

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 7321 of 2019****With****R/SPECIAL CIVIL APPLICATION NO. 7323 of 2019****With****R/SPECIAL CIVIL APPLICATION NO. 7324 of 2019****With****R/SPECIAL CIVIL APPLICATION NO. 7325 of 2019****With****R/SPECIAL CIVIL APPLICATION NO. 7326 of 2019****With****R/SPECIAL CIVIL APPLICATION NO. 7327 of 2019****PRANIT HEM DESAI****Versus****ADDITIONAL DIRECTOR GENERAL, DGGI, AZU****Appearance:****MR D K TRIVEDI(5283) for the Petitioner(s) No. 1,2
for the Respondent(s) No. 1,2****CORAM: HONOURABLE MS.JUSTICE HARSHA DEVANI****and****HONOURABLE MR. JUSTICE BHARGAV D. KARIA****Date : 12/04/2019****COMMON ORAL ORDER
(PER : HONOURABLE MS.JUSTICE HARSHA DEVANI)**

1. In all these petitions, the petitioners have challenged the orders of attachment of the bank accounts of the petitioners. A perusal of the notices dated 4.4.2019 issued by the Deputy Director, DGGI, AZU, it is evident that while attaching the bank accounts in exercise of powers under section 83 of the Central Goods and Services Tax Act, 2017, the said authority has brought to the notice of the petitioners, the provisions of sub-rule (5) of rule 159 of the Central Goods and Services Tax Rules, 2017 to the effect that it is open for the petitioners to

file objection to the effect that the property attached was or is not liable to attachment, within seven days of attachment under sub-rule (1) of rule 159 of the Central Goods and Services Tax Rules, 2017 before the competent authority.

2. Mr. D. K. Trivedi, learned advocate for the petitioners has invited the attention of the court to the order dated 3.4.2019 in Form GST DRC-22 under rule 159 (1) of the Central Goods and Services Tax Rules, 2017, to point out that in terms of the said order, proceedings have been launched against the petitioners under section 74 of the CGST Act. It was submitted that no proceeding under section 74 of the CGST Act has been initiated against the petitioners till date, and hence, the action under section 83 of the CGST Act, 2017 is without authority of law.

3. In the opinion of this court, when the communications dated 4.4.2019 of the Deputy Director, DGGI, AZU itself informs the petitioners that the petitioners have a remedy against the order of attachment by way of filing objection under sub-rule (5) of rule 159 of the Central Goods and Services Tax Rules, 2017, this court would be reluctant to entertain these petitions under Article 226 of the Constitution of India in view of the fact that the petitioners have an efficacious alternative remedy before the competent authority before whom all the contentions raised in the present petitions can be raised. This court is, therefore, not inclined to entertain these petitions.

4. In the above view of the matter, the petitions are dismissed as not entertained in the light of the availability of the efficacious alternative remedy under sub-rule (5) of rule

159 of the Central Goods and Services Tax Rules, 2017.

5. In terms of the communication dated 4.4.2019 of the Deputy Director, DGGI, AZU, the petitioners are required to file objections within seven days of attachment. Therefore, the petitioners were required to file the objections by 11th April, 2019. However, considering the fact that the petitioners were diligently prosecuting the proceedings before this court under Article 226 of the Constitution of India against the orders of attachment, if the petitioners file objections under sub-rule (5) of rule 159 of the Central Goods and Services Tax Rules, 2017 on or before 18th April, 2019, the competent authority shall consider the same as having been filed within time. The competent authority shall duly consider all the objections raised by the petitioners, including the objection with regard to the attachment being without authority of law in view of the fact no proceedings have been launched against the petitioners under section 74 of the Act, and decide such application as expeditiously as possible and latest by 30th April, 2019. Needless to state that in case any adverse order is passed against the petitioners, it would be open for the petitioners to challenge the same before the appropriate forum

Direct service is permitted today.

(HARSHA DEVANI, J)

(BHARGAV D. KARIA, J)

Z.G. SHAIKH