

SUMMARY OF IMPORTANT JUDICIAL PRONOUNCEMENTS
FROM THE CHAMBERS OF ADVOCATE ANKIT KANODIA
REFERENCE NO- SKKA/104/2022

BASIC INFORMATION

IN THE MATTER OF	Pushendra Singh -vs- Superintendant, Range VI (CGST & CX) Shyambazar
NAME OF Authority	Calcutta High Court
Petition/Appeal No.	WPA No.13724 of 2019
Link to	-
Date of Order	22nd February, 2022
Relevant Section/Rule	Section 83(2) of CGST Act, 2017

FACTS IN BRIEF

The Petitioner's bank account was provisionally attached in accordance with section 83. The said attachment was made on May 13, 2019, and was not lifted till May 30, 2020. The Petitioner contended that since one year has elapsed from the date of passing of order of attachment, no order of attachment can survive after expiry of one year as per sec 83(2). Being aggrieved by the continuation of provisional attachment of the bank accounts and in absence of any other remedy, the applicant is before the High Court with the writ application.

JUDGEMENT/ORDER OF THE AUTHORITY

The Hon'ble High Court while disposing off the writ petition held as:
In confirmity with the provision contained in Sub-Section (2) of Section 83 of CGST Act and on emphasizing that no extension order has been showed by the authority on or before the expiry of said period of one year, opined that order of provisional attachment does not survive and has lost its force and cannot be continued after one year from the date of the order and thus the same was ordered to be revoked.

OUR COMMENTS

Continuing the attachment after completion of one year is violative of provisions of section 83 (2) of CGST Act,2017 and the statutory provision needs to be complied with very strictly and stringently. Noncompliance of provision by the department is a cruel or can say, an unjust treatment leading to harrassment of taxpayers which in turn hampers the normal functioning of their business, as they have been deprived of their property without authority of law. By virtue of section 83, authority concerned has been vested with very wide powers and with great power comes great responsibility and thus should be exercised diligently. Moreover the Hon'ble Apex Court in the case of Radha Krishna Industries in Civil Appeal No 1155 of 2021 dated 20.04.2021 has laid down detailed guidelines on the issue of provisional attachment of bank accounts and asset and thus not following the same would also be a contempt of Court.