

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 18105 of 2019**

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NAMASKAR ENTERPRISE
Versus
COMMISSIONER OF GOODS AND SERVICE TAX

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Appearance:
MR. HARDIK V VORA(7123) for the Petitioner(s) No. 1
MR ANKIT SHAH(6371) for the Respondent(s) No. 1,2
MR SH ALMAULA(120) for the Respondent(s) No. 3

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CORAM: **HONOURABLE THE CHIEF JUSTICE MR. VIKRAM NATH**
and
HONOURABLE MR. JUSTICE J.B.PARDIWALA

Date : 07/08/2020

ORAL ORDER
(PER : HONOURABLE MR. JUSTICE J.B.PARDIWALA)

1. By this writ application under Article 226 of the Constitution of India, the writ applicant, a proprietary concern through its proprietor, has prayed for the following reliefs:-

“a. A Writ of Certiorari or any other writ, order or direction in the nature of certiorari directing the respondents to quash the notice of provisional attachment under section 83 of the Act for provisional attachment of bank Account No.37846915026 and further to direct the respondent No.3 to change the status of account from ‘on hold’ to ‘active’;

b. Pass any other order(s) as this Hon’ble Court may deem fit and appropriate in order to grant interim relief to the petitioner;

c. Any other and further relief deemed just and proper be granted in the interest of justice;

d. To provide for the cost of this petition.”

2. We need not delve much into the facts of this litigation as the controversy is in a very narrow compass. The subject matter of challenge in this writ application is the order of provisional attachment of Bank Account bearing No.37846915026 of the writ applicant maintained with the State Bank of India. The impugned order of provisional attachment in Form No.GST DRC-22 reads thus:

“Provisional attachment of property under section 83 of CGST Act 2017 as amended

It is to inform that M/s. Namaskar Enterprises is a registered taxable person under the Central Goods and Service Tax Act. Proceedings have been launched against the aforesaid taxable person under section 67 of the said Act to determine the tax or any other amount due from the said person. As per information available with the department, it has come to my notice that the said person has a – Current – account in your bank/ financial institution having account No.37846915026.”

3. We are informed by the learned counsel appearing for the writ applicant that his client was informed by the State Bank of India as regards the attachment of his bank account on 2-8-2019.
4. Section 83 of the Gujarat Goods and Services Tax Act, 2017 reads thus:

“83 (1) Where during the pendency of any proceedings under section 62 or section 63 or section 64 or section 67 or section 73 or section 74, the Commissioner is of the opinion that for the purpose of protecting the interest of the Government revenue, it is necessary so to do, he may, by order in writing attach provisionally any property, including bank account, belonging to the taxable person in such manner as may be prescribed.

(2) Every such provisional attachment shall cease to have effect after the expiry of a period of one year from the date of the order made under sub-section (1).”

5. A perusal of the aforesaid Sub-Section-2 of Section 83 makes it abundantly clear that the provisional attachment would cease to have effect after the expiry of a period of one year from the date of the order made under Sub-Section-1. Although no specific date has been mentioned in the impugned order of provisional attachment of the bank account, yet having regard to the statement made by the learned counsel that the attachment came into force from 2-8-2019, we take it that the order of provisional attachment has come to an end. In such circumstances referred to above, no further adjudication is necessary as regards the other contentions raised in the writ application. We direct the State Bank of India i.e. the respondent No.3 to take notice of this order and permit the writ applicant to operate his Bank Account No.37846915026 forthwith.

6. With the above, this writ application succeeds and is hereby allowed.

(VIKRAM NATH, CJ)

M.A. SAIYED

(J. B. PARDIWALA, J)

