Case Citation: (2026) taxcode.in 1557 HC

Order QR

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-09-2026

CORAM

THE HON'BLE MR.JUSTICE HEMANT CHANDANGOUDAR

WP No. 36700 of 2026

Shri Mahaveer Kumar

..Petitioner(s)

Vs

1. The Deputy Director,
   Directorate of Revenue Intelligence,
   No.27, G.N.Chetty Road,
   T.Nagar, Chennai-600 017.

2. The Assistant Director,
   Directorate of Revenue Intelligence,
   No.27, G.N.Chetty Road,
   T.Nagar, Chennai-600 017.

3. The Senior Intelligence Officer
   Directorate of Revenue Intelligence,
   No.27,G.N.Chetty Road,
   T.Nagar, Chennai-600 017.

4. The Branch Manager,
   Indian Overseas Bank,
   NSC Bose Road Branch,
   Chennai-600 001.

..Respondent(s)

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondents to defreeze the Savings Bank Account No.8601000022397 of the petitioner maintained with the 4the respondent bank, viz, Indian Overseas Bank, Chennai in terms of Sec.110(5) of the Customs Act, which was freezed by Respondents 1 to 3 dated 07.02.2025 and also by considering the various representations including the latest representation dated 02.04.2026 of the petitioner and also to provide the petitioner with a copy of the said order dated 07.02.2025 passed by the office of respondents 1 to 3.

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For Petitioner(s): Mr.S.Baskaran

For Respondent(s): Ms.S.Sheela,
Senior Standing Counsel for R1 to R3

ORDER

The petitioner has approached this Court seeking a direction to the respondents to defreeze Savings Bank Account No.8601000022397 maintained by the petitioner with the fourth respondent, Indian Overseas Bank, Chennai, which was frozen at the instance of respondents 1 to 3 by order dated 07.02.2025 under Section 110(5) of the Customs Act, 1962. The petitioner has also sought a direction to the respondents to consider his representations, including the latest representation dated 02.04.2026, and to furnish a copy of the order dated 07.02.2025.

2. The Directorate of Revenue Intelligence initiated an investigation in connection with the seizure of an import consignment in the name of M/s. Agilam Exim, Chennai. The customs clearance of the consignment was handled by the husband of the importer. During the investigation, the Department allegedly found Indian-made cigarettes in the consignment, in addition to the declared household articles. The allegation against the petitioner is that he had facilitated the import of the cigarettes.

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3. Based on the said allegation, respondents 1 to 3 directed the fourth respondent-Bank to provisionally attach the petitioner's bank account under Section 110(5) of the Customs Act, 1962, with a view to protecting the interests of revenue.

4. Heard the learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondents.

5. Though several grounds have been raised by the petitioner challenging the provisional attachment of the bank account, it is sufficient, for the purpose of disposal of this writ petition, to consider the statutory period prescribed under Section 110(5) of the Customs Act.

6. Section 110(5) permits provisional attachment of a bank account for a period not exceeding six months. The proviso permits the Principal Commissioner of Customs or Commissioner of Customs, for reasons to be recorded in writing, to extend the attachment for a further period not exceeding six months. The extension must also be communicated to the person whose bank account has been attached before expiry of the period originally specified. Thus, the provisional attachment cannot continue beyond the maximum period of twelve months contemplated under the said provision.

7. In the present case, the petitioner's bank account was provisionally attached on 07.02.2025. Therefore, even assuming that the attachment was

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validly extended in accordance with the proviso to Section 110(5), the attachment could not continue beyond the maximum period of twelve months from the date of the original order.

8. The respondents contend that, in the meantime, the adjudicating authority has issued a show cause notice under Section 124 of the Customs Act and, therefore, respondents 1 to 3 no longer have jurisdiction to consider the petitioner's request for defreezing the account. According to the respondents, the petitioner has to approach the adjudicating authority.

9. The said contention cannot be accepted. The provisional attachment of the petitioner's bank account was made at the instance of respondents 1 to 3 under Section 110(5) of the Customs Act. The power to provisionally attach the bank account is subject to the limitation prescribed under the said provision. The subsequent issuance of a show cause notice under Section 124 cannot, by itself, extend or revive the statutory period of provisional attachment under Section 110(5).

10. Therefore, once the statutory period prescribed under Section 110(5) has expired, the provisional attachment cannot be continued merely on the ground that adjudication proceedings are pending. The pendency of adjudication proceedings does not confer any independent power to continue an attachment made under Section 110(5) beyond the period permitted by that provision.

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11. In the course of hearing, learned counsel for the petitioner placed reliance on the judgment of the Hon'ble Supreme Court in *Kesari Nandan Mobile v. Office of Assistant Commissioner of State Tax (2), Enforcement Division–5*, Civil Appeal No.9543 of 2025, decided on 14.08.2025, reported as 2025 INSC 983. Though the said case arose under Section 83 of the Central Goods and Services Tax Act, 2017, the principle emphasised by the Hon'ble Supreme Court is that where the statute itself prescribes a period after which a provisional attachment ceases to have effect, the authority cannot continue such attachment beyond the statutory period.

12. The statutory limitation contained in Section 110(5) of the Customs Act must, therefore, be given full effect. A provisional attachment made under the said provision cannot be continued indefinitely merely because investigation or adjudication proceedings remain pending.

13. In the present case, the provisional attachment of the petitioner's bank account was made on 07.02.2025. The maximum period for which the account could have remained under provisional attachment under Section 110(5), including any valid extension, has expired. Consequently, the attachment has ceased to operate by efflux of time.

14. In the light of the above, the continued freezing of the petitioner's bank account is not authorised by Section 110(5) of the Customs Act. Accordingly, the Writ Petition is allowed. The fourth respondent-Bank is directed

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to defreeze Savings Bank Account No.8601000022397 maintained by the petitioner forthwith. The respondents shall also communicate to the fourth respondent the cessation of the provisional attachment, if such communication has not already been made.

15. This order shall not preclude the respondents from taking any other action permissible in law in respect of the petitioner or the subject matter of the investigation. There shall be no order as to costs.

10-09-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
ssk

To

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HEMANT CHANDANGOUDAR, J.

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