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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision : 02.08.2024+ **W.P.(C) 10651/2024 & CM APPL. 43846/2024**

NIKHIL GUPTA

.....Petitioner

Through: Mr.Anurag Rajput, Mr.Sahil Puri,
Mr.Sahib Rajput, Mr.Sukhjeet Puri,
Ms.Priya Rathore, Mr.Dhruv
Bhardwaj, and Ms.Vidsha Madan,
Advocates.

versus

PRINCIPAL ADDITIONAL DIRECTOR

GENERAL DGGI GURUGRAM ZONAL UNIT

.....Respondent

Through: Mr.Harpreet Singh, SSC, Ms Suhani
Mathur, Mr.Jatin Kumar Gaur,
Advocates.

CORAM:**HON'BLE MR. JUSTICE VIBHU BAKHRU****HON'BLE MR. JUSTICE SACHIN DATTA****VIBHU BAKHRU, J. (ORAL)**

1. The petitioner has filed the present petition impugning an order passed under Section 83 of the Central Goods and Services Tax Act, 2017 (hereafter *the CGST Act*) in FORM GST DRC-22 (hereafter *the impugned order*) whereby the bank account No.50200064085295 maintained by the petitioner with HDFC Bank Limited, A-38, Anand Vihar, Delhi was directed to be provisionally attached.

2. The petitioner is also aggrieved by the blocking of Electronic Credit



Ledger (ECL) to the extent of ₹5,98,936/- [₹2,35,838/- Central Tax; and ₹3,63,098/- State/UT Tax].

3. The petitioner states that he has filed an objection under Rule 159(5) of the Central Goods and Services Tax Rules, 2017 (hereafter *the CGST Rules*) however, no order has been passed pursuant to such objections.

4. The learned counsel for the petitioner contended that only ‘the Commissioner’ can pass an order under Section 83(1) of the CGST Act and in the present case, the impugned order was not passed by the Commissioner. Thus, the impugned order is without jurisdiction. Additionally, he contends that the impugned order was passed without any reason to believe that such an order is necessary to protect the interest of the Government revenue, which is a necessary pre-condition for passing an order under Section 83(1) of the CGST Act.

5. Section 83 of the CGST Act is set out below:

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).”



6. It is clear from the plain language of Section 83(1) of the CGST Act, that only the Commissioner has the power to pass an order of provisional attachment under Section 83(1) of the CGST Act. Thus, the petitioner's contention to the aforesaid effect is merited.

7. The term 'Commissioner' is defined under Sub-section (24) of Section 2 of the CGST Act as under:

2. Definitions. –

(24) — “Commissioner” means the Commissioner of central tax and includes the Principal Commissioner of central tax appointed under section 3 and the Commissioner of integrated tax appointed under the Integrated Goods and Services Tax Act;”

8. Section 3 of the CGST Act specifies the classes of the officers for the purpose of the CGST Act and clause (d) of Section 3 of the CGST Act specifically mentions the Commissioners of Central Tax or Additional Directors General of Central Tax.

9. Mr Harpreet Singh, the learned counsel for the respondents has also shown a soft copy of a notification being Notification No.14/2017 - Central Tax dated 01.07.2017, which specifically provides that the Principal Director General, Goods and Services Tax Intelligence or Principal Director General, Goods and Services Tax to exercise of power of the Principal Chief Commissioner.

10. The impugned order has been passed the Principal Additional Director General of Goods and Services Tax Intelligence. Thus, the petitioner's contention that the impugned order has not been passed by the



Commissioner is unmerited.

11. Insofar as the reasons to believe that an order provisionally attaching the petitioner's bank account is necessary to protect the interest of the Revenue is concerned, Mr Harpreet Singh submits that the same is available on file and it would be provided to the petitioner, if necessary.

12. In these circumstances, we consider it apposite to dispose of the petition by directing the Commissioner to decide the petitioner's objections as expeditiously as possible and, in any event, within three weeks from date.

13. The petition is disposed of in the aforesaid terms. Pending application also stands disposed of.

VIBHU BAKHRU, J

SACHIN DATTA, J

AUGUST 02, 2024

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Click here to check corrigendum, if any