allow the writ petition by directing the Joint Commissioner 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 (7) days from date.

7. Insofar as prayer clause (b) of the writ petition is concerned, sub-section (7) of Section 107 of the CGST Act ordains that where the appellant has paid the amount under sub-section (6), recovery proceedings for the balance amount shall be deemed to be stayed. Since the petitioner has deposited Rs.1,25,392/- under sub-section (6) of Section 107 of the CGST Act and an acknowledgment to that effect is available (at page 32 of the writ petition), the respondents shall be restrained from initiating further proceedings for recovery of the balance amount till such time the appeal is finally disposed of.

8. The writ petition stands allowed accordingly. No costs.

(G. S. KULKARNI, J.)

(CHIEF JUSTICE)

PRAVIN
DASHARATH
PANDIT

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PANDIT
Date: 2021.08.05
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