

GIB/MH/DHARMESH GANDHI/10.03.2021/HC-166

High Court Category : PROVISIONAL ATTACHMENT TO PROTECT REVENUE

State : Maharashtra

Order No.: GIB/MH/DHARMESH GANDHI/10.03.2021/HC-166

Name of Entry :
DHARMESH GANDHI

Date : 10-03-2021

Breif Issue :

FACT OF THE CASE:

The division bench of Bombay High court in the above case was dealing with attachment of nine bank account held in the name of appellant, his proprietorship firm and family members in pursuance of Section 83 of CGST Act. The court noted that the property including the bank account liable to or which has been provisionally attached must belong to the taxable person. 'Taxable person' has been defined in section 2(107) of the CGST Act to mean a person who is registered or is liable to be registered under sections 22 or 24 of the CGST Act. The court also noted that the joint account with the minor son and wife were also attached and there was no allegation in the petition that the said joint account has been funded with the money belonging to the appellant or his proprietorship firm.

ISSUE:

Whether bank account of family member and/or Joint can be attached under the CGST Act

Decision of Advance Ruling Authority :

DECISION:

Provisional attachment of property of petitioner as well as of his family members - section 83 of Central Goods and Services Tax Act, 2017 –Held that, Out of the nine bank accounts that have been attached by respondent No.1, only the accounts at Sr. Nos. 2, 3 and 4 belong to the petitioner whereas the other accounts belong to the family members.

In Siddhart Mandavia Vs. Union of India, [2020 (11) TMI 111 - BOMBAY HIGH COURT], this Court had examined a similar issue relating to attachment of bank account of not only the taxable person but also of his family members. **In that context, this Court held that bank account of only the taxable person can be provisionally attached under section 83 of the CGST Act and therefore the provisional attachment of bank account of the family members**

was set aside.

Some bank accounts were released - for others, petitioner may file objection before the Commissioner i.e. respondent No.2 within a period of seven days from today - petition disposed off.