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* IN THE HIGH COURT OF DELHI AT NEW DELHI

\+ **W.P.(C) 9061/2025 & CM APPL. 38572/2025**

M/S MJ BIZCRAFTS LLP THROUGH PARTNER RAJENDER KUMAR .....Petitioner

Through: Mr. R.P. Singh, Mr. Aman Sinha, Mr. Anant Vijay, Mr. Yash Agarwal, Mr. Rahul Ranjan & Ms. Prashasti, Advs.

versus

CENTRAL GOODS AND SERVICES TAX DELHI SOUTH COMMISSIONERATE THROUGH ITS COMMISSIONER & ORS. .....Respondents

Through: Mr. Gibran Naushad, SSC with Mr. Harsh Singhal, Mr. Suraj Shekhar Singh, Advs. for R-1 (9560430864)
Ms. Aditi, Advocate for ICICI Bank.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RAJNEESH KUMAR GUPTA

ORDER

% **10.07.2025**

1. This hearing has been done through hybrid mode.

2. The present petition has been filed by the Petitioner under Article 226 of the Constitution of India challenging the provisional attachment of the bank account *vide* communication dated 29th May, 2025.

3. The case of the Petitioner is that the Order in Original dated 31st January 2025, which is the basis of the said attachment, is itself challenged *vide* an appeal by the Petitioner and 10% pre-deposit has also been made.

4. Mr. R.P. Singh, ld. Counsel for the Petitioner has relied upon the following decisions:

> "(i) ***W.P.(C)7239/2025*** titled '***M/s Unity Traders v. Principal Additional Director, DGGI & Anr'.*** The

relevant portion of the judgment is as under:

> *"18. As per the impugned order, the alleged evasion of GST is to the amount of Rs.15.09 crores.* ***Even if this amount is taken into consideration, it cannot be said that the entire amount would be payable immediately. The issue relating to evasion has to be adjudicated in accordance with law. Until then, the Petitioner's business cannot be prejudiced by complete attachment of bank accounts. The Petitioner is a running concern and as per the accounts which have been placed on record, it is conducting business and paying substantial amounts of taxes****."*

(ii) ***Radha Krishnan Industries v. Stated of Himachal Pradesh; 2021 (48) G.S.T.L 11(S.C.).*** The relevant portion of the judgment reads as under:

> *"69. On 1 March, 2021, the appellant has filed an appeal under Section 107 together with a deposit of Rs. 32,15,488 representing ten per cent of the tax due. Section 107(6) contains the following stipulation:*
>
> > *(6) No appeal shall be filed under sub-section (1), unless the appellant has paid -*
> >
> > > *(a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and*
> > >
> > > *(b) a sum equal to ten per cent of the remaining amount of tax in dispute arising from the said order, in relation to which the appeal has been filed."*

Sub-section (7) stipulates that:

> *"(7) Where the appellant has paid the amount under sub-section (6), the recovery proceedings for the balance amount shall be deemed to be stayed."*

70. Clause (a) of sub-section (6) provides that no appeal shall be filed without the payment in full, of such part of the amount of tax, interest, fine, fee and penalty arising *from the impugned order as is admitted.* ***In addition, under clause (b), ten per cent of the remaining amount of tax in dispute arising from the order has to be paid in relation to which the appeal has been filed. Upon the payment of the amount under sub-section (6) the recovery proceedings for the balance are deemed to be stayed. Thus, in any the order of provisional attachment must cease to subsist. The appellant, having filed an appeal under Section 107, is required to comply with the provisions of sub-section (6) of Section 107 while the recovery of the balance is deemed to be stayed under the provisions of sub-section (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.*"

5. Mr. Naushad also confirms that an appeal has been filed by the Petitioner and the pre-deposit has already been made.

6. Ld. Counsel for the ICICI bank has appeared in person and submitted the bank statement of the Petitioner.

7. A perusal of Section 107(7) of the Central Goods and Services Tax Act, 2017 and the judgments relied on, would show that once an appeal is filed and pre-deposit is made, there is automatic stay of the impugned order. In view thereof, the attachment of the bank account is not sustainable.

8. The same is, accordingly, set aside. The bank shall permit the Petitioner to operate its bank accounts as also the FDR account.

9. The ICICI bank is directed to defreeze the current account(s) and the

FD account(s) of the Petitioner with immediate effect. Ld. Counsel to convey this order to the bank forthwith.

10. The petition is, accordingly, disposed of. The pending application is also disposed of.

PRATHIBA M. SINGH, J.

RAJNEESH KUMAR GUPTA, J.

JULY 10, 2025
kk/Ar.