

HIGH COURT OF TRIPURA
_A_G_A_R_T_A_L_A_
WP(C) No.231 of 2024

M/S Ashutosh Bandyopadhyay

..... Petitioner(s)

V E R S U S

Union of India and others

..... Respondent(s)

For Petitioner(s) : Mr. Somik Deb, Sr. Advocate,
Mr. P. Chakraborty, Advocate.

For Respondent(s) : Mr. Bidyut Majumder, DSGI.,
Mr. Paramartha Datta, Advocate.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH
HON'BLE MR. JUSTICE ARINDAM LODH

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27.03.2024

Reference is made to the order dated 20th March, 2024 which
reads as under:

“Learned senior counsel, Mr. Somik Deb for the petitioner has questioned the order of provisional attachment passed under Section 83 of the CGST Act by the Additional Director General in relation to the Bank Account No.36454272675, IFSC SBIN0005245 with the State Bank of India, Branch name SBIN RMS Chowmohani. He submits that under Section 83 of the Act, the Commissioner has been conferred the power to provisionally attach any property including bank account belonging to the taxable person. The impugned order dated 14th February, 2024 has been issued by the Additional Director General and not the Commissioner.

(ii) That the instant bank account is a Cash Credit account of the Assessee which cannot be provisionally attached in exercise of powers under Section 83 of the CGST Act. He relies upon a decision of the Gujarat High Court in *Manish Scrap Traders Vrs. Principal Commissioner*, reported in (2022) 99 GSTR 295 in support of the aforesaid submission.

Learned senior counsel for the petitioner submits that the provisional attachment of the Cash Credit account has completely stalled the business of the petitioner in the month of March i.e. the closing of the financial year. Therefore, an order staying the impugned provisional attachment may be passed.

Learned counsel for the CGST/Revenue prays for time to seek instructions. He also has referred to the circular dated 23rd February 2021, issued by the CBIC laying down the guidelines for provisional attachment of property under Section 83 of the Act, 2017.

Learned counsel for the Revenue submits that such provisional attachment has been made during the course of inspection wherein the petitioner has been summoned to give evidence and produce document under Section 70 and in the meantime, to protect the interest of revenue, the relevant account of the petitioner has been provisionally attached.

Having regard to the plea raised by the petitioner that the instant account is a Cash Credit account, which should not be provisionally attached in exercise of powers under Section 83 of the CGST Act, as an interim measure the impugned order of attachment dated 14th February, 2024 (Annexure-4 to the writ petition) is stayed. However, it is made clear that if the account in question is not a Cash Credit account

of the petitioner, the writ petition would be dismissed with heavy cost after the attachment order shall be restored.

Let the matter be listed on 27.03.2024. Learned counsel for the revenue would be ready with instructions.

[2] Mr. Paramartha Datta, learned counsel for the CGST has placed on record written instructions contained in letter dated 26th March, 2024 issued by the Assistant Director, DGGI, Agartala Regional Unit by which the order of attachment of the Bank Account No.36454272675 of the petitioner dated 14th February 2024 in DRC-22 has been revoked. The Branch Manager, SBI, RMS Chowmuhanani has been requested to restore the bank account. The bank has also through its letter dated 27th March, 2024 conveyed to the Assistant Director, DGGI, Agartala Regional Unit that the following current account and cash credit account have been restored.

SL NO	ACCOUNT NO	TYPE OF ACCOUNT	NAME OF THE ACCOUNT	PAN NO
1	34989845634	Current account	Hotel Sonar Tar	AARFA4097N
2	35238997764	Current account	Hotel Sonar Tar	AARFA4097N
3	36454272675	Cash credit account	M/S Ashutosh Bandhyopadhyay	AARFA4097N
4	37759116259	Current account	M/S Ashutosh Bandhyopadhyay	AARFA4097N
5	39614147676	Current account	M/S Ashutosh Bandhyopadhyay	AARFA4097N

[3] Let both the letters be kept on record. Having regard to the submission made by learned counsel for the CGST and the order of revocation of the original attachment of the accounts in question, the grievance of the petitioner stands redressed.

[4] The writ petition is, accordingly, disposed of. Pending application(s), if any, also stands disposed of.

(ARINDAM LODH), J (APARESH KUMAR SINGH), CJ

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