

Court No. - 34

Case :- WRIT TAX No. - 424 of 2020

Petitioner :- M/S Jackpot Exim Private Limited Through Its Proprietor Sri. Bhupendra Kumar

Respondent :- Union Of India Through Its Principal Secretary Ministry Of Finance And 2 Others

Counsel for Petitioner :- Atul Kumar Shahi

Counsel for Respondent :- A.S.G.I., Ramesh Chandra Shukla

Hon'ble Mrs. Sunita Agarwal, J.

Hon'ble Ajay Bhanot, J.

Heard Sri Atul Kumar Shahi, learned counsel for the petitioner and Sri R.C. Shukla, learned counsel for the respondent department.

Sri R.C. Shukla, learned counsel for the respondents has not been able to obtain instructions for a period of two months. His prayer for further one week time to obtain instructions is therefore turned down.

The petitioner is aggrieved by the order dated 06.09.2019 of provisional attachment of the property under Section 83 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "Act of 2017").

The submission is that on a spot inspection of the business premises of the petitioner, some dispute was raised by the department with regard to the registration of the place of business which was changed during the course of time.

In order to protect the interest of revenue and in exercise of powers under Section 83 of the Act of 2017 the competent authority had ordered for provisional attachment of the business account of the petitioner firm.

It appears that after registration of the changed premises, on an application moved by the petitioner the competent officer namely Office of the Principal Commissioner, Central Goods & Services Tax, Meerut had passed an order dated 24.12.2019 revoking the cancellation of registration of the firm under the Act of 2017.

Despite revocation of the order of cancellation, the bank account provisionally attached by the order dated 06.09.2019 has not been released. The result is that the petitioner has not been able to operate his business account. It appears that there is a dispute with regard to payment of GST by the petitioner for the period of business prior to 06.09.2019.

In none of the paragraphs the petitioner states that no order of imposing tax or penalty has yet been passed. However, the provisional attachment order survives only for a period of one year in view of Section 83(2) of the Act of 2017, which reads as under:-

" 83(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)."

In view of the provisions in Section 83(2), we observe that the provisional attachment order dated 06.09.2019 has outlived its life after a period of one year.

We would like to observe that failure of the respondents to provide the necessary instructions reflects very poorly on the functioning of the Revenue. The purpose of the Revenue department is to ensure efficient collection of revenue as per law. Failure to assist the court with proper instructions delays adjudication and leads to harassment of the assessee. Such conduct can have an adverse impact on the business environment of the country.

The competent authority is directed to consider the grievances of the petitioner and pass a fresh order, keeping in mind the provisions of Section 83(2) and as per law.

With the said observation, the writ petition is disposed of.

Order Date :- 1.9.2020

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