



W.P.No.10252 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.08.2025

CORAM :

THE HONOURABLE MR. MANINDRA MOHAN SHRIVASTAVA,  
CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

WP No.10252 of 2025  
and WMP No.11541 of 2025

K.Venkatesan  
Proprietor of  
Wintel Marketing and Services  
New No.55, Old No.21, 1st Floor,  
New Boag Road, Thyagaraya Nagar,  
Chennai – 600 017.

Petitioner(s)

Vs

1. The Principal Additional Director General  
Directorate General of GST Intelligence  
(DGGI) Chennai Zonal Unit  
5th and 8th Floor, Tower II  
BSNL Building, 16, Greaves Road,  
Chennai – 600 006.
2. City Union Bank Limited  
Thiruvanmiyur Branch  
No.159, South Avenue,  
Kamaraj Nagar, Thiruvalluvar Salai,  
Tiruvanmiyur, Chennai – 600 041.



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3. City Union Bank Limited  
Credit Recovery and Management  
Department, Administrative Office  
No.24-B, Gandhi Nagar,  
Kumbakonam District  
Tanjavur - 612 001.

4. City Union Bank Limited  
Regd Office 149 T.S.R (Big) Street,  
Kubmbakonam - 612 001.

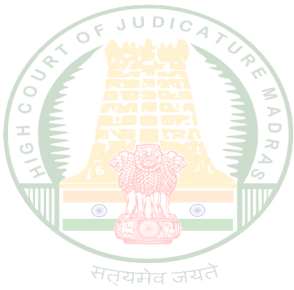
Respondent(s)

PRAYER: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the respondent bank to allow operation of the OLCC Bank Account No 512020010009822 of the petitioner with the 2nd Respondent Bank forthwith and forbearing the respondent bank from any coercive or adverse action against the petitioner under the SARFAESI Act, 2002 or otherwise arising directly out of the consequence of the provisional attachment ordered by the 1st Respondent and also directing the respondent bank to reserve any such action if already taken holding that the prolonged effect of attachment beyond the period limited statutorily was contrary to law ab initio.

For Petitioner(s): Mr.Antony.A.K

For Respondent(s): Ms.Revathi Manivannan  
Standing Counsel for R1

Ms.Ananda Gomathy  
for R2 to R4



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**ORDER**

(Order of the Court was made by the Hon'ble Chief Justice)

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Heard learned counsel for respective parties.

2. By this petition under Article 226 of the Constitution of India, the petitioner has called in question the correctness and validity of the order of provisional attachment passed by the first respondent in purported exercise of power under Section 83 of the Central Goods and Services Tax Act, 2017 [*"the CGST Act"*]. The relief, however, which has been sought in the writ petition is to forbear the respondent bank from taking coercive or adverse action against the petitioner under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 [*"the SARFAESI Act"*] or otherwise arising directly out of the consequence of the provisional attachment ordered by the first respondent. The petitioner has also prayed for issuance of a direction to the respondent bank to reverse any such action, if already, taken holding that the prolonged effect of attachment beyond the statutory limit was contrary to law, void *ab initio* and



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pass appropriate consequential order granting relief to the petitioner.

3. Learned counsel for the petitioner would submit that, though first respondent proceeded to pass an order in exercise of power under Section 83 of the CGST Act directing provisional attachment of the petitioner's property, including his bank accounts, the life of such provisional attachment could not continue beyond the period of one year. He would submit that because of the continuance of the provisional attachment, the petitioner is unable to service the account and he is unable to take appropriate steps to deal with his bank account and avoid statutory liability that may be fastened upon him under the provisions of the SARFAESI Act. His further submission is that, in these circumstances, the bank should be restrained from proceeding under the SARFAESI Act against him.

4. Learned counsel appearing for first respondent would submit that, though the provisional attachment order was initially passed by the authority on 23.2.2021, as the investigation

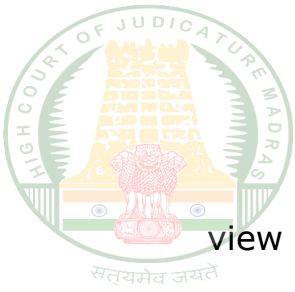


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continued, though new order has not been passed, it was open for first respondent to issue successive attachment orders, which is not prohibited under the provisions of Section 83 of the CGST Act. Furthermore, learned counsel for first respondent, referring to its counter affidavit, would submit that later on, show cause notice was also issued to the petitioner; reply was obtained; and an order of reversal of tax credit has also been passed.

5. Learned counsel appearing for the bank would submit that as far as the bank is concerned, the attachment of petitioner's account was in view of the order passed by the first respondent. She would submit that bank/secured creditor always reserves its right to take appropriate action against the petitioner towards recovery of loan under the provisions contained in the SARFAESI Act. As a matter of fact, it is submitted, the bank issued a notice under Section 13(2) of the SARFAESI Act.

6. Having heard learned counsel for petitioner and considered the grounds which have been urged in this petition, we are of the



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view that, though the petitioner's immediate grievance, which brought him to this court, was provisional attachment of his account by virtue of an order of the first respondent, the petitioner has chosen to seek a relief in the garb of challenge to the provisional attachment of his account as against the action that may be taken against him by the bank/secured creditor under the provisions of the SARFAESI Act.

7. In our considered view, no cause of action has arisen in favour of the petitioner to challenge any action of the respondent bank insofar as recovery of loan, of which the petitioner is alleged to be in default, as except issuing a notice under Section 13(2) of the SARFAESI Act, the proceedings have not been brought to its logical conclusion one way or the other. That notice is also not under challenge in this petition. The petition, if we may say so, is misconceived.

8. The provisional attachment order passed by the first respondent in exercise of powers under Section 83 of the CGST Act

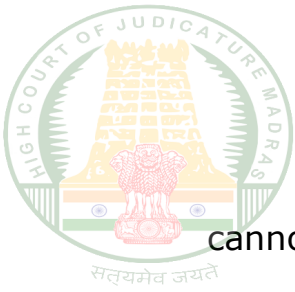


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could not be made a basis to challenge any action that may be taken in future or any order passed towards recovery of loan under the SARFAESI Act. Therefore, the prayer to that extent is misconceived and, therefore, rejected.

9. The provisions contained in Section 83 of the CGST Act make it clear that the life of a provisional attachment order is only for a period of one year and thereafter it attains its natural demise and loses its effect. Admittedly, in the present case, the provisional attachment order was issued way back on 23.2.2021. Thereafter, even according to first respondent, no provisional attachment order has been successively issued. We are, therefore, not required to answer whether or not successive provisional attachment orders could be issued in exercise of power under Section 83 of the CGST Act. We leave it to be decided in an appropriate case.

10. Since, in the present case, the provisional attachment order was passed on 23.2.2021, as per the provisions contained in Section 83 of the CGST Act, it attained its natural demise and



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cannot be said to be in force after a period of one year. The account of the petitioner, in the eye of law, stands de-attached/ defreezed and it is open to the petitioner to operate the account.

11. The petition, in the result, is partly allowed in the manner and to the extent as stated above. There shall be no order as to costs. Consequently, interim application stands closed.

Before parting with the case, we may hasten to add that we have not commented upon the remedies which the bank may take against the petitioner towards recovery of loan. Furthermore, any issue regarding correctness and validity of orders which have been passed by the first respondent with regard to the liability of petitioner as a result of reversal of credit, etc. are also left open.

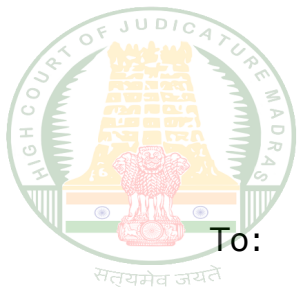
(MANINDRA MOHAN SHRIVASTAVA, CJ)

(SUNDER MOHAN,J)

04.08.2025

Index : Yes/No  
Neutral Citation : Yes/No  
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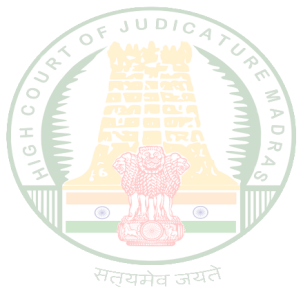


To:

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