

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 05.10.2021

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P. No.32 of 2021

and WMP. Nos.46, 49 & 51 of 2021

M/s.Mutharamman & Co.,
Represented by its Proprietor,
Mr.P.Sivakumar,
No.240/5, Nagathamman Nagar,
Nemilicherry, Thiruninravur,
Chennai – 602 024.

... Petitioner

Vs.

1.The Principal Additional Director General,
Directorate General of GST Intelligence (DGGI),
Chennai Zonal unit,
BSNL Building, Tower –II,
5th and 8th Floors, No.16, Greams Road,
Chennai – 600 006.

2.The Senior Intelligence Officer,
DGGI, Chennai Zonal Unit,
Greams Road, Chennai – 600 006.

3.The Branch Manager,
Indian Bank, PB No.3452, W-100,
II Avenue, Anna Nagar,
Chennai – 600 040.

.... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Certiorari to call for the impugned proceedings of the first respondent in Form GST DRC -22 issued in F.No./INT/DGGI/CZU/GST/66/2020/8185 dated 23.11.2020 addressed to the third respondent and quash the same in so far as against the petitioner is concerned as issued contrary to the provisions of the Central Goods and Services Tax Act, 2017.

For Petitioner : Mr.P.Rajkumar

For Respondents : Mr.V.Sundareswaran,
Senior Panel Counsel

ORDER

The petitioner is an assessee under the provisions of the Central Goods and Service Tax Act, 2017 (in short 'CGST Act/Act') and challenges proceedings dated 23.11.2020 issued by the first respondent attaching the petitioner's bank accounts in terms of Section 83 of CGST Act, based upon proceedings for search and seizure launched as against the petitioner in terms of Section 67 of the Act.

2. Heard Mr.P.Rajkumar, learned counsel for the petitioner and Mr.V.Sundareswaran, learned Senior Panel Counsel for the official respondents i.e., The Principal Additional Director General of GST Intelligence/R1 & The Senior Intelligence Officer/R2. Though notice has been issued to the Branch Manager, Indian Bank/R3, there was no appearance for the Bank.

3. In short, the case of the petitioner is that the impugned attachment under Section 83 of the CGST Act is without any statutory sanction as it is consequent upon action under Section 67 of the Act, which deals with the power of the authorities to engage in inspection, search and seizure. The scope of Section 87 is wholly based upon the 'opinion' of the concerned Commissioner to the effect that the interests of the revenue were to be safeguarded and sanctioning coercive recovery proceedings of the nature of bank attachment in a particular case.

4. The Head Office of the petitioner was subject to proceedings for inspection, search and seizure by R2 and other officials of the Intelligence Wing on 09.01.2020. A Mahazar was drawn and various materials including files and a pendrive, seized. With this, proceedings under Section 67 have been, according to the petitioner, concluded. This aspect of the matter is not disputed by the respondents. Section 67 provides exhaustively for the procedure to be engaged in and carried out by officials of GST Intelligence to search the premises of the taxable person in the event of apprehension that there has been suppression of transactions relating to supply of goods or services or both, or stock of goods in hand or excess claim of Input Tax Credit (UTC) or indulgence in contravention of any of the provisions of the Act or Rules with the intention of evading tax under the Act.

5. The allegations as against the petitioner relate to excess claim of ITC. I refrain from referring to the facts any further as it is not material to decide the legal question arising for resolution of this Court. Suffice it to say that the revenue was of the view that the petitioner's claim for ITC was fraudulent as it had, for the purpose of inflating its entitlement to ITC, projected as though it had engaged in business dealings with non-existent, bogus companies.

6. Section 83 provides for the provisional attachment of any property including bank accounts belonging to the taxable person with the avowed object of protecting the revenue, in certain cases. Section 83 reads as follows:

83. Provisional attachment to protect revenue in certain cases.-

(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).

7. The premise upon which Section 83 operates is the 'opinion' of the Commissioner that for the purpose of protecting the interests of Government revenue, it becomes necessary to attach assets of a taxable entity pending proceedings under Sections 62, 63, 64, 67, 73 or 74. Thus one of the questions that would arise is whether there are any proceedings pending in the petitioner's

case that would justify the impugned provisional attachment. In the counter filed by the respondents, there is no dispute on the position that proceedings under Section 67 of the Act have reached a conclusion, and no show cause notice has been issued either under Section 73 or 74 initiating proceedings for assessment.

8. The second and more pertinent question that remains for determination is as to whether the '*opinion*' of the Commissioner in this case, is based upon a legitimate and legal apprehension that the interests of the revenue required to be protected. I had on 05.07.2021, thus recorded as follows:

Heard both learned counsel in brief.

2. The question to be answered is as to whether the Commissioner has recorded his opinion, as required statutorily under Section 83 of the Central Goods and Services Tax Act, 2017 (Act) prior to the attachment of the petitioner's bank accounts on 23.11.2020. In the impugned order attaching the bank accounts, the Principal Additional Director General (commensurate with the Commissioner) states that the attachment is 'in order to protect the interest of revenue'. However, this apprehension should be supported by the recording of the reasons on the basis of which he comes to such conclusion.

3. List on 14.07.2021 within the first five matters after admission. Records to be produced.

9. In response, Mr.Sundareswaran has filed a compilation dated 16.07.2021, containing two documents. The first is a copy of the note sheet proceedings of the Senior Intelligence Officer/R2, recording the background of the search operation, the allegations as against the petitioner in regard to excess claim of ITC and in conclusion, seeking necessary approval/sanction for initiation of investigation

against the petitioner and its sister concerns. The note, dated 24.08.2020 under F.No.INT/DGGI/CZU/GST/66/2020, commences with the following narration:

Consequent to the investigation initiated against Shri. P Sivakumar, proprietor of M/s. Mutharamman & Co. and Smt. Shunmugadevi who have played major role in creation of bogus firms by obtaining the credentials of their friends and family members for obtaining fraudulent GSTINs. It was found that they are availing fraudulent ITC from bogus/non-existing units. It is found that Smt. Shunmugadevi is operating the bank accounts of Sl. 3, 4, 5, 6 & 7 as given in below table. Transaction of bogus companies indulging in passing on fraudulent ITC were carried out by using these bank details. The details of those PAN based accounts are given below table.

.....

10. The proceedings have been placed before R1 on the same day and received approval as proposed, on the same day. Thereafter, R2 puts up a note on 03.11.2020 giving the details of the bank accounts of Mr.Sivakumar, Proprietor of the petitioner proprietary and his wife Mrs.Shunmugadevi, who also manages some of the sister concerns of the petitioner concern.

11. R2 thus proceeds on the firm conviction that the petitioner was availing fraudulent ITC from bogus/non-existent units. To me, this conclusion appears pre-mature, as investigation had just been completed. Investigation, per se, is the process of collecting material from the premises of the assessee and consequent upon such investigation, the authorities are expected to study the documents and verify the same in conjunction with the assessee who shall be summoned for hearings. It is only thereafter that one is expected to arrive at a conclusion as to

whether the accounts of the assessee are in order and whether the returns filed by the petitioner, both in relation to declaration of the turnover and claim of ITC, are proper.

12. Thus, R2, in my view, erred in putting the cart before the horse and rendering a finding that the petitioner was availing fraudulent ITC from bogus/non-existent units. The proceedings were placed for approval on 23.11.2020 and approved on the same day by R1 in the following terms:

'Since the said firms have been found to have availed fraudulent ITC passed on by bogus firms and are involved in avilment of and passing on of fraudulent ITC. Bank accounts may be attached to protect revenue.'

13. The error committed by R2, as noted by me in the preceding paragraphs, has been perpetrated by R1, whose 'opinion', as above, also proceeds on the firm conviction that the claim of ITC by the petitioner is fraudulent and emanated from bogus, non-existent firms. His opinion, based upon which the impugned proceedings have been taken is wholly non-speaking, makes no reference to materials, if any, found in the course of the Investigation and the reasoning upon which he arrives at the conclusion that the petitioner's bank account is to be attached.

14. Thereafter, on 09.12.2020, R2 proposes to call upon the firms from which the petitioner claims to be engaged in business, to enquire and verify whether the claim of ITC was proper. There is no flaw or error in this, as R2 is

well within his domain to cause enquiry in this regard. The sequence of events as narrated above would show that a conclusion and determination of liability has been arrived at by R2 and thereafter by R1, even prior to summoning the entities who are stated to be ‘bogus’ and non-existent.

15. The request of the petitioner for lifting of the attachment has come to be refused by the respondents, since the petitioner had not remitted certain amounts despite commitments made by them to the effect that payments would be effected towards the liabilities. In this connection, my attention is drawn to a statement recorded from Mrs.Shunmugadevi, wherein, in answer to question No.7, she concedes to the position that there has been no supply made by the companies, states that ineligible ITC originally claimed has been reversed and further that ineligible ITC claimed would be remitted within a weeks’ time.

16. Question No.7 and her answer thereto are extracted below:

Q.No.7. It is noticed that you have purchased invoices without actual receipt of the goods from non-existent/fake units as detailed below. Please comment.

<i>Sl.No.</i>	<i>Name of the Unit</i>	<i>GSTIN</i>	<i>Amount of ITC in Rs. passed to Mutharamman & Co</i>	<i>Document stating the company is nonexistent</i>
1.	Moon Traders	33AOMPK7693H1ZG	36,24,275/-	Visit report dt.25.08.2020
2.	Super Metal Trading	33CZUPM5643Q1ZD	32,34,923/-	Visit report dt.25.08.2020
3.	Covai Steels	33ADJPW3771A1ZL	2,62,710/-	Covai DGGI report dt.26.08.2020

4.	India Steels	33CZJPM6461K1ZY	17,77,176/-	Summons verification dt.9.12.2020
5.	Meera Traders	33DGKPS0354A1ZQ	14,16,373/-	Mahazar dt.11.11.2020
6.	Sivam Traders	33AJOPJ6926F1Z3	14,39,037/-	SGST lr dt.04.03.2020
7.	Vijay Enterprises	33CJCPD7959L1ZV	8,99,566/-	Mahazar dt.11.11.2020
8.	Murugan Traders	33CJDPD4482R1ZU	3,60,838/-	Mahazar dt.11.11.2020
9.	Bavesh Enterprises	33ARLPK2143E2Z5	11,37,600/-	Mahazar dt.11.11.2020
	Total		1,41,52,498/-	

Ans: Yes, seen the above table; all the above documents shown showing nonexistence of the companies and signed; as in the document we agree and consent that no supply from the above companies and so we have already reversed the ineligible ITC for the amount of Rs.1,03,15,458/- for the units mentioned in the serial numbers 1 to 5. Further, the ineligible ITC amount of Rs.38,37,041/- for the serial numbers 6 to 9 will be paid in a weeks time. It is further submitted that the relevant documents have been seen and acknowledged for the units mentioned in serial numbers 1 to 9.

On the basis of the aforesaid materials, revenue would argue that there was more than enough justification for the impugned attachment proceedings.

17. The petitioner, in this regard, relies upon four decisions, three of the Gujarat High Court and one of Bombay High Court as follows:

- (i) *Valerius Industries V. Union of India* (R/Special Civil Application No.13132 of 2019 dated 28.08.2019)
- (ii) *Pranit HEM Desai V. Additional Director General and another* (2020 6 GSTL 15)
- (iii) *Kushal Ltd. V. Union of India* (R/Special Civil Application No.19533 of 2019 dated 17.12.2019)

(iv) *Kaish Impex Limited V. The Union of India and others*
(W.P.No.,3145 of 2019 dated 17.01.2020)

18. In *Valerius Industries* (supra) the challenge was to an order of assessment passed under the provisions of the Gujarat Goods and Services Tax Act, 2017 (in short 'Gujarat GST Act') and an order of provisional attachment of that petitioner's bank account. The Court examined in detail the Scheme of the Gujarat GST Act concluding as follows:

52 Our final conclusions may be summarized as under:

[1] The order of provisional attachment before the assessment order is made, may be justified if the assessing authority or any other authority empowered in law is of the opinion that it is necessary to protect the interest of revenue. However, the subjective satisfaction should be based on some credible materials or information and also should be supported by supervening factor. It is not any and every material, howsoever vague and indefinite or distant remote or far-fetched, which would warrant the formation of the belief.

[2] The power conferred upon the authority under Section 83 of the Act for provisional attachment could be termed as a very drastic and far-reaching power. Such power should be used sparingly and only on substantive weighty grounds and reasons.

[3] The power of provisional attachment under Section 83 of the Act should be exercised by the authority only if there is a reasonable apprehension that the assessee may default the ultimate collection of the demand that is likely to be raised on completion of the assessment. It should, therefore, be exercised with extreme care and caution.

[4] The power under Section 83 of the Act for provisional attachment should be exercised only if there is sufficient material on record to justify the satisfaction that the assessee is about to dispose of wholly or any part of his / her property with a view to thwarting the ultimate collection of demand and in order to achieve the said objective, the attachment should be of the properties and to that extent, it is required to achieve this objective.

[5] The power under Section 83 of the Act should neither be used as a tool to harass the assessee nor should it be used in a manner which may have an irreversible detrimental effect on the business of the assessee.

[6] *The attachment of bank account and trading assets should be resorted to only as a last resort or measure. The provisional attachment under Section 83 of the Act should not be equated with the attachment in the course of the recovery proceedings.*

[7] *The authority before exercising power under Section 83 of the Act for provisional attachment should take into consideration two things: (i) whether it is a revenue neutral situation (ii) the statement of “output liability or input credit”. Having regard to the amount paid by reversing the input tax credit if the interest of the revenue is sufficiently secured, then the authority may not be justified in invoking its power under Section 83 of the Act for the purpose of provisional attachment.*

19. The Writ Petition came to be allowed and the impugned order/demand set aside granting liberty to the parties to proceed against that petitioner under Section 74 of the Gujarat GST Act, if so appropriate. The order of provisional attachment upon the stock of goods as well as the petitioner’s bank accounts was quashed.

20. In the case of *Pranit HEM Desai* (supra) a similar issue was discussed by the same Bench of the Gujarat High Court, which reiterated its earlier view in the cases of *Valerius Industries* (supra), *M/s Patran Steel Rolling Mill vs Assistant Commissioner of State Tax, Unit 2* (65 GSTR 177) and the decision of the Bombay High Court in the case of *Gandhi Trading v. Asst. CIT* ((1999) 239 ITR 337 Bom.) The discussion at paragraphs 6, 7 and 8 of their decision in *Patran Steel Rolling Mill* (supra) has been extracted as follows:

“6 From the facts as emerging on record, it appears that the tax liability of the petitioner in terms of the goods seized as well as the transporter’s statement, the same would not exceed Rs.13,00,000/-. The petitioner has already deposited a sum of Rs.17,00,000/- with the respondent. Insofar as the amount assessed

towards the penalty is concerned, in the absence of any proceedings having been undertaken under the provisions of the GGST Act as well as any penalty having been imposed, in the opinion of this court, the respondent authorities were not justified in resorting to such a drastic coercive measure of attachment of the bank accounts and seizure of goods, which results in bringing the business of the petitioner to a grinding halt.

7 Sub-section (1) of section 83 of the GGST Act provides that where 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. On a plain reading of the said provision, it is evident that before resorting to such drastic action, the Commissioner is required to form an opinion that it is necessary to do so to protect the interest of the revenue. For the purpose of arriving at such an opinion, the Commissioner should first form an opinion that the petitioner would not be in a position to pay the tax dues after the assessment proceedings are over. In the facts of the present case, the petitioner firm is a going business and the petitioner has readily deposited a sum of Rs.17,00,00/- which covers more than the tax liability that may be assessed. It is not the case of the respondents that the petitioner is a fly by night operator or that it does not have the means to pay the dues that might be assessed at the end of assessment proceedings, which at present have not even been commenced. There is nothing to show that the respondents would not be in a position to recover any amount that the petitioner may ultimately be held liable to pay. In these circumstances, without recording any such satisfaction, the respondent could not have formed the opinion that it was necessary to resort to provisional attachment to protect the interest of the Government revenue. The impugned order of attachment, therefore, cannot be sustained. It is clarified that the fact that the petitioner has deposited a sum of Rs.17,00,000/- during the course of the search proceedings shall not be construed as an admission of such dues on the part of the petitioner.

8 Before parting, the court deems it fit to caution the concerned authorities that while exercising powers under section 83 of The GGST Act, the authorities should try to balance the interest of the Government revenue as well as a dealer to ensure that while the interest of the revenue is safeguarded, the dealer is also in a position to continue with his business, because it is only if the dealer continues with the business that he would generate more revenue. The authorities should keep in mind that bringing the business of a dealer to a halt does not in any manner serve the interest of the revenue. Therefore, while taking action under section 83 or 67(2) of the GGST Act, the concerned authorities should take care to ensure that equities are maintained and while securing the interest of the revenue, they should attempt to see that the dealer is in a position to continue with the business. This court does not intend to lay

down any absolute proposition that in no case drastic action should be taken, but that the respondents should consider the background and history of the dealer as well as his financial position to ascertain as to whether or not he would otherwise be in a position to pay the dues that may be assessed upon the culmination of any assessment proceedings that may be initiated. If the dealer is a fly by night operator or a habitual offender or does not have sufficient means to pay the dues that may arise upon assessment, such action may be justified. Such drastic powers under section 83 of the Act should not be exercised as a matter of course, but only after due application of mind to the relevant factors.”

21. In the present case, there are serious allegations in regard to the excess claim of ITC based on transactions with non-existent or fraudulent entities. However, such allegations are to be based upon supporting materials and evidences if they are to translate into an ‘opinion’ as required in terms of Section 83. No doubt, there are instances where, even prior to the passing of the assessment order sufficient material would be available even at the time of investigation to support a prima facie conclusion of suppression or excess claim. However, the ‘brief for opinion’ by R1 and the ‘opinion’ of R2 must contain references to the material while according sanction under Section 83.

22. The authority must also deal with the aspect of liquidity or a legitimate threat that the assessee in question might not be in a position to settle future demands, as and when raised. It was incumbent upon R1 to have applied his mind to the rigour of the sanction sought by R2, examine all materials and only thereafter come to a reasoned conclusion as to whether the attachment was warranted or not. After all, the invocation of power under Section 83 is intrusive

and can be crippling in many cases. It is for this reason that the Bombay High Court in the case of *Gandhi Trading v. Asst. CIT* (supra) has opined that attachment, as far as possible, should be of immovable property and not of liquid assets, such as bank accounts, which would debilitate the business interests of an assessee.

23. So too in the present case. The reference to 'opinion' in Section 83, cannot be mere lip service and cannot be satisfied by the officer, proceeding on the basis that the liability of an assessee stood determined even prior to the issue of a notice of assessment and merely stating that, in his opinion, this was a case where the interests of the revenue are to be protected.

24. The power conferred upon an authority under Section 83 is substantial and with great power comes great responsibility. The authority concerned must justify the invocation of the coercive and intrusive recovery proceedings against the assessee, even prior to determination of liability and passing of an assessment order. The burden that lies upon the revenue is heavy and has to be seen to be discharged by them in a proper manner in each and every case where power under Section 83 is invoked.

25. The Hon'ble Supreme Court in a recent judgment in the case of *M/s.Radhakrishnan Industries V. State of Himachal Pradesh and others* (Civil

Appeal No.1155 of 2021 dated 20.04.2021) dealt with very similar circumstances as before me now, setting aside the proceedings for bank attachment noticing that the discharge of the condition under Section 83 of the Himachal Pradesh Goods and Service Tax Act, 2017 was, in that case insufficient. The Hon'ble Bench perused the records minutely and has extracted from the opinion of the sanctioning authority, finding it lacking. The Hon'ble Court was of the view that the opinion neither disclosed any tangible material nor did it reveal any basis for the formation of the opinion that a provisional attachment was necessary to safeguard the interests of the revenue to justify invocation of powers under Section 83. The relevant portion of the summary of findings of the Hon'ble Bench at paragraph 72 is extracted below:

E Summary of findings

72 For the above reasons, we hold and conclude that

- (i)*
- (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;

.....
26. I extract the opinion of the sanctioning authority in the case of M/s Radhakrishna (supra) that was found inadequate by the Hon’ble Supreme Court that may be compared with the opinion of the Commissioner in the present case, to illustrate the degree of woeful inadequacy/lacunae in the present case.

28.10.2020: The case of M/s.G.M.Powertech, Kala-Amb (H.P.) GSTIN: 02AARFG98301Z7 has been decided under Section 74 of the HPGST/CGST Acts, 2017 and an additional demand of Rs.39 Crores has been created on account of fake/fraudulent claim of input tax credit. The above mentioned orders have been passed for the financial years 2017-18 and 2018-19. As per evidences available in the case of M/s.G.M.Powertech, Kala-Amb it has been established that M/s.G.M.Powertech claimed/utilized input tax credit in contravention of various provisions of the HPGST/the CGST Acts, 2017.

After illegal accumulation of input tax credit, M/s.G.M.Powertech, Kala-Amb passed on the same to various R.T.P’s situated in the State of Himachal Pradesh. It has been established that M/s.G.M.Powertech issued invoices on the basis of fake input tax credit during the years 2017-

18 and 2018-19. It also issued invoices to M/s.Radha Krishan Industries, Kala-Amb during 2018-19 and a case u/Sec.74 of the HPGST/ the CGST Acts, 2017 has also been initiated against the R.T.P.

M/s.Radha Krishan Industries claimed input tax credit of Rs.3,25,04,864/- on the strength of invoices issued by M/s.G.M.Powertech. FORM GST DRC-01A has also been issued to the R.T.P. on 04.07.2020. The submissions made by the R.T.P. on PART-B of FORM GST DRC-01A were received in this office on 05.08.2020 which are not sustainable before laws related to HPGST/CGST Acts, 2017.

In view of the facts involved in the case, it is necessary at this stage to safeguard the govt. revenue and it is detected that M/s.Radha Krishan Industries has sold goods to M/s.Fujikawa Power, therefore the payments owed to M/s.Radha Krishan Industries are, hereby, attached provisionally as provided u/p ... of the HPGST/ the CGST Acts, 2017 (Rule 159) vide FORM GST DRC-22 No.1167 dt.28.10.2020.

JCSTE-cum-P.O.,
SEZ, Parwanoo.

28.10.2020: FORM GST DRC-22 bearing No.EXN-JCSTE/SEZ-PWN/2020-21/1167 has been e-mailed to M/s.Fujikawa Power, Handa Kundi, Bagwani, Nalagarh-174101 (GSTIN -02AACFF0716C1ZE). The same has also been handed over to constable Karnail Singh to serve upon the R.T.P. at the earliest.

JCSTE-cum-Proper Officer,
South Enforcement Zone,
Parwanoo.

Notice received on dated 28/10/2020 for Fouji Kawa & the same has been served upon M/s.Fouji Kawa Power on 29.10.2020.

27. The opinion of R2 in this case is far more cryptic revealing total non-application of mind and merely repeating what R1 has stated in his request for sanction. This Writ Petition is, thus allowed. The impugned order of attachment is set aside. The respondents will complete the process of assessment within a period of six (6) weeks from today.

28. It is made clear that this order only relates to the impugned proceedings of bank attachment and will not stand in the way of the revenue taking resort to Section 83 yet again, if the circumstances so warrant, at a later juncture in the proceedings, in accordance with law. No costs. Connected Miscellaneous Petitions are closed.

05.10.2021

rkp/sl

Index: Yes/No

Speaking/Non speaking order

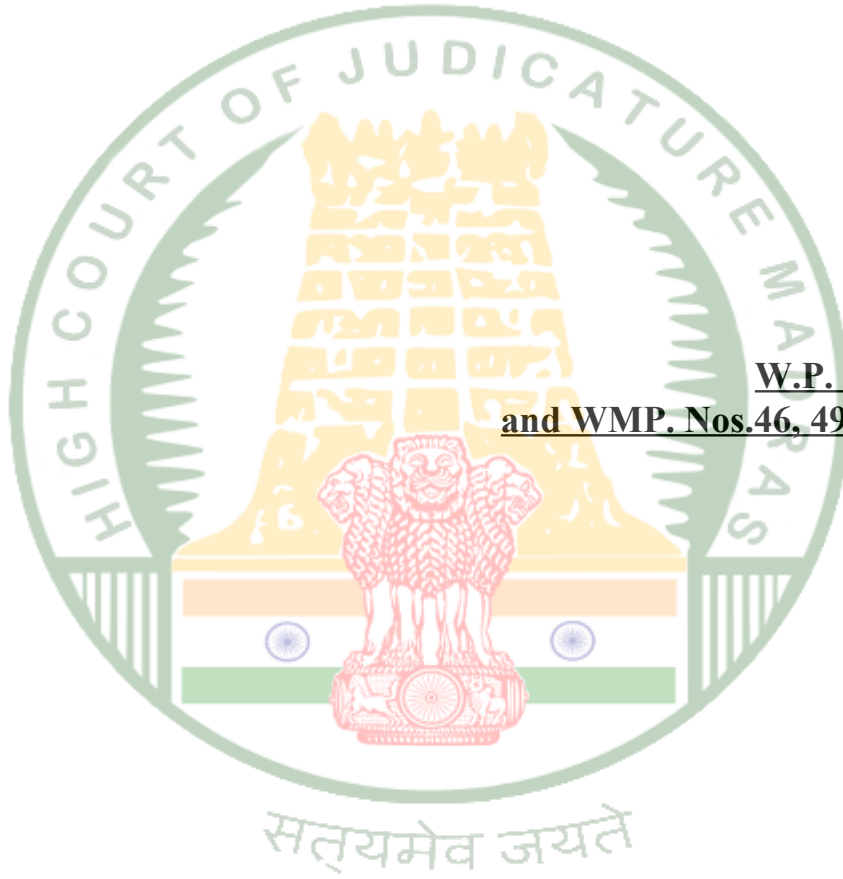
To

- 1.The Principal Additional Director General,
Directorate General of GST Intelligence (DGGI),
Chennai Zonal unit,
BSNL Building, Tower –II,
5th and 8th Floors, No.16, Greams Road,
Chennai – 600 006.
- 2.The Senior Intelligence Officer,
DGGI, Chennai Zonal Unit,
Greams Road, Chennai – 600 006.
- 3.The Branch Manager,
Indian Bank, PB No.3452, W-100,
II Avenue, Anna Nagar,
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DR. ANITA SUMANTH, J.

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