

2025-BHC-OS-8549-DB



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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO.1928 OF 2025

Skytech Rolling Mill Pvt. Ltd.

... Petitioner

Versus

Joint Commissioner of State Tax Nodal ... Respondent
1 Raigad Division

Mr Tanmay Phadke, for Petitioner.

Mr Amar Mishra, AGP , for Respondent No.1 to 3.

**CORAM : M.S. Sonak &
Jitendra Jain, JJ.**

DATED : 10 June 2025

ORAL JUDGMENT (Per Jitendra Jain,J.):

1. Rule. The Rule is made returnable immediately at the request of and with the consent of the learned counsel for the parties.

2. This Petition under Article 226 of the Constitution of India challenges the action of Respondent No.1, dated 8 May 2025, under Section 83 of the Maharashtra Goods and Service Tax (MGST Act) whereby the cash credit account of the Petitioner with ICICI Bank has been attached provisionally.

3. Heard learned counsel for the Petitioner and the Respondents.

4. There is no dispute that the account attached under Section 83 of the MGST Act is "cash credit account".

Therefore, the short issue which arises for our consideration is whether on a reading of Section 83 of the MGST Act, a "cash credit account" can be provisionally attached by exercising power under the said Section.

5. Section 83 of the MGST Act reads as under:-

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

*1 [(1) Where, after the initiation of any proceeding 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 in 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).

[emphasis supplied]

6. Section 83 of the MGST Act provides for provisional attachment of 'any property including bank account belonging to the taxable person'. The cash credit account is a liability which an account holder owes to the bank for availing the loan facility and therefore by no stretch of imagination cash credit account can be construed as a property belonging to the account holder/Petitioner. The phrase 'including bank account' following the phrase, "any property" would mean a non cash-credit bank account. Therefore, in our view, a "cash credit account" would not be governed by Section 83 of the MGST Act.

7. Learned counsel for the Petitioner has rightly relied upon the decisions of the Gujarat High Court in the case of *Manish Scrap Traders Vs Principal Commissioner*¹, *J.L.Enterprises Vs Assistant Commissioner*² and *J.L.Enterprises Vs Assistant Commissioner*³ in support of his submissions that in these decisions provisional attachment under Section 83 of cash credit account has been quashed. The learned counsel for the Petitioner also submits that the similar issue arose before the Co-ordinate Bench of this Court in the case of *M/S. Sargam Foods Pvt. Ltd. & Anr. Vs State of Maharashtra & Ors.*⁴ wherein a very similar provision appearing in the Navi Mumbai Municipal Corporation Act fell for consideration of this Court and this Court after analysing the nature of the cash credit account held that such an account cannot be attached since it is not an asset or property of the account holder.

8. We have not been shown any judgment contrary to the above referred decisions. In any case, in our view, for the reasons stated above "cash credit account" cannot be treated as "property" of the account holder which can be consider under Section 83 of the Act.

9. The Respondents are directed to immediately withdraw letter dated 8 May 2025 addressed to the ICICI Bank, Malad

¹ (2022) 141 taxmann.com 153 (Gujarat)

² (2023) 152 taxmann.com 278 (Calcutta)

³ (2025) 172 taxmann.com 266 (Calcutta)

⁴ Writ Petition No. 4313 of 2008

(E), Mumbai 97 and inform the same to the said bank immediately within next 24 hours.

10. We may however clarify that this order would not preclude the Respondents to recover by any other mode from the Petitioner, if any dues are pending, as per law.

11. Ordinarily, we would have relegated the petitioner to the alternate remedy. However, the impugned communication dated 8 May 2025 is wholly without jurisdiction and contrary to the precedents on the subject. Therefore, this Court has exercised its jurisdiction under Article 226 of the Constitution of India.

12. In view of the above, the Petition is allowed in terms of prayer clause (a) and (b) which reads as under :-

(a) Hold, adjudge and declare that the impugned order dated 08.05.2025 passed by the Respondent No.1 under Section 83 of the Maharashtra Goods and Services Act, 2017 (Exhibit F) is wholly without jurisdiction, arbitrary and illegal ;

(b) Issue a Writ of Certiorari or a Writ in the nature of Certiorari or any other writ, order, or direction, quashing the impugned order dated 08.05.2025 passed by the Respondent No.1 under Section 83 of the Maharashtra Goods and Services Act, 2017 (Exhibit F).

13. The Petition is allowed in the above terms.

14. All concerned must act on an authenticated copy of this order.

(Jitendra Jain, J)

(M.S. Sonak, J)