

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2108 OF 2022

Vidhata Metal Pvt. through Ishwar G. Samota & ... Petitioners
Anr.

Versus

Union of India, through its Secretary & Ors. ... Respondents

Mr. Abhishek Rastogi for the petitioners.

Ms. Nitee Punde a/w. Mr. Ram Ochani for the respondents.

CORAM: G. S. KULKARNI &
JITENDRA JAIN, JJ.
DATED: 3 July, 2023

P.C.

1. Mr. Rastogi, learned counsel for the petitioners has fairly stated that the petitioners would not have any further grievance in regard to the provisional attachment of petitioner's bank account under section 83 of CGST Act, as the attachment has already been revoked/cancelled. Thus, the prayers to that effect in the petition have become infructuous.

2. The only grievance made by Mr. Rastogi in regard to the amount of Rs.1 crore, which according to the petitioner, was required to be deposited coercively prior to the provisional attachment. Mr. Rastogi submits that the concerned officer of the respondent had no authority in law to make such demand and issue an order freezing the bank account of the petitioner under section 83 of CGST Act and thereafter issue a show cause notice. He submits

that such amount cannot be retained by the respondent under any provision of law and that the petitioner is entitled to forthwith refund of such amount.

3. On the other hand, learned counsel for the respondent submits that such amount was voluntarily deposited.

4. We cannot dwell on such rival contentions in the proceedings of the present petition filed under Article 226 of the Constitution of India. If, according to the petitioner, the amount was not payable and/or should not have been demanded and/or that the authority had no jurisdiction to retain such amount, then it is for the authority to take an appropriate decision in that regard, if an application is made for refund of the said amount by the petitioners. We are, thus, of the opinion that if the petitioners make an application in this regard praying for refund of the amount to the concerned designated officer of the respondent within two weeks from today, let the petitioners be heard on such application and an appropriate order be passed on such application of the petitioners. All contentions are expressly kept open. Ordered accordingly.

5. Disposed of in the aforesaid terms. No costs.

(JITENDRA JAIN, J.)

(G. S. KULKARNI, J.)