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

+ **W.P.(C) 4374/2026**

**M/S GUJRAL SONS**

.....Petitioner

Through: Mr. Nikhil Gupta, Mr. Rochit Abhishek, Mr. Prince Nagpal, Mr. Devang Dwivedi and Mr. Jiten Yadav, Advs.

versus

**UNION OF INDIA & ORS.**

.....Respondents

Through: Mr. Kshitij Chhabra, SPC with Mr. Ashish Rawat, GP for R-1  
Mr. Ashish Rawat, GP for UOI & Ms. Anushka Mishra, Adv. for R-1  
Mr. Atul Tripathi, SSC, Mr. Shubham Mishra, Mr. Gaurav Mani Tripathi and Mr. Madhav Anand, Advs. for R-2  
Mr Santosh Kumar Rout, SC, SBI for R-3  
Mr. Ankush Bhardwaj, Mr. Shikhar Gupta, Advs. for R-4

**CORAM:**

**HON'BLE MR. JUSTICE NITIN WASUDEO SAMBRE**

**HON'BLE MR. JUSTICE AJAY DIGPAUL**

**ORDER**

**24.04.2026**

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1. Heard.
2. The prayer in the petition reads thus:

*"i. Issue a Writ of Certiorari or any other appropriate Writ, order or direction quashing the Impugned Attachment Orders in Form GST DRC-22 bearing DIN Nos. 20260251ZJ0000118679 and 20260251ZJ000000C1C5, both dated 03.02.2026 passed by Respondent No. 2 (Annexure P-1), along with all consequential actions taken pursuant*



thereto; and/or

ii. Issue a Writ of Mandamus or any other appropriate Writ, order or direction directing the Respondents and the concerned banks, i.e., Respondent No. 3 and Respondent No. 4, to forthwith defreeze and permit operation of all the bank accounts of the Petitioner which remain frozen pursuant to the provisional attachment orders dated 13.12.2024 (Annexure P-3); and/or”

3. It is not in dispute that the assessment is already over and the petitioner has suffered an order dated 28<sup>th</sup> December 2025 against which the petitioner is in the process of filing an appeal.

4. We are informed that the initial provisional attachment order was issued on 13<sup>th</sup> December 2024 which died its statutory death pursuant to Sub-Section 2 of Section 83 after expiry of a period of 1 year.

5. It is further claimed that the impugned order of provisional attachment which is issued for the second time is not sustainable for the reason, (a) that there is no change in circumstances or new facts which prompts them to exercise the powers under Section 83 and (b) that even otherwise the second provisional attachment order cannot be said to be sustainable on the very same factual matrix of the case.

6. A specific reliance is placed on the Apex Court judgment in the matter of “**Kesari Nandan Mobile vs. Office of Assistant Commissioner of State Tax**” (2025) 33 Centax 224 (S.C.).

7. Paras 30, 31 and 32 of the said judgment reads thus:

*“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).*

*31. Moving further, fresh issuance of a provisional attachment order premised on substantially the same grounds as the earlier one would be in disregard to the safeguard provided in sub-section (2). The age-old principle, that an act which cannot be done directly cannot be done indirectly, would apply in its entirety. To permit any other interpretation would result in an abuse of law and due process. If we were to accept the reason assigned by the Gujarat High Court in the impugned order that the law does not place any embargo, it would stand to reason that the authority not stopping after the 1 renewal order ceases to have effect in terms of sub-section (2) of Section 83 might continue to issue repeated renewal orders. Repeated or continuous issuance of a provisional attachment order under the garb of renewal could lead to a serious anomaly. With no change in of subsection (2) and akin to filling old wine in a new bottle.*

*32. Besides, a reading of the statute in its entirety would reveal that the provisional attachment is a pre-emptive measure to protect the interests of government revenue. It cannot function as a recovery measure; for that, the statute has other provisions. Certainly, a period of one year, as ordained by the legislature, is enough for the revenue authorities to conclude its Investigation; if not, the legislature could have provided for a renewal or an extended period as in the Excise Act and the Customs Act. Sub-section (2) of Section 83 does not provide for any exception to the rule. Any explanation given by the respondent for issuing a renewal would be in the teeth of the established procedure. Once the inquiry culminates into a final demand, recourse must be had to the provisions under the section which provide for recovery of the assessed tax, penalty, interest, etc. This also provides opportunity to the assessee to challenge the same before the appropriate authority. Short-circuiting the procedure by pursuing a provisional attachment as a means to recover the tax due, as a natural consequence, would frustrate the intent and purpose of the statute.”*

8. It is not in dispute that the assessment against the petitioner is already over which led to the passing of the Order in Original.

9. As far as the impugned order of attachment is concerned, we can notice from the record that there is no change in circumstances as it is the



respondent who failed to complete the proceedings within the period the first provisional attachment order dated 13<sup>th</sup> December 2024 during the subsistence of first provisional attachment order dated 13<sup>th</sup> December 2024.

10. In this background, the claim of the respondent for sustaining the second provisional attachment order, in our opinion, is at all not justified in the facts and circumstances of the case in hand for the reasons that there is at all no change in the circumstances which prompts them to exercise powers once again under Section 83 of the CGST Act.

11. Even otherwise, we are of the view that observations in para 32 referred supra from the judgment of “*Kesari Nandan Mobile vs. Office of Assistant Commissioner of State Tax*” squarely covers the issue which is sought to be canvassed.

12. That being so, the impugned provisional attachment order is said to be not sustainable.

13. As such, the petition stands allowed in terms of prayer clauses 1 and 2.

**NITIN WASUDEO SAMBRE, J**

**AJAY DIGPAUL, J**

**APRIL 24, 2026/DM/OK**