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\* IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 16.04.2024

+ W.P.(C) 5407/2024 & CM APPL. 22339/2024

M/S KRISH OVERSEAS

.... Petitioner

Versus

COMMISSIONER CENTRAL TAX-DELHI WEST & ORS.

.... Respondents

**Advocates who appeared in this case:**

For the Petitioner:

Mr. Akhil Krishan Maggu, Mr. Vikas Sareen, Mr. Ayush Mittal, Ms. Maninder Kaur and Mr. Oshin Maggu, Advocates.

For the Respondents:

Mr. Ateev Mathur, Advocate for HDFC Bank.  
Mr. Anurag Ojha, Senior Standing Counsel for respondent No.1 and 2 with Mr. Subham Kumar and Mr. Vipul Teotia, Advocates.

**CORAM:-**

**HON'BLE MR. JUSTICE SANJEEV SACHDEVA**

**HON'BLE MR. JUSTICE RAVINDER DUDEJA**

**JUDGMENT**

**SANJEEV SACHDEVA, J. (ORAL)**

1. Petitioner impugns communication dated 14.08.2019 issued under Section 83 of the Central Goods and Service Tax Act, 2017 (hereinafter referred to as the 'Act') to the Branch Manager, HDFC Bank Ltd., Paschim



Vihar Branch to seize the outward movement of funds from the bank account of the petitioner bearing No. 50200033141636.

2. Learned counsel for petitioner submits that the validity of an order under Section 83 of the Act is one year and despite the passage of one year, the Bank is not permitting the operation of the said account.

3. Issue notice. Notice is accepted by learned counsel appearing for respondents No.1 and 2 as also by learned counsel appearing for respondent No.3. With the consent of parties, the petition is taken up for final disposal.

4. Section 83 of the Act, under which the impugned communication dated 14.08.2019 has been issued, reads as under:-

**“83. *Provisional attachment to protect revenue in certain cases.***

*(1) Where during the pendency of any proceedings under section 62 or section 63 or section 64 or section 67 or section 73 or section 74, 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 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).”*

5. Section 83 empowers the Commissioner to provisionally attach any



property including a bank account, belonging to a taxable person for the purposes of protecting the interest of the Government revenue, if in the opinion of the Commissioner, it is necessary to do so. Section 83(2) stipulates that every provisional attachment ceases to have effect after the expiry of a period of one year from the date said order is made under Section 83 (1) of the Act.

6. In view of Section 83 (2) of the Act, the life of an order of provisional attachment is only one year. In the instant case, the impugned communication is dated 14.08.2019 and a period of one year has elapsed from the issuance of the said communication. Consequently, the impugned order dated 14.08.2019 has ceased to be effective and cannot be any more implemented either by the respondents No.1 and 2 or the HDFC Bank i.e., respondent No.3. Accordingly, it is declared that order dated 14.08.2019 ceases to have effect. Consequently, respondent No.3, HDFC Bank henceforth cannot restrain operation of the bank account of the petitioner based solely on the basis of order dated 14.08.2019.

7. Petition is accordingly disposed of in the above terms. It is, however, clarified that this order would be without prejudice to any other order of provisional attachment issued by either respondents No.1 and 2 or any other authority communicated to the HDFC Bank. In case any such order is communicated to the HDFC Bank, the Bank shall give due credence to the same irrespective of this order.

8. Learned counsel for petitioner submits that petitioner has till date not



been communicated any other order of attachment issued either by respondents No.1 and 2 or any other authority and reserves the right of the petitioner to take appropriate proceedings against any order, if so communicated.

9. *Dasti* under signature of the Court Master.

**SANJEEV SACHDEVA, J**

**RAVINDER DUDEJA, J**

**APRIL 16, 2024**

**NA**