Case Citation: (2026) taxcode.in 1631 HC

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.09.2026

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI
and
THE HONOURABLE MR. JUSTICE N.DILIP KUMAR

W.A(MD) Nos.466 and 467 of 2022
and
C.M.P.(MD) Nos.4407 and 4410 of 2022

The Commissioner of CGST and Central Excise,
O/o. The Commissioner of CGST and Central Excise,
Central Revenue Buildings,
GST Bhavan,
No.4, Lal Bahadur Shastri Road,
Bibikulam, Madurai 625 002.

... Appellant in both W.As.,

Vs.

M/S.PSTS Logistics Private Limited,
represented through its
Chief Operating Officer,
J.Ganeshram

... Respondent in W.A.(MD) No.466 of 2022

M/S.PSTS Heavy Life and Shift Limited,
represented through its
Chief Operating Officer,
J.Ganeshram

... Respondent in W.A.(MD) No.467 of 2022

Common Prayer: These Writ Appeals are filed under Clause 15 of Letters Patent Act, against the common order dated 27.04.2022 passed in W.P.(MD) Nos.4779 and 4780 of 2022.

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For Appellant
in both W.As., : Mr.R.Gowri Shankar

For Respondent
in both W.As., : Mr.S.Rajasekar

COMMON JUDGMENT

(Judgment of the Court was made by **M.DHANDAPANI.J.**)

These two Writ Appeals have been filed by the Commissioner of CGST and Central Excise challenging the common order passed in W.P.(MD) Nos.4779 and 4780 of 2022 dated 27.04.2022, which were in turn filed against the proceedings of the writ appellant's order of provisional attachment of the bank account of the writ petitioners, invoking the power under Section 83 of the CGST Act, 2017 r/w Rule 159(1) of the CGST Rules, 2017 and as well, the consequential order passed by the writ appellant, rejecting the objections raised by the writ petitioners against the said provisional attachment.

2.For the sake of convenience, the appellant in these writ appeals is referred as the appellant and the respondent in the writ appeal is referred as the writ petitioner.

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3.The order of provisional attachment in W.A.(MD) No.466 of 2022 was passed on 18.02.2022 and the order rejecting the objections raised by the writ petitioner in W.P.(MD) No.4779 of 2022 was passed on 10.03.2022.

4.The order of provisional attachment in W.A.(MD) No.467 of 2022 was passed on 22.02.2022 and the order, rejecting the objections raised by the writ petitioner in W.P.(MD) No.4780 of 2022 against such provisional attachment was passed on 10.03.2022.

5.It has been more than 4½ years, since the order of provisional attachment had been passed.

6.The learned single Judge under the order impugned had granted relief to the writ petitioners by taking into account the undertaking given by the writ petitioners to pay a consolidated amount of Rs.25,00,000/- per month towards discharging/liquidating the tax liability of the respective writ petitioners and had remanded the matter back to the writ appellant to pass a speaking order after considering the writ petitioners' representation.

7.The learned single Judge however held that the above order granting relief to the writ petitioners will come into force only after the writ petitioners' representations are disposed of by the writ appellant.

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8.The learned single Judge further directed that the writ petitioners shall give a fresh representation with their offer together with additional security to protect the interest of the revenue to the satisfaction of the revenue by 02.05.2022 in order to allow a workable formula for liquidating tax liability to be arrived at and further directed that passing of a speaking order on such representation by the writ petitioners shall be done by the writ appellant preferably by 13.05.2022, thereby enabling the writ petitioners to pay salaries to their workers/employees. With these observations, the Writ Petitions were disposed of. Aggrieved against the said innocuous order, the present Writ Appeals have been filed.

9.The Hon'ble Apex Court in a recent judgment delivered in ***Kesari Nandan Mobile Vs. Office of Assistant*** reported in ***2025 INSC 983 = (2026) 5 SCC 461***, has categorically held that any order of provisional attachment passed by the GST Authority in exercise of power under Section 83 of CGST Act, 2017, can remain in force only for a period of one year and upon the expiry of the said period of one year, the said order of provisional attachment will automatically lapse. The Court also noticed that the power to levy a provisional attachment is draconian in nature.

10.The Hon'ble Supreme Court has specifically observed that the statutory authority can do only such acts which are permissible under the

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statute and the authority cannot be permitted to do something which is not provided in law. It held that there is clear absence of any enabling provision in Section 83 of the CGST Act, permitting the authorities to re-issue the order of attachment which ceases to have life beyond one year period. Relevant portion of the Apex Court order reads as under:-

> *"20.We fully endorse the view of the coordinate Bench in Radha Krishan Industries (supra) insofar as sub-section (1) of Section 83 is concerned and observe that any further discussion in respect thereof would be mere repetition of what has firmly been established. However, what remains for consideration is how we interpret sub- section (2) of Section 83 which did not emerge for consideration there. A proper interpretation of sub-section (2) would necessarily involve considering the severe or stringent nature of power conferred by sub- section (1).*
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> *21.A plain reading of sub-section (2) of Section 83 could leave none in doubt that any order of provisional attachment, issued under sub- section (1), would cease to have any effect after a period of a year. The provision, as it stands, does not require employment of other interpretation rules beyond a literal interpretation to understand it. The appellant, thus, seeks a declaration that there being no provision for renewal, any such exercise is a nullity in law.*
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> .....
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> *39.In fact, despite the statute having provided for a lapse after one year, it has been observed that debit-freeze continues for long after that, compelling the citizens to approach the high courts for an order seeking lifting of attachment which, by the statute, already stands lifted. [See Aashna Singhal v. Commr. of GST19, Merlin Facilities (P) Ltd. v. Union of India20, Arpit Trading Co. v. Commr. of GST21, Sutantu Care (P) Ltd. v. Superintendent of CGST22, Futurist*

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Innovation & Advertising v. Union of India 23, Yash Metal Impex (P) Ltd. v. Commr. (CGST)24, Ravid Multiventures (P) Ltd. v. Union of India25].

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43.The appellant's argument that the Parliament, being cognizant of other taxing statutes, deliberately chose not to incorporate an extension provision in the section, also carries considerable merit. The procedure of provisional attachment is not alien to tax jurisprudence. Such pre- emptive measure can be found in several statutes, including the Customs Act and the Excise Act, and the Income Tax Act, 1961 as well. Ergo, when the statue does provide for an extension, the authority thereunder is free to do so, subject to such restrictions as may be imposed. Conversely, when a statute does not provide for an extension, renewal, re-issuance, revival — whatever be the nomenclature — the executive cannot overreach the statute to do so."

11.In the case on hand, admittedly, the provisional order of attachment was passed on 18.02.2022 and 22.02.2022. These two writ appeals were admitted on 19.05.2022. However, no interim order was granted. In the absence of any such interim order, we are of the considered opinion that these writ appeals have become infructuous and nothing survives for further adjudication, in the light of the categorical pronouncement of the judgment of the Hon'ble Supreme Court in ***Kesari Nandan Mobile Vs. Office of Assistant*** reported in ***2025 INSC 983 = (2026) 5 SCC 461*** *(cited supra).* In the absence of any interim order to the order of the Learned Single Judge, the writ appellant should have put the

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said order into operation, and otherwise the order of provisional attachment would have statutorily lapsed. Further there is no scope to continue with the provisional attachment made in the year 2022 in the year 2026.

12.Accordingly, both the Writ Appeals fail and are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

[M.D.I.,J] [N.D.K.,J]
18.09.2022

Index :Yes/No
Internet :Yes/No
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