IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2023

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.8203 of 2022
and
W.M.P.Nos.8204 & 8205 of 2022

M/s.Prime Gold International Limited,
Rep.by its Director,
Mr.Achin Aggarwal,
Survey No.284/2B, 289/2A,
Uliveeranapally Village,
Thally Road, Denkanikottai Taluk,
Hosur – 635 114. .. Petitioner

vs

1.The Additional Director General,
The Director General of Goods and Service Tax Intelligence,
Coimbatore Zonal Unit,
No.115-1, Lakshmanan Street,
Behind Ukkadam Bus Stand,
Ukkadam, Coimbatore – 641 001.

2.The Commissioner,
Goods and Service Tax & Central Excise,
GST Bhavan, No.1, Foulkes Compound,
Anaimedu, Salem – 636 001.

3.The Branch Manager,
State Bank of India,

Electronics City Branch,
Bangalore – 560 100. .. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned proceedings of the 2nd respondent made in Form GST DRC-22 issued in DIN No.20220359XP000000F56D dated 15.03.2022 addressed to the 3rd respondent for provisional attachment of the petitioner current Account No.38137378645 and quash the same as issued contrary to the provisions of Central Goods and Services Act 2017 and consequently direct the 2nd respondent to allow the petitioner to operate the petitioner current Account No.38137378645 with the 3rd respondent forthwith.

For Petitioner	:	Mr.G.Krishna Kumar
For Respondents (R1 & R2)	:	Mr.V.Sundareswaran Senior Panel Counsel

ORDER

The petitioner has challenged the impugned attachment of Bank Account dated 15.03.2022 bearing reference DIN No.20220359XP000000F56D under Section 83 of the Central Goods and Services Tax Act (CGST), 2017. Relevant portion of the impugned attachment order reads as under:

"It is to inform that M/s.Prime Gold International Limited having principal place of business at Sy.No.284/2B, 289/2A, Uliveeranapally Village, Thally Road, Hosur-635114, bearing registration number as 33AACCK3755F1ZR, PAN No.AACCK3755F is a registered taxable person under the CGST Act 2017. Proceedings have been launched against the aforesaid taxable person under Section 74 (Chapter XV), of the said Act to determine the tax or any other amount due from the said person. As per information available with the Department, it has come to my notice that the said person has an account in your bank having Current Account No.38137378645. In order to protect the interest of Government revenue and in exercise of the powers conferred under Section 83 of the Act, I A.S.MEENALOCHANI, Commissioner of GST and Central Excise, Salem, hereby provisionally attach the aforesaid bank account with effect from 27.03.2022. No debit shall be allowed to be made from the said account or any other account operated by the aforesaid person on the same PAN without the prior permission of this Department."

2. The respondents in their counter, in paragraphs 14 & 15, have stated as follows:

"14. Despite the fact that one of the bank accounts of the petitioner had been freezed, the petitioner is operating their unit and their fund transactions have been carried out through the following bank accounts, as communicated by the DGGI vide letter dated 13.01.2022, which bank accounts have not been attached.

Sl.No.	*Bank Account belongs to*	*Name of the Bank / Branch*	*Account Details*	*Date of expiry of attachment*
1	*M/s.Prime Gold International Limited*	*State Bank of India, Electronic City Branch, Bangalore.*	*C/A.No.38137378645*	*27.03.2022*
2	*M/s.Karthikeyan Enterprises*	*Corporation Bank, Belagondapalli Branch*	*C/A.No.510101006624035*	*27.03.2022*
3	*M/s.Sri Anjaneya Steel Corporation*	*State Bank of India, Gandhi Nagar Branch, Bangalore.*	*C/A.No.61271008960*	*27.03.2022*
4	*Shri Achin Aggarwal, MD of M/s.Prime Gold International Limited*	*Standard Chartered Bank, Raheja Towers, MG Road, Bangalore.*	*A/C.No.45611347017*	*27.03.2022*
		HDFC Bank, Koromangla Main Branch, Bangalore.	*A/C.No.531930018067*	*27.03.2022*

15. As per the provisions of Section 83 of the CGST Act, 2017 read with Rule 159 (1) of the CGST Rules, 2017, the above Bank attachment after initiation of any proceedings under Chapter XII (Assessment), Chapter XIV (Inspection, Search, Seizure and Arrest) or Chapter XV (Demands and Recovery), the Commissioner, by an order in FORM GST DRC-22, can attach any property including bank accounts which is valid for a period of one year. As the adjudication proceedings in respect of Show Cause Notice No.03/2021 (GST) dated 31.07.2021, is pending, as per the above provisions of Section 83 of the CGST Act, 2017 read with Rule 159 (1) of the CGST Rules, 2017, the order for attachment of Bank account were issued and the same is in order as per the provisions of Law."

3. Section 83 of the CGST Act reads as under:

*"**83. Provisional attachment to protect revenue in certain cases** – (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).”

4. Reading of the above provision indicates that orders of attachment are self-limiting. They are to remain in force for one year.

5. In view of the above, the writ petition is closed as nothing further survives for adjudication. No costs. Consequently, connected miscellaneous petitions are closed.

02.08.2023

Index:Yes/No
Neutral Citation:Yes/No
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To

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C.SARAVANAN, J.

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