

GIB/GJ/VINODKUMAR MURLIDHAR/04.01.2021/HC-220

High Court Category : PROVISIONAL ATTACHMENT OF BANK ACCOUNTS

State : Gujarat

Order No.: GIB/GJ/VINODKUMAR MURLIDHAR/04.01.2021/HC-220

Name of Entry :
VINODKUMAR MURLIDHAR CHECHANI

Date : 04-01-2021

Breif Issue :

FACTS AND ISSUE OF THE CASE:

In this case the applicant is engaged in the business of trading of ferrous and non-ferrous metal scrap. It held a valid registration certificate under the provisions of the CGST Act and the GGST Act respectively

A spot visit was carried out by the flying squad of the revenue department at the premises of the applicant. The department was *prima facie* of the view that the purchases made by the applicant from the JSK and UM were not genuine. In the course of the search carried out by the department, the registers, documents and books of account for the period between 1-7-2017 and 11-8-2020 were collected and taken into possession.

The Additional Commissioner passed an order under section 83 of provisional attachment of cash credit/current bank account and one savings bank account held by the applicant with the HDFC Bank Ltd. Being dissatisfied with the order of provisional attachment, the applicant filed the instant writ-application.

Decision of Advance Ruling Authority :

DECISION:

During the pendency of any proceedings under Sections 62, 63, 64, 67, 73 and 74, the Commissioner can provisionally attach any property including the bank account belonging to the taxable person. For this purpose, the Commissioner has to form an opinion that it is necessary to do so for protecting the interest of the Government Revenue. These steps have to be taken in such manner as prescribed. Rule 159(1) of the CGST Rules, 2017, deals with the provisional attachment of the property.

The form of the order shows that it is to be addressed to the taxable person. The sections under which the proceedings are launched against such a taxable person are to be referred

and then a direction is to be issued for not allowing any debit.

Although the provisions of Section 281B of the Income Tax Act is *pari materia* to Section 83 of the State GST Act, yet one pertinent feature of Section 281B of the Income Tax Act is that it gives guidelines for making the provisional attachment. Such guidelines are missing so far as Section 83 of the State GST Act is concerned - having regard to the fact that there is hardly a balance of ₹ 22,065/- in the two bank accounts, we see no good reason to continue the provisional attachment.

The impugned order of provisional attachment of the two bank accounts is hereby quashed and set-aside - Application allowed.