

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

WRIT PETITION NO. 4164 OF 2021

Prime Cargo Movers & Logistics	}	
Pvt. Ltd.	}	Petitioner
Versus		
Union of India and Ors.	}	Respondents

Mr. Brijesh Pathak for the petitioner.

Mr. Vijay H. Kantharia with Mr. Ram Ochani for
respondent nos. 1 to 4.

**CORAM :- DIPANKAR DATTA, CJ &
M. S. KARNIK, J.**

DATE :- OCTOBER 26, 2021

PC: -

1. The Customs authorities, in exercise of power conferred by section 110(5) of the Customs Act, 1962 provisionally attached the bank account of the petitioner. However, the petitioner claims that the formal order of attachment was not served on it. A request was made to the petitioner's banker on 12th March 2020 for making available a copy of the order, to which the petitioner received a response that it may contact the Customs authorities directly for obtaining such order.

2. Be that as it may, it is not in dispute that an order of provisional attachment in terms of section 110(5) of the Customs Act, 1962 would initially have a life of 6 (six) months

unless, of course, in terms of the proviso thereto, such life is extended which, at any rate, would not exceed 6 (six) months, meaning thereby that the life of an order of provisional attachment at the highest would have a life of 1 (one) year. The petitioner has, *inter alia*, prayed for lifting of the order of attachment of his bank account maintained with the banker, respondent no. 5.

3. We have heard Mr. Pathak, learned advocate for the petitioner and Mr. Kantharia, learned advocate for the respondents.

4. The provisions contained in section 110(5) of the Act are clear. An order of provisional attachment ceases to be valid beyond 6 (six) months of such order being made provided, of course, its life has been extended in accordance with law at the end of six months to remain alive for a further period not exceeding 6 (six) months. The period of 1 (one) year has expired and, therefore, the order of provisional attachment, by operation of law, has ceased to be in operation.

5. In that view of the matter, we direct the Joint Commissioner of Customs, respondent no. 2, to immediately communicate to the petitioner's banker that validity of the attachment order has ceased and that the petitioner is entitled to operate the relevant bank account, which was under attachment. Let such communication be made as early as possible but not later than 7 (seven) days from date.

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

7. We, however, make it clear that this order shall not preclude the respondents to proceed against the petitioner for any violation of the provisions of law strictly in accordance with law.

SALUNKE
J V

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(M. S. KARNIK, J.)

(CHIEF JUSTICE)