

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 15465 OF 2023

M/s. Picture Thoughts Productions Ltd. through
Its Authorized Person Sandeep Ramkrishna Arora ...Petitioner

Versus

The State of Maharashtra, through
AGP Office & Ors. ...Respondents

Mr. Brijesh Pathak i/by Sachwani Anand Mohanlal, for Petitioner.
Ms. S. D. Vyas, Addl. G.P. for Respondent/State.

CORAM : G. S. KULKARNI &
JITENDRA JAIN, JJ.

DATE : DECEMBER 11, 2023.

P.C.:

1. Heard Mr. Pathak, learned counsel for the petitioner and Ms. Vyas,
learned counsel for the respondents.

2. The prayers as made in the petition which reads thus:

“(a) Rule be issued;

(b) This Hon’ble Court be pleased to issue a writ of Mandamus or
any other writ or direction in the nature of Mandamus under Article
226 of the Constitution of India, after perusing the relevant documents
in the matter of impugned Order dated vide letter dated 18.08.2022 in
letter Ref No.JC INVB/INV-NO-103/Provisional Attachment/2022-
23/b-418 Mumbai (Annexure-E) from Office of Joint Commissioner of
State Tax and after examining the validity, propriety and legality of the
same, set aside the same;

(c) Pending the hearing and final disposal of this Petition, the
Respondent be directed to defreeze the Bank account provisionally
attached.

- (d) Interim/ad-interim reliefs in terms of prayer (b) and (c) above;
- (e) Such other and further reliefs as this Hon'ble Court may deem fit in the facts and circumstances of the case."

3. Learned counsel for the petitioner would submit that the impugned order dated 18 August 2022, whereby the petitioners Bank account was provisionally attached, would ceased to operate in view of the clear provisions of Section 83(2) of the CGST Act. It is his submission that there is no fresh order which has been passed, hence, the petition needs to be allowed. In support of such contentions, learned counsel for the petitioner has placed reliance on the decision of this Court in *Abans Enterprises limited & Ors. Vs. The Union of India & Ors.*¹, whereby considering the provisions of Section 83(2) the Court had held that the provisional attachment remains in operation for a period not exceeding one year from the date it is made, and it shall cease to have effect under sub-section (2) of Section 83 of the CGST Act.

4. Learned counsel for the respondents would also not dispute that already the period of one year has been expired.

5. In this view of the matter, considering the clear provisions of sub-section (2) of Section 83 of the CGST Act, the petition needs to succeed by operation of law.

1 2023 (6) TMI 1187.

6. Accordingly, the impugned order dated 18 August 2022 provisionally attaching the petitioners Bank account has ceased to operate, and is rendered ineffective. Ordered accordingly.

7. Disposed of in the above terms. No costs.

[JITENDRA JAIN, J.]

[G. S. KULKARNI, J.]