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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 16373 OF 2025

M/s. B. B. Metal

...Petitioner

Versus

Joint Commissioner of State Tax & Ors.

...Respondents

Mr. Sandeep Sachdeva a/w Devang Bhatia, Swarnima Shinde i/b. DServe Legal for
Petitioner.

Ms. Shruti Vyas, Addl.G.P. a/w D. S. Deshmukh for Respondent-State.

CORAM: G. S. KULKARNI &
AARTI SATHE, JJ.

DATE: 25th MARCH 2026

P.C.

1. This Petition under Article 226 of the Constitution of India is filed
praying for the following substantive reliefs:-

“a. Issue a Writ of Certiorari or any other appropriate Writ, order or direction under Article 226 of the Constitution of India quashing the Impugned provisional attachment orders all dated 17.09.2025 (Exhibit-A) passed by the Respondent No. 1 so far as same is without jurisdiction, being passed in violation of Section 6(2)(b) of the MGST Act and in grossest violation of the guidelines laid down by the Hon'ble Apex Court in the case of *Armour Security (India) Ltd. v. Commissioner, CGST, Delhi East Commissionerate* [2025 177 *taxmann.com* 478 (SC)];

b. Issue a Writ of Certiorari or any other appropriate Writ, order or direction under Article 226 of the Constitution of India quashing the Impugned Intimation letter dated 25.08.2025 (Exhibit-K) passed by the Respondent No. 2 so far as same is also without jurisdiction, being passed in violation of Section 6(2)(b) of the MGST Act and in grossest violation of the guidelines laid down by the Hon'ble Apex Court in the case of *Armour Security (India) Ltd. v. Commissioner, CGST, Delhi East Commissionerate* [2025 177 *taxmann.com* 478 (SC)];

c. Issue a Writ of Mandamus or any other appropriate Writ, order or direction under Article 226 of the Constitution of India directing the Respondents No. 1 and 2 to immediately remove the attachment of the following bank accounts of the Petitioner:

- i. AXIS BANK, Current Account No. 913020034504830
- ii. AXIS BANK, Saving Account No. 923010013372432
- iii. INDIAN BANK, Saving Account No. 495067459
- iv. STATE BANK OF INDIA, Saving Account No. 31264955290
- v. HDFC BANK, Saving Account No. 50100220025416”

2. The primary grievance of the Petitioner is in respect of the action taken by the State Tax Authority in provisionally attaching the five bank accounts of the Petitioner inasmuch as the Central Tax Authority also seeks to assess/recover an identical tax liability from the Petitioner for the same period and on the same subject matter in contravention of the settled principles of law as laid down by the Supreme Court in the case of **Armour Security (India) Ltd. Vs. Commissioner, CGST, Delhi East Commissionerate**¹.

3. The facts in the present case are in a narrow compass: -

- i. On 7th November 2023, Respondent No. 6 i.e. Directorate General of Goods and Services Tax Intelligence (DGGI) initiated search proceedings against the Petitioner on the alleged ground of fraudulent availment of Input Tax Credit (ITC) from one of its suppliers namely, Stonelan India Pvt. Ltd. for the period of 2017-18 to 2023-24.

¹ 2025 177 taxmann.com 478 (SC)

ii. On 30th October 2024, the Respondent No. 5 i.e. Superintendent (Anti-evasion) conducted search under Section 67 of the Central Goods and Services Tax (CGST) Act, 2017 at Petitioner's business premise on the ground of ITC claimed from various suppliers for the period 2017-18 to 2024-25. On the same date, the Central Tax Authority issued summons under Section 70 of the CGST Act and thereafter, on 17th January 2025, the jurisdictional Central Tax Authority provisionally blocked the ITC in the Electronic Credit Ledger (ECL) of Rs. 1,10,21,729/- of the Petitioner. On the same date i.e. 17th January 2025, the jurisdictional Central Tax Authority issued a show-cause notice in respect of one of the suppliers, namely, Om Enterprises.

iii. On 28th March 2025 and 6th August 2025, on the basis of availment of ITC, Respondent No.6 - DGCi issued show-cause notice which was subsequently confirmed by the jurisdictional Commissionerate (i.e. Office of Commissioner of Central Goods and Services Tax and Central Excise, Palghar).

iv. On 25th August 2025, the Respondent No. 2 – i.e. Assistant Commissioner of State Tax once again conducted search under Section 67 of the Maharashtra Goods and Service Tax (MGST) Act, 2017 on the same subject matter i.e. the alleged fraudulent availment of ITC from the various suppliers, which was the subject matter of investigation by the Central Tax Authority on 17th January 2025. On the same date, the Respondent No. 2 issued an intimation/letter to the Petitioner and in reply thereto, on 2nd September 2025, the Petitioner filed reply disputing the jurisdiction of the Respondent No. 2.

v. On 17th September 2025, the Respondent No. 1 – i.e. Joint Commissioner of State Tax passed order in Form GST DRC-22 provisionally attaching all five bank accounts of the Petitioner and it is this arbitrary action which the Petitioner seeks to challenge in the present Petition.

4. Learned Counsel Mr. Sandeep Sachdeva appeared on behalf of the Petitioner and Ms. Shruti Vyas, Addl.G.P. appeared on behalf of Respondent-State.

5. Mr. Sachdeva learned Counsel for the Petitioner submitted that the action of the Respondents i.e. State Tax Authorities of provisionally attaching the bank accounts of the Petitioner is a complete abuse of the process of law and the said attachment has been in the year 2025 and continues even as of today. He further submitted that the said attachment has had a crippling effect on the business of the Petitioner and hence, the said action on the part of the Respondents is high handed and arbitrary. Learned Counsel for the Petitioner further submitted that the attachment of the bank accounts of the Petitioner is wholly without jurisdiction and is passed in violation of Section 6(2)(b) of the CGST Act inasmuch as the said section prohibits parallel proceedings by the State Tax Authority once the Central Tax Authority has initiated proceedings on the same subject matter for the same period. He further submitted that the action of the State Tax Authority was in the teeth of the provisions of Section 6(2)(b) of the CGST Act and the said issue stands settled in favour of the assessee by the Supreme Court in the case of **Armour Security (India) Ltd. (supra)**.

6. Learned Counsel further submitted that the Central Tax Authority had conducted a search on 30th October 2024 on the ground of fraudulent availment of ITC from the suppliers whose GST registration had been cancelled from 2017-18 to 2024-25. Pursuant to the aforesaid investigation, the Central Tax Authority provisionally blocked the ITC of Rs. 1,10,21,729/- and further the Central Tax Authority had issued a show-cause notice to one of the suppliers, namely, Om Enterprises. Learned Counsel therefore submitted that it was clear that the Central Tax Authority was seized of the matter and therefore the State Tax Authority on an identical issue of ITC claimed from the suppliers whose GST registrations had been cancelled, could not once again conduct search on 21st August 2025 under the provisions of the MGST Act and proceed to provisionally attach the bank accounts of the Petitioner.

7. Learned Counsel for the Petitioner in the course of hearing also submitted that a fresh show-cause notice dated 10th February 2026 has been issued by the Additional Commissioner (AE), Central Goods and Service Tax Pune-I Commissionerate, in respect of the supplies made by the suppliers to the Petitioner whose registration had been cancelled/suspended and on the basis thereof, the Petitioner had allegedly claimed fake ITC benefit. It is therefore the Petitioner's contention that on the same subject matter, the Central Tax Authority has once again issued a show-cause notice, and the State Tax Authority has also issued the show-cause notice and seized the bank accounts of the Petitioner.

8. *Per contra*, Ms. Vyas, learned Additional G.P. for the State vehemently opposed the prayers as sought for in the present Petition. She submitted that investigation is ongoing and show-cause notices have been issued to the suppliers from whom the Petitioner made purchases and claimed ITC. She further submitted this was not a case which would attract the provisions of Section 6(2)(b) of the CGST Act and therefore it would not be covered by the decision in the case of **Armour Security (India) Ltd. (supra)**.

9. Having heard learned Counsel for the parties and having perused the papers and proceedings with the assistance of the learned Counsel for the parties, we proceed to decide the present Petition.

10. It is our view that this is a gross case of abuse of the process of law on the part of the Respondents, inasmuch as the attachment which has been sought to be done by the State Tax Authority is not only in contravention of the settled principles of law under the CGST and MGST Act but also amounts to depriving the Petitioner of their property and further recovery of tax being made without authority of law which is in contravention of the provisions of Article 265 and 300A of the Constitution of India. We are in agreement with the submissions made by the learned Counsel for the Petitioner that once the Central Tax Authority has sought to assess/recover an identical alleged tax liability from the Petitioner on the same subject matter for the same period, then, the State Tax Authority could not initiate parallel proceedings/investigation without complying the provisions of Section 6(2)(b) of the CGST Act. This, particularly in view of the settled principles

of law which as enunciated by the Supreme Court in the case of **Armour Security (India) Ltd. (supra)**, wherein it has been held that where any two departmental proceedings overlap in assessing or recovering the same tax liability, deficiency or obligation arising from any particular contravention, the bar of Section 6(2)(b) would be immediately attracted and hence those parallel proceedings should not be initiated by the other tax administration when one of the tax administrations have already initiated intelligence based enforcement action. The Supreme Court after analyzing the provisions of Section 6(2)(b) of the CGST Act, has summarized its final conclusion which reads as under:

“97. We summarize our final conclusion as under:

(i) Clause (b) of sub-section (2) of section 6 of the CGST Act and the equivalent State enactments bars the "initiation of any proceedings" on the "same subject-matter".

(ii) Any action arising from the audit of accounts or detailed scrutiny of returns must be initiated by the tax administration to which the taxpayer is assigned.

(iii) Intelligence based enforcement action can be initiated by any one of the Central or the State tax administrations despite the taxpayer having been assigned to the other administration. (iv) Parallel proceedings should not be initiated by other tax administration when one of the tax administrations has already initiated intelligence-based enforcement action.

(v) All actions that are initiated as a measure for probing an inquiry or gathering of evidence or information do not constitute "proceedings" within the meaning of section 6(2)(b) of the CGST Act.

(vi) The expression "initiation of any proceedings" occurring in section 6(2)(b) refers to the formal commencement of adjudicatory proceedings by way of issuance of a show-cause notice, and does not encompass the issuance of summons, or the conduct of any search, or seizure, etc.

(vii) The expression "subject-matter" refers to any tax liability, deficiency, or obligation arising from any particular contravention which the Department seeks to assess or recover.

(viii) Where any two proceedings initiated by the Department seek to assess or recover an identical or a partial overlap in the tax liability, deficiency or obligation arising from any particular contravention, the bar of section 6(2)(b) would be immediately attracted.

(ix) Where the proceedings concern distinct infractions, the same would not constitute a "same subject-matter" even if the tax liability, deficiency, or obligation is same or similar, and the bar under section 6(2)(b) would not be attracted.

(x) The twofold test for determining whether a subject-matter is "same" entails, first, determining if an authority has already proceeded on an identical liability of tax or alleged offence by the assessee on the same facts, and secondly, if the demand or relief sought is identical.

98. We issue the following guidelines to be followed in cases where, after the commencement of an inquiry or investigation by one authority, another inquiry or investigation on the same subject-matter is initiated by a different authority.

(a) Where a summons or a show-cause notice is issued by either the Central or the State tax authority to an assessee, the assessee is, in the first instance, obliged to comply by appearing and furnishing the requisite response, as the case may be. We say, so because, mere issuance of a summons does not enable either the issuing authority or the recipient to ascertain that proceedings have been initiated.

(b) Where an assessee becomes aware that the matter being inquired into or investigated is already the subject of an inquiry or investigation by another authority, the assessee shall forthwith inform, in writing, the authority that has initiated the subsequent inquiry or investigation.

(c) Upon receipt of such intimation from the assessee, the respective tax authorities shall communicate with each other to verify the veracity of the assessee's claim. We say, so as this course of action would obviate needless duplication of proceedings and ensure optimal utilization of the Department's time, effort, and enures to benefit of all resources, bearing in mind that action initiated by one authority (d) If the claim of the taxable person regarding the overlap of inquiries is found untenable, and the investigations of the two authorities pertain to different "subject-matters", an intimation to this effect, along with the reasons and a specification of the distinct subject-matters, shall be immediately conveyed in writing to the taxable person.

(e) The taxing authorities are well within their rights to conduct an inquiry or investigation until it is ascertained that both authorities are examining the identical liability to be discharged, the same contravention alleged, or the issuance of a show-cause notice. Any show-cause notice issued in respect of a liability already covered by an existing show-cause notice shall be quashed.

(f) However, if the Central or the State tax authority, as the case may be finds that the matter being inquired into or investigated by it is already the subject of inquiry or investigation by another authority, both authorities shall decide inter se which of them shall continue with the inquiry or investigation. In such a scenario the other authority shall duly forward all material and information relating to its inquiry or investigation into the matter to the authority designated to carry the inquiry or investigation to its logical conclusion. We say, so because, the taxable person except for being afforded the statutory protection from duplication of proceedings, otherwise has no locus to claim which authority should proceed with the inquiry or investigation in a particular matter.

(g) However, where the authorities are unable to reach a decision as to which of them shall continue with the inquiry or investigation, then in such circumstances, the authority that first initiated the inquiry or investigation shall be empowered to

carry it to its logical conclusion, and the courts in such a case would be competent to pass an order for transferring the inquiry or investigation to that authority.

(h) If it is found that the authorities are not complying with these aforementioned guidelines, it shall be open to the taxable person to file a writ petition before the concerned High Court under article 226 of the Constitution of India.

(i) At the same time, taxable persons shall ensure complete cooperation with the authorities. It is incumbent upon them to appear in response to a summons and/or reply to a notice.”

11. Considering the facts of the present case and the law laid down by the Supreme Court in *Armour Security (India) Ltd. (supra)*, we have no hesitation in holding that the action on the part of the Respondents in provisionally attaching the five bank accounts of the Petitioner is unwarranted and arbitrary and smacks of a complete high handedness on the part of the Respondents.

12. Ms. Vyas, learned Addl. G.P for the Respondent-State submits that the Respondent-State has issued show-cause notices in respect of some suppliers whose GST registration has been cancelled and on the basis of those supplies, the Petitioner has sought to claim the benefit of the alleged fake ITC and therefore she submits that these investigations against all those suppliers need to be carried out/continued.

13. Though, we are of the view that parallel proceedings cannot be initiated by the Central Tax Authority and State Tax Authority, the investigations which the State Tax Authority would intend to continue against the suppliers to whom show cause notices are issued are independent in nature and may proceed accordingly. However, the fallout of the same cannot be that the Petitioner's bank accounts are provisionally attached and the Petitioner is deprived from carrying on their business activities.

14. It has further been pointed out to this Court during the course of hearing, that an order dated 29th September 2025 has been passed by a co-ordinate Bench of this Court whereby a short adjournment has been sought on behalf of the Respondent-State to enable them to obtain instructions. However, so far no instructions have been sought and no reply has been filed on behalf of the Respondent-State. It would be beneficial to reproduce the said order which reads thus:-

“P.C.:-

1. Heard learned Counsel for the parties.
2. Ms. Chavan states that a copy of the Petition has been served upon her just now in the Court. She seeks a short adjournment.
3. Accordingly, we post this matter on 08 October 2025, in order to enable her to obtain instructions in the matter.”

15. Therefore, the provisional attachment of the bank accounts of the Petitioner has continued for over last 6 to 7 months which to our mind is a serious prejudice of the valuable legal rights of the petitioner including the guarantee under Article 300A of the Constitution affecting the petitioner’s legitimate rights to carry on business. In our opinion when it comes to actual recovery of the tax dues and any step intended to achieve the same, it needs to be based on a sound foundation in law and not merely on surmises or presumptions when the officers intend to take action affecting the civil and constitutional rights of the citizens. We,

therefore, deem it appropriate to pass the following order which will meet the ends of justice: -

ORDER

- a) The impugned order of provisionally attaching the petitioner's bank account, dated 17 September 2025 issued by Respondent No.1 is quashed and set aside.
- b) As a consequence of the attachment being set aside, Respondent Nos.1 and 2 shall issue appropriate communication to the concerned bank immediately on this order being made available on the website of this Court.
- c) As a consequence of the aforesaid reliefs, the petitioner is permitted to operate its bank account.
- d) All contentions of the respondents to issue show-cause notices to the suppliers whose GST registration has been cancelled and who are alleged to have passed on fake ITCs to the Petitioner, are expressly kept open.
- e) Also the rights of such parties to whom the show cause notices are issued, are expressly kept open.
- f) Petition stand disposed of in the aforesaid terms. No costs.

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)