

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

D.B. Civil Writ Petition No. 2086/2021

M/s B.r. Consturction Company

----Petitioner

Versus

Additional Director

----Respondent

For Petitioner(s) : Mr. Jatin Harjai and
Mr. Mohit Kumar Soni
For Respondent(s) : Ms. Mahi Yadav through VC

**HON'BLE THE CHIEF JUSTICE MR. AKIL KURESHI
HON'BLE MR. JUSTICE SUDESH BANSAL**

Order

22/02/2022

The petitioner's bank account was placed under provisional attachment by an order dated 03.12.2020 in exercise of powers under Section 83 of the Central Goods and Services Tax Act (for short 'CGST Act') by the respondents. Learned counsel for the petitioner pointed out that in terms of sub-section (2) of Section 83 such provisional attachment cannot survive beyond a period of one year.

Section 83 of the CGST Act pertains to provisional attachment to protect the revenue in certain cases. In sub-section (1) of Section 83 the commissioner is empowered to order provisional attachment of the property of the assessee including bank account where proceedings under Chapters XII, XIV and XV are pending and the commissioner is of the opinion that for the purpose of protecting the interest of government revenue it is necessary so to do. Sub-section (2) of Section 83 provides that

every such provisional attachment shall cease to have effect after expiry of period of one year from the date of order made under sub-section (1). The powers of provisional attachment and its inherent limitations in the nature of safeguards have been discussed at length in a recent judgment of the Supreme Court dated 20.04.2021 in **Civil Appeal No.1155/2021- M/s Radha Krishan Industries Vs. State of Himachal Pradesh and Ors.** Additionally we also find that the CBIC's circular dated 23.02.2021 has also clarified that every provisional attachment shall cease to have effect after expiry of period of one year from the date of attachment order.

In the present case the order of attachment was passed more than a year back and would therefore be ceased to be effective upon completion of period of one year.

By way of interim relief therefore it is provided that the provisional attachment order stands stayed.

Leave to join the concerned adjudicating officer at Udaipur as additional respondent is granted, as prayed for. Amendment in the cause title be made within a period of one week. Thereupon notice shall be issued to the newly added respondent, returnable on 22.03.2022.

For considering rest of the prayers of the petitioner list the matter on 22.03.2022.

(SUDESH BANSAL),J

(AKIL KURESHI),CJ