HC-KAR

NC: 2026:KHC:29255
WP No. 11328 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF JUNE 2026

BEFORE

THE HON'BLE MR. JUSTICE B M SHYAM PRASAD

WRIT PETITION NO. 11328 OF 2026 (T-RES)

BETWEEN:

SULTAN MAHMOOD KHAN
C/O LATE IIYAS PASHA,
AGED ABOUT 32 YEARS,
PROPRIETOR OF M/S I N ENTERPRISES
NO.4635, SHOP NO.03,
AFRATH FUNCTION HALL,
NEAR SHIVAJI ROAD,
N R MOHALLA MYSORE 570007.

...PETITIONER

(BY SRI. SHREEHARI KUTSA., ADVOCATE)

AND:

1. COMMERCIAL TAX OFFICER
(VIGILANCE)-16, VTK-2,
RAJENDRA NAGAR, 8TH BLOCK,
KORAMANGALA,
BENGALURU 560047.

2. ASSISTANT COMMISSIONER OF
COMMERCIAL TAXES,
(AUDIT)-1.8, DGSTO-01,
5TH FLOOR, BMTC BUILDING,
YASHWANTHPURA,
BENGALURU 560022.

3. COMMISSIONER OF
COMMERCIAL TAXES

DIVISIONAL GOODS AND
SERVICE TAX OFFICE (DGSTO)
VTK-2 BUILDING, RAJENDRA,
KORAMANGALA, BENGALURU 560 047.

4. ICICI BANK,
MYSORE BRANCH,
NO.2950, KALIDASA ROAD,
V V MOHALLA, 9TH CROSS,
MYSORE-570002
REP. BY ITS BRANCH MANAGER.

...RESPONDENTS

(BY SRI.K. HEMA KUMAR., AGA)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO A. DIRECT IN THE NATURE OF CERTIORARI QUASHING THE ORDER UNDER SECTION 83 OF THE KGST/CGST ACT, 2017 ISSUED BY THE RESPONDENT NO. 1 ON 02.05.2024 IN FORM GST DRC-22 AND ENCLOSED AS ANNEXURE B; B. DIRECT TO THE RESPONDENT NO. 1 TO ALLOW THE PETITIONER TO OPERATE HIS BANK ACCOUNT BEARING NO. 015205016560 HELD IN ICICI BANK, MYSORE BRANCH WHICH HAS BEEN PROVISIONAL ATTACHED VIDE PROVISIONAL ATTACHMENT ORDER UNDER SECTION 83 OF THE KGST/CGST ACT, 2017 DATED 02.05.2024 ISSUED BY THE RESPONDENT NO. 1 IN FORM GST DRC-22 AND ENCLOSED AS ANNEXURE B.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE B M SHYAM PRASAD

ORAL ORDER

The petitioner has called in question the Provisional Attachment Order dated 02.05.2024 *[Annexure-B]* under Section 83 of the Central Goods and Services Tax Act/Karnataka Goods and Services Tax Act, 2017 [for short, *'the Act'*]. The petitioner's grievance is with the order subsisting beyond the one year contemplated under Section 83 of the Act. The reliance is upon the Apex Court's Judgment in *'Kesari Nandan Mobile v. Office of the Assistant Commissioner of State Tax [2] Enforcement Division – 5'*[1].

Sri Shreehari Kutsa, the learned counsel for the petitioner, and Sri K Hemakumar, a learned Additional Government Advocate, who accepts notice for the respondents, are heard for disposal of the petition. This Court must observe that with the Apex Court's decision in the case of *Kesari Nandan Mobile*

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[1] *2025 SCC OnLine SC 2075*

[*supra*] two propositions are beyond dispute. The first proposition is that the Provisional Attachment Order will have to lapse after the statutory period of one year and that the concerned must not be compelled to approach High Courts for lifting of the Provisional Order. The second proposition is that after the lapse of the Provisional Attachment Order with the lapse of one year, there cannot be another attachment order.

This Court must refer to paragraphs 30 and 36 of the Apex Court's Judgment, which read as under:

> *"30. That apart, having regard to the draconian nature of power conferred on the Revenue by sub-section (1) of section 83 of the CGST Act to levy a provisional attachment, the terms of the entire section have to be construed in a manner so that sub-section (2) of section 83 is not effectively reduced to a dead letter. We are reminded of the maxim ut res magis valeat quam pereat. It is an interpretive doctrine that a legal text, specially a statute, should be interpreted in a way that gives the document force rather than makes it fail. Conceding power to the Revenue to issue a*

> *fresh provisional order of attachment after the initial order has lapsed by operation of law or to renew the same would render the text of sub-section (2) of section 83 otiose and accepting the reason assigned by the Gujarat High Court would permit the Revenue to exercise a power which is not the statutory intendment. We, therefore, see no reason to read section 83 in a manner to confer any additional power over and above the draconian power conferred by sub-section (1) and upon lapse as ordained by sub-section (2).*
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> *36. It would seem rather incongruous and redundant that parties must approach the High Courts to seek enforcement of a law already in force. The deliberate non-compliance by the Revenue to implement statutory protection would undermine the rule of law and render the action not only susceptible to vulnerability but also being set at naught."*

In the light of the afore, the petitioner must succeed in the challenge against the Order dated 02.05.2024 and with the observation that the petitioner will be entitled to operate its account unless there are other proceedings.

The petition is allowed accordingly.

Sd/-
(B M SHYAM PRASAD)
JUDGE

AN/-