



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF SEPTEMBER, 2025

PRESENT

THE HON'BLE MR. JUSTICE S.G.PANDIT

AND

THE HON'BLE MR. JUSTICE K. V. ARAVIND

WRIT APPEAL NO. 1015 OF 2025 (T-RES)

BETWEEN:

1. THE PRINCIPAL COMMISSIONER OF
CENTRAL TAX
GST COMMISSIONERATE,
BANGALORE EAST,
TTMC / BMTC BUILDING,
6TH FLOOR, ABOVE BMTC BUS STAND,
DOMLUR, BANGALORE - 560 071.
2. THE SUPERINTENDENT/APPRaiser/SENIOR
INTELLIGENCE OFFICER,
OFFICER OF THE PRINCIPAL COMMISSIONER OF
CENTRAL TAX ,GST COMMISSIONERATE,
BANGALORE EAST, TTMC/BMTC BUILDING,
6TH FLOOR, ABOVE DOMLUR BUS STAND,
BANGALORE - 560 071.

...APPELLANTS

(BY SRI. ARAVIND V. CHAVAN, SENIOR STANDING COUNSEL)



AND:

1. M/S. NARASIMHAN ENGINEERING
CONTRACTORS PRIVATE LIMITED,
REPRESENTED BY ITS DIRECTOR,
SRI. NARASIMHAN MUNISWAMY,
91 SPRINGBOARD BUSINESS HUB PVT. LTD.,
512/10, SERVICE LANE,
OUTER RING ROAD,
MAHADEVAPURA,
NEXT TO MORE MEGASTORE,
BANGALORE URBAN - 560 048.

2. M/S. ICICI BANK LIMITED (ICIC0000385)
REPRESENTED BY ITS
BRANCH MANAGER,
137, LIC COLONY MAIN ROAD,
VELACHERY, CHENNAI - 600 042
TAMIL NADU.

...RESPONDENTS

(BY SRI. RAGHAVENDRA B. HANJER, ADVOCATE FOR C/R1
SRI. FRANCIS XAVIER, ADVOCATE FOR R2)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA
HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER PASSED
BY THE LEARNED SINGLE JUDGE IN WP NO.11065/2025 DATED
25/04/2025 AND PASS SUCH OTHER SUITABLE ORDERS.

THIS APPEAL, COMING ON FOR PRELIMINARY HEARING,
THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:



CORAM: HON'BLE MR. JUSTICE S.G.PANDIT
and
HON'BLE MR. JUSTICE K. V. ARAVIND

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE K. V. ARAVIND)

Heard Sri Aravind V. Chavan, learned Senior Standing Counsel for the appellants, Sri Raghavendra B. Hanjer, learned counsel for caveator/respondent No.1, and Sri Francis Xavier, learned counsel for respondent No.2.

2. The present appeal is filed by the Revenue under Section 4 of the Karnataka High Court Act, 1961, assailing the order dated 25.04.2025 passed in Writ Petition No.11065/2025, whereby the provisional attachment of the bank account under Section 83 of the Central Goods and Services Tax Act, 2017 (for short, 'CGST Act'), has been quashed.

2.1 The writ petition was filed with a prayer to quash the blocking of Input Tax Credit (ITC) and the provisional attachment of the bank account, as well as the blocking of the electronic credit ledger, along with consequential relief directing the unblocking of ITC and the release of the bank account.



2.2 Learned counsel for the appellant submits that the present appeal concerns only the provisional attachment of the bank account. Accordingly, this judgment is confined to the issue of provisional attachment of the bank account.

3. The respondent-assessee is registered under the provisions of the GST Act, 2017, and is engaged in the supply of taxable services under the category of construction activities and other taxable services. Summons under Section 70 of the CGST Act were issued to gather evidence relating to inward and outward supplies along with invoices. The respondent failed to comply with the said summons. The appellants thereafter conducted further investigation and found misuse of input tax credit and unsubstantiated transactions. Invoking Section 83 of the CGST Act, the appellants imposed a provisional attachment on the bank account maintained with ICICI Bank Ltd., by order dated 29.01.2025. This attachment was the subject matter of the writ petition. The learned Single Judge, under the impugned order, quashed the provisional attachment under Section 83 of the CGST Act, holding that no pre-decisional hearing had been provided before passing the impugned order of attachment.



4. Sri Aravind V. Chavan, learned Senior Standing Counsel appearing for the appellants, submits that Section 83 of the CGST Act does not mandate an opportunity of hearing before passing an order of provisional attachment of any property, including the bank account of a taxable person. Learned counsel further submits that the impugned order has virtually introduced a new procedure by requiring pre-decisional hearing prior to such provisional attachment. It is contended that if pre-decisional hearing is to be granted, the very purpose and object sought to be achieved by the provisional attachment of a bank account would be rendered nugatory. It is further submitted that when the statute itself does not mandate a pre-decisional hearing, the observations made in the impugned order would amount to re-writing Section 83 of the CGST Act, which is impermissible.

4.1 Learned counsel for the appellant submits that proceedings under Section 83 of the Act are not punitive in nature, but are preventive and precautionary measures. It is further submitted that a person aggrieved by the provisional



attachment has an adequate remedy under Rule 159 of the CGST Rules.

5. Sri Raghavendra B. Hanjer, learned counsel appearing for the caveator/respondent No.1, submits that the finding in the impugned order directing pre-decisional hearing is based on the judgment of a Division Bench of this Court in ***K-9 Enterprises v. State of Karnataka and Another*** in ***Writ Appeal No.100425/2023*** and connected matters. It is contended that if pre-decisional hearing is not granted, it would result in arbitrary exercise of power. Learned counsel further submits that, in order to avoid harassment and arbitrary exercise of power resulting in irreparable prejudice to the assessee, the mandate of pre-decisional hearing is justified.

5.1 Learned counsel for respondent No.1, in the alternative, submits that the scope and manner in which the power under Section 83 of the CGST Act can be exercised has been summarized by the Hon'ble Supreme Court in ***Radha Krishan Industries v. State of Himachal Pradesh [2021 (48) G.S.T.L. 113 (S.C.)]***. It is submitted that, in order to invoke provisional attachment under Section 83 of the CGST



Act, proceedings under Chapter XII, XIV, or XV must have been initiated. It is further submitted that though the provisional attachment order refers to initiation of proceedings under Sections 74 and 122 of the CGST Act, no such proceedings, in fact, have been initiated to the knowledge of respondent No.1. It is contended that if the essential ingredients of Section 83 of the CGST Act are not satisfied, the provisional attachment thereunder is not maintainable. It is accordingly submitted that, in the absence of initiation of proceedings, the provisional attachment under Section 83 of the CGST Act is unsustainable.

6. In rejoinder, Sri Aravind V. Chavan, learned Senior Standing Counsel, submits that proceedings under Section 70 of the CGST Act were initiated by issuance of summons for recording the statement of respondent No.1. Since Section 70 falls under Chapter XII, the ingredients for invoking Section 83 of the CGST Act stand satisfied.

7. In further reply, Sri Raghavendra B. Hanjer, learned counsel, relying on the judgment of the Hon'ble Supreme Court in ***Armour Security (India) Ltd. v. Commissioner, CGST, Delhi East Commissionerate [(2025) 33 Centax 222***



(S.C.)], submits that the issuance of a notice under Section 70 of the CGST Act does not constitute 'proceedings' within the meaning of Section 83 of the CGST Act. It is therefore contended that the issuance of summons under Section 70 of the CGST Act is not a sufficient ingredient to invoke Section 83 of the CGST Act.

8. Having considered the submissions of learned counsel for the appellants-Revenue and respondent No.1- assessee, the following two points arise for consideration:

1. Whether a pre-decisional hearing is required before passing an order of attachment under Section 83 of the CGST Act?

2. Whether the provisional attachment dated 29.01.2025 under Section 83 of the CGST Act complies with the requisites of Section 83 of the CGST Act ?

9. The learned Single Judge has set aside the provisional attachment on the first issue. In view of the order being set aside for non-grant of pre-decisional hearing, the correctness of the provisional attachment under Section 83 of the CGST Act was not examined. Learned counsel for the appellants-Revenue has placed on record the entire order sheet



maintained in connection with the proceedings leading to the order of attachment. Accordingly, having heard learned counsel for both parties, we proceed to consider and answer the second issue also in this appeal.

Regarding point No.1:

10. Section 83 of the CGST Act, 2017 reads as follows:

"83. Provisional attachment to protect revenue in certain cases.—

1) Where, after the initiation of any proceedings under Chapter XII, Chapter XIV or Chapter XV, 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 or any person specified in sub-section (1A) of Section 122, 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)."

11. On bare reading of Section 83 of the CGST Act, it is evident that the provision does not, in any manner, mandate a pre-decisional hearing for the assessee. It is a settled position of law that, in interpreting a statutory provision, its plain meaning must be given. It is not permissible to omit any words



or to read in words by implication. In this context, reliance may be placed on the judgment of the Hon'ble Supreme Court in

CIT v. Calcutta Knitwears [(2014) 6 SCC 444]:

"20. Section 158-BD of the Act provides for "undisclosed income" of any other person. Before we proceed to explain the said provision, we intend to remind ourselves of the first or the basic principles of interpretation of a fiscal legislation. It is time and again reiterated that the courts, while interpreting the provisions of a fiscal legislation should neither add nor subtract a word from the provisions of instant meaning of the sections. It may be mentioned that the foremost principle of interpretation of fiscal statutes in every system of interpretation is the rule of strict interpretation which provides that where the words of the statute are absolutely clear and unambiguous, recourse cannot be had to the principles of interpretation other than the literal rule. (Swedish Match AB v. SEBI [(2004) 11 SCC 641 : AIR 2004 SC 4219] and CIT v. Ajax Products Ltd. [(1965) 55 ITR 741 (SC)])

.... 34. It is the duty of the court while interpreting the machinery provisions of a taxing statute to give effect to its manifest purpose. Wherever the intention to impose liability is clear, the courts ought not be hesitant in espousing a commonsense interpretation to the machinery provisions so that the charge does not fail. The machinery provisions must, no doubt, be so construed as would effectuate the object and purpose of the statute and not defeat the same (Whitney v. IRC [1926 AC 37 (HL)] , CIT v. Mahaliram Ramjidas [(1939-40) 67 IA 239 : (1940) 52 LW 234 : (1940) 8 ITR 442] , Indian United Mills Ltd. v. Commr. of Excess Profits Tax [(1955) 27 ITR 20 (SC)] and Gursahai Saigal v. CIT [(1963) 48 ITR 1



(SC)] ; CWT v. Sharvan Kumar Swarup & Sons [(1994) 6 SCC 623] ; CIT v. National Taj Traders [(1980) 1 SCC 370 : 1980 SCC (Tax) 124] ; Associated Cement Co. Ltd. v. CTO [(1981) 4 SCC 578 : 1982 SCC (Tax) 3 : (1981) 48 STC 466]). Francis Bennion in Bennion on Statutory Interpretation, 5th Edn., Lexis Nexis in support of the aforesaid proposition put forth as an illustration that since charge made by the legislator in procedural provisions is excepted to be for the general benefit of litigants and others, it is presumed that it applies to pending as well as future proceedings."

12. If Section 83 of the CGST Act is read in its plain and ordinary meaning, there is no indication, even by implication, that a pre-decisional hearing is required before passing an order of provisional attachment. Once an attachment is effected under Section 83 of the CGST Act, the concerned assessee is not left without a remedy. Rule 159 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as 'CGST Rules') provides the relevant mechanism. Sub-rule (5) of Rule 159 requires that any person whose property is attached may file an objection to such attachment before the Commissioner, who, after hearing the person filing the objection, may order the release of the attached property.



13. Section 83 of the CGST Act and Rule 159 of the CGST Rules deal with the provisional attachment of property. A comparison of the two provisions also provides guidance on the question of pre-decisional hearing. Whenever the statute intends to grant an opportunity of hearing, it does so expressly. Rule 159 specifically mandates an opportunity of hearing to the person affected. For this reason as well, we hold that Section 83 of the CGST Act does not require a pre-decisional hearing.

14. The learned Single Judge, in setting aside the provisional attachment under Section 83 of the CGST Act, relied upon the judgment of the Division Bench in ***K-9 Enterprises*** (*supra*). However, the said judgment does not pertain to provisional attachment under Section 83 of the CGST Act.

15. In the light of the foregoing discussion, we hold that no opportunity of hearing is required before passing an order of provisional attachment under Section 83 of the CGST Act. We accordingly answer Point No. 1 in the negative.



Regarding point No.2:

16. Section 83 of the CGST Act can be invoked if, in the opinion of the Commissioner, it is necessary for the purpose of protecting the interest of Government revenue. However, on a plain reading of Section 83, such opinion can be formed only after the initiation of proceedings under Chapter XII, XIV, or XV of the Act. In the impugned attachment order, it is stated that proceedings under Sections 74 and 122 of the Act were initiated. This fact is disputed by the respondent-assessee. On query by the Court, learned counsel for the appellants has not placed any material on record to substantiate the initiation of proceedings under Sections 74 and 122 of the CGST Act, 2017. Learned Senior Standing Counsel, however, contended that summons under Section 70 were issued, and due to non-compliance by respondent No.1, further investigation was carried out, including collection of material through intelligence regarding non-compliance of the provisions of the Act. It was submitted that issuance of summons under Section 70 would constitute initiation of proceedings, thereby fulfilling the requisites of Section 83 of the Act. We are unable to accept this



submission. The Hon'ble Supreme Court in ***Armour Security (India) Ltd.*** (*supra*), while interpreting Section 6(2)(b) of the CGST Act in the context of Section 70, held that at the stage of issuing a summons, the Department has yet to determine whether proceedings should be initiated against the assessee. The mere issuance of a summons cannot be equated with the initiation of proceedings under the CGST Act. The relevant observations of the Hon'ble Supreme Court are as follows:

"56. Section 70 of the CGST Act empowers a proper officer to summon any person whose presence is considered necessary for giving evidence or producing documents or any other relevant material in an inquiry. The issuance of summons is one of the instruments employed by the Department to obtain information, documents, or statements in cases involving suspected tax evasion. Such summons may be issued to the person under investigation or to a person considered a witness in investigation against another person.

57. A summons is not the culmination of an investigation, but merely a step in its course. It is in this context that the legislature has used the term "inquiry" in Section 70, as at the stage of issuing a summons, the Department is primarily engaged in gathering information regarding a possible contravention of law, which may subsequently form the basis for proceedings against an assessee. Since the objective is to collect information, the Department has, in certain instances, advised resorting to a letter of requisition in place of a formal summons.



58. At the stage of issuing a summons, the Department is yet to determine whether proceedings should be initiated against the assessee. Such evidence-gathering and inquiry do not constitute "proceedings" within the meaning of Section 6(2)(b) of the CGST Act. The mere issuance of a summons cannot be equated with proceedings barred under the Act, as the subject matter cannot be ascertained, solely through summons. That said, summons should not be issued in routine matters or for documents readily available on the GST portal. They ought to be issued after much thought and consideration as to the exact information required. We acknowledge that the issuance of multiple, cyclostyled summons may indicate a roving inquiry.

62. The High Court correctly held that the term "any proceedings" does not encompass summons issued pursuant to a search or investigation, as at the stage of issuance of summons the Department is merely engaged in gathering information. We are in agreement with the finding that a case of search is clearly distinct and separate from proceedings initiated only after issuance of a show cause notice."

17. In the light of the principles enunciated by the Hon'ble Supreme Court, we hold that the mere issuance of summons under Section 70 of the CGST Act is not sufficient to invoke provisional attachment under Section 83 of the Act.

18. The scope and ambit of Section 83 of the Act has been analyzed in detail by the Hon'ble Supreme Court in ***Radha Krishan Industries*** (*supra*), the observations are as under:



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"40. The marginal note to Section 83 provides some indication of Parliamentary intent. Section 83 provides for "provisional attachment to protect revenue in certain cases". The first point to note is that the attachment is provisional - provisional in the sense that it is in aid of something else. The second point to note is that the purpose is to protect the revenue. The third point is the expression "in certain cases" which shows that in order to effect a provisional attachment, the conditions which have been spelt out in the statute must be fulfilled. Marginal notes, it is well-settled, do not control a statutory provision but provide some guidance in regard to content. Put differently, a marginal note indicates the drift of the provision. With these prefatory comments, the judgment must turn to the essential task of statutory construction. The language of the statute has to be interpreted bearing in mind that it is a taxing statute which comes up for interpretation. The provision must be construed on its plain terms. Equally, in interpreting the statute, we must have regard to the purpose underlying the provision. An interpretation which effectuates the purpose must be preferred particularly when it is supported by the plain meaning of the words used.

41. Sub-section (1) of Section 83 can be bifurcated into several parts. The first part provides an insight on when in point of time or at which stage the power can be exercised. The second part specifies the authority to whom the power to order a provisional attachment is entrusted. The third part defines the conditions which must be fulfilled to validate the power or ordering a provisional attachment. The fourth part indicates the manner in which an attachment is to be levelled. The final and the fifth part defines the nature of the property which can be attached. Each of these special divisions which have been explained above is for convenience of exposition. While they are not watertight compartments, ultimately and together they aid in validating an understanding of the statute. Each of the above five parts is now interpreted and explained below:



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(i) The power to order a provisional attachment is entrusted during the pendency of proceedings under any one of six specified provisions: Section 62, 63, 64, 67, 73 or 74. In other words, it is when a proceeding under any of these provisions is pending that a provisional attachment can be ordered;

(ii) The power to order a provisional attachment has been vested by the Legislature in the Commissioner;

(iii) Before exercising the power, the Commissioner must be "of the opinion that for the purpose of protecting the interest of the government revenue, it is necessary so to do";

(iv) The order for attachment must be in writing;

(v) The provisional attachment which is contemplated is of any property including a bank account belonging to the taxable person; and

(vi) The manner in which a provisional attachment is levied must be specified in the rules made pursuant to the provisions of the statute.

42. Under sub-section (2) of Section 83, a provisional attachment ceases to have effect upon the expiry of a period of one year of the order being passed under sub-section (1). The power to levy a provisional attachment has been entrusted to the Commissioner during the pendency of proceedings under Section 62, 63, 64, 67, 73 or as the case may be, Section 74. Section 62 contains provisions for assessment for non-filing of returns. Section 63 provides for assessment of unregistered persons. Section 64 contains provisions for summary assessment. Section 67 elucidates provisions for inspection, search and seizure.

54. Under sub-rule (5) of Rule 159, the person whose property is attached is allowed seven days' time to file an objection that the property attached



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"was or is not liable to attachment". Sub-rule (5) stipulates that the Commissioner may "after affording an opportunity of being heard to the person filing the objection" release the property by an order in Form GST DRC-23. Similarly, under sub-rule (6) upon being satisfied that the property was or is no longer liable to be attached, the Commissioner is empowered to release the property by issuing an order in Form GST DRC-23 for the releasing of the property under attachment.

55. A significant aspect of Rule 159(5) is that upon the levy of a provisional attachment, the person whose property is attached is empowered to file an objection within seven days on the ground that the property was or is not liable to attachment. In using the expression "was or is no longer liable for attachment", the delegate of the legislature has comprehended two alternative situations. The first, evidenced by the use of the word "was" indicates that the property was on the date of the attachment in the past not liable to be attached. That is the reason for the use of the past tense "was". The expression "is not liable to attachment" indicates a situation in praesenti. Even if the property, arguably, was validly attached in the past, the person whose property has been attached may demonstrate to the Commissioner that it is not liable to be attached in the present.

66. Ex facie, the above order passed by the Joint Commissioner does not indicate any basis for the formation of the opinion that the levy of a provisional attachment was necessary to protect the interest of the government revenue. The order in the file noting refers to the fact that the case of GM Powertech had been decided under Section 74 resulting in an additional demand of Rs. 39 crores on account of a fraudulent claim of ITC for FYs 2017-18 and 2018-19. GM Powertech is alleged to have passed on the ITC to various Registered Tax Persons ["RTP"] situated in Himachal Pradesh by issuing invoices inter alia to the appellant during 2018-19 for which a case under Section 74 had been initiated. The order records that the appellant



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had claimed ITC of Rs. 3.25 crores on the strength of the invoices issued by GM Powertech. The order merely records that the submissions which were urged by the appellant on 5 August, 2020 "are not sustainable". "In view of the facts involved in the case", the Joint Commissioner concluded that it is necessary at this stage to safeguard the government revenue and since the appellant had sold goods to Fujikawa the payment due to it was being attached provisionally. The order of the Joint Commissioner contains absolutely no basis for the formation of the opinion that a provisional attachment was necessary to safeguard the interest of the revenue. No tangible material has been disclosed. The record clearly reveals a breach of the mandatory pre-conditions for the valid exercise of powers under Section 83 of the HPGST Act.

67. The order of provisional attachment under Section 83(1) is to be issued "during the pendency of any proceedings under Section 62 or Section 63 or Section 64 or Section 67 or Section 73 or Section 74". In the present case, the notice to show cause under Section 74(1) of the HPGST Act was issued to the appellant on 27 November, 2020. After the High Court dismissed the writ petition, this Court was moved under Article 136 of the Constitution. Notice was issued in the Special Leave Petition on 4 February, 2021 returnable on 19 February, 2021. A day before the case was listed, on 18 February, 2021, an ex parte order was passed by the Joint Commissioner under Section 74(9) of the HPGST Act confirming the demand of Rs. 8,30,27,218 in the notice to show cause.

70. (7) As observed hereinabove and under Section 83, the order of provisional attachment may be passed during the pendency of any proceedings under Section 62 or Section 63 or Section 64 or Section 67 or Section 73 or Section 74. Therefore, once the final order of assessment is passed under Section 74 the order of provisional attachment must cease to subsist. Therefore, after the final order under Section 74 of the HPGST Act



was passed on 18 February, 2021, the order of provisional attachment must come to an end.

PARTE

(E) Summary of findings

72. For the above reasons, we hold and conclude that

(i) The Joint Commissioner while ordering a provisional attachment under Section 83 was acting as a delegate of the Commissioner in pursuance of the delegation effected under Section 5(3) and an appeal against the order of provisional attachment was not available under Section 107(1);

(ii) The writ petition before the High Court under Article 226 of the Constitution challenging the order of provisional attachment was maintainable;

(iii) The High Court has erred in dismissing the writ petition on the ground that it was not maintainable;

(iv) The power to order a provisional attachment of the property of the taxable person including a bank account is draconian in nature and the conditions which are prescribed by the statute for a valid exercise of the power must be strictly fulfilled;

(v) The exercise of the power for ordering a provisional attachment must be preceded by the formation of an opinion by the Commissioner that it is necessary so to do for the purpose of protecting the interest of the government revenue. Before ordering a provisional attachment the Commissioner must form an opinion on the basis of tangible material that the assessee is likely to defeat the demand, if any, and that therefore, it is necessary so to do for the purpose of protecting the interest of the government revenue.

(vi) The expression "necessary so to do for protecting the government revenue" implicates that the interests of the government revenue cannot be



protected without ordering a provisional attachment;

(vii) The formation of an opinion by the Commissioner under Section 83(1) must be based on tangible material bearing on the necessity of ordering a provisional attachment for the purpose of protecting the interest of the government revenue;

(viii) In the facts of the present case, there was a clear non-application of mind by the Joint Commissioner to the provisions of Section 83, rendering the provisional attachment illegal;

(ix) Under the provisions of Rule 159(5), the person whose property is attached is entitled to dual procedural safeguards:

(a) An entitlement to submit objections on the ground that the property was or is not liable to attachment; and

(b) An opportunity of being heard;

There has been a breach of the mandatory requirement of Rule 159(5) and the Commissioner was clearly misconceived in law in coming into conclusion that he had a discretion on whether or not to grant an opportunity of being heard;

(x) The Commissioner is duty bound to deal with the objections to the attachment by passing a reasoned order which must be communicated to the taxable person whose property is attached;

(xi) A final order having been passed under Section 74(9), the proceedings under Section 74 are no longer pending as a result of which the provisional attachment must come to an end; and

(xii) The appellant having filed an appeal against the order under section 74(9), the provisions of sub-sections 6 and 7 of Section 107 will come into operation in regard to the payment of the tax and



stay on the recovery of the balance as stipulated in those provisions, pending the disposal of the appeal."

19. The Revenue has placed on record the order sheet notings and other material, including e-mail correspondence with respondent No.1-assessee, to justify the provisional attachment under Section 83 of the Act. At the most, this material demonstrates the formation of an opinion by the Commissioner for ordering the provisional attachment and provides tangible material in support of such opinion. However, on detailed scrutiny of the record, there is no indication of the initiation of any proceedings as required under Section 83 of the CGST Act. The grounds raised in the appeal are also silent on the initiation of proceedings as mandated under Section 83 of the Act. In light of the foregoing, and holding that summons under Section 70 of the Act does not amount to initiation of proceedings, we are constrained to hold that the provisional attachment under Section 83 of the Act, in the absence of initiation of any proceedings under Chapters XII, XIV, or XV of the Act, is not sustainable. In view thereof, the provisional attachment of property under Section 83 of the Act dated



29.01.2025, being in non-compliance with the provisions of Section 83, is quashed. We accordingly answer Point No.2.

20. For the foregoing reasons, the following:

ORDER

- (i) Writ appeal is ***allowed-in-part***.
- (ii) The order of the learned Single Judge in Writ Petition No.11065/2025 dated 25.04.2025 is set aside to the extent of the finding on pre-decisional hearing to be provided/granted before passing the provisional attachment. No pre-decisional hearing is required before passing the provisional attachment order under Section 83 of CGST Act.
- (iii) Provisional attachment of property under Section 83 of CGST Act dated 29.01.2025 to the extent of Bank account therein is quashed.

**Sd/-
(S.G.PANDIT)
JUDGE**

**Sd/-
(K. V. ARAVIND)
JUDGE**