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IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 191+211

CM No.9476 of 2024 in/and
CWP No.8805 of 2024
Date of Decision: 29.05.2024

M/s Nova Publications & Printers Pvt. Ltd.

..... PETITIONER (S)

VERSUS

Union of India and others

..... RESPONDENT(S)

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MR.JUSTICE SUDEEPTI SHARMA

. . .

PRESENT: - Mr. Rajiv Agnihotri, Advocate for the petitioner.

Ms.Pridhi Sandhu, St.Panel counsel for the respondent-CBIC.

SANJEEV PRAKASH SHARMA, J (Oral)

CM No.9476 of 2024

For the reasons mentioned in the application, application is allowed.

Replication and other documents are taken on record.

Main Case

Learned counsel for the petitioner submits that the petitioner was not served with any notice under Section 74 of the Central GST Act, 2017 (for short, 'the Act of 2017') and the attachment proceedings initiated under Section 83 of the Act of 2017, therefore, is illegal and unjustified. The attachment of account should be revoked. Section 83 of the Act of 2017 provides as under:-

*"**Provisional attachment to protect revenue in certain cases***

***Section 83 (1)** Where after the imitation of any*

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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 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).

2. We find that search and seizure action was taken against the petitioner in terms of Chapter XIV of the Act of 2017 and provisional attachment was thereafter ordered on 15.03.2024. The Electronic Credit Ledger was locked by another order dated 18.03.2024.

3. While at this stage we do not subscribe to the submission of the petitioner that the attachment was illegal. We find that after the orders were passed on 15.03.2024 and 18.03.2024, no further proceedings have been undertaken by the respondents.

4. From the perusal of the reply, it is apparent that no notice under Section 74 of the Act of 2017 was issued to the petitioner and the account of the petitioner and his Electronic Credit Ledger have been locked which has resulted in that his entire business being affected. Attachment proceedings are of very serious nature and strong repercussions on the business of an individual.

5. In the opinion of this Court, the proceedings of attachment should only be taken as a last resort. While they may be required for the purpose of protecting the interest of the Revenue, the same needs to be taken to its logical end after search and seizure proceedings have been initiated

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under Chapter XIV of the Act of 2017. The Revenue was required to proceed further and issue notice under 74 of the Act of 2017 if anything was found of having committed any fraud or concealment. However, as has come on record from the pleadings, it is not a case where the petitioner has committed any such act.

6. As noticed under Section 74 of the Act of 2017 has not been issued, at this stage it would not be appropriate to allow to continue the attachment of the account. Therefore, we deem it appropriate to allow this writ petition and revoke the attachment order dated 15.03.2024 and 18.03.2024 locking the Electronic Credit Ledger. The same shall be released forthwith.

7. Passing of the aforesaid order would be in no manner be treated to absolve the petitioner from any of the proceedings which the respondents may deem appropriate to undertake in terms of the Act of 2017, if they so choose. The respondents would be also free to conclude their search and seizure proceedings.

8. The writ petition stands allowed in the aforesaid terms.

(SANJEEV PRAKASH SHARMA)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

May 29, 2024
Meenu

Whether Speaking/ Reasoned: Yes/ No
Whether Reportable: Yes/ No

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