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Indirect Tax Alert

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Judgments under GST era

M/s. Shree Lakshmi Venkateswara General Merchants and Commission Agents v. *The State of Andhra Pradesh*[1]

Issue for Consideration

Is rejection of an appeal filed manually tenable under the GST law?

Discussion

- The Petitioner is a dealer registered under the GST law and deals in edible and non-edible oils. The Respondents issued a show cause notice ("SCN") pursuant to an inspection of the business premises of the Petitioner seeking payment of tax on account of difference in turnover. Thereafter, the Respondents passed two separate assessment orders confirming the tax demand under the CGST and SGST tax head.
- The assessment orders were not uploaded on the GST portal and therefore the Petitioner filed appeal papers against the assessment orders in person within the time limit prescribed under section 107 of the CGST Act, 2017 along with proof of payment of pre-deposit @ 10% of the disputed tax.
- A check memo was issued to the Petitioner stating that the appeal was not filed on the GST portal. The Petitioner filed its reply stating the reasons for filling an appeal manually as follows:
  - the orders were served manually; and
  - the appeal could not be filed online because the GST portal was not accessible.
- The appeal filed was rejected by the Respondents on the sole ground that it was not filed electronically through the GST portal. Aggrieved, the Petitioner filed a Writ Petition before the Hon'ble High Court.
- After considering the submissions and facts of the case, the Hon'ble High Court observed as follows:
  - Rule 108(1) of the CGST Rules, 2017 uses the phrase "either electronically or otherwise as may be notified by the Chief Commissioner" for filing an appeal. The usage of the terms "either" and "or" means that there is choice regarding the mode of filing an appeal. Furthermore, since no other mode has been notified by the Chief Commissioner, the appeal can be filed in either manner.
  - It is also pertinent to note that the use of the term "shall" in rule 108(1) of the CGST Rules, 2017 applies to filing of appeal in Form GST

[1] TS-131-AAAR(TN)-2021-GST

APL-01 but not to the term "electronically". Furthermore, the word "either" would not have been posited immediately before the word "electronically" if the term "shall" was also intended to govern the term "electronically". The Court also placed reliance on its decision pronounced in a similar matter in the case of *M/s Ali Cotton Mill* v. *The Appellate Joint Commissioner (ST)*[2].

- Referring to the provisions contained under rule 108(2) read with rule 26(1) of the CGST Rules, 2017, the Court stated that an appeal must be submitted electronically with a digital signature certificate or through an e-signature. There is an apparent discrepancy between the provisions under rule 108(1) and rule 108(2) of CGST Rules, 2017, and in such an event the benefit must be given considering the fact that this is a tax law.

Judgment

The Hon'ble High Court allowed the Writ Petition and directed the Respondents to receive, process and if there are defects, issue suitable check memos and in which case the Petitioner shall comply either electronically or manually.

Dhruva Comments:

The Hon'ble High Court has rightly pointed out the discrepancy with respect to manner of filing appeal as prescribed in rule 108(1) and rule 108(2) read with rule 26(1) of the CGST Rules, 2017. Thus, both modes of filing an appeal (electronically or manually) shall remain valid unless specifically amended by law.

M/s Shrinandhidhall Mills India Private Limited v. *Senior Intelligence Officer, Director General of GST and Ors.*[3]

Issue for Consideration

Whether the remittances made by the Petitioner during investigation in terms of section 74(5) of CGST Act, 2017 amounts to 'self-ascertainment' and can the Petitioner seek a refund of the tax paid?

Discussion

- The Petitioner is a dealer in pulses, dhals and flour and manufactures food products, grain mill products and dhal. The Petitioner is registered as a Small-Scale Industry under the MSME Act and is registered under GST.
- An investigation was conducted at the premises of the Petitioner on October 22, 2019 and various documents and registers were seized. In the course of that investigation, a statement was recorded wherein it was accepted that there were mistakes in computation of GST and assurance were given to the respondents that the liability would be discharged at the earliest along with applicable interest.
- This undertaking has been signed by the Managing Director on October 22, 2019. In line with the undertaking, the Petitioner had remitted a sum of ₹1 crore on the same day in Form GST DRC-03 as per section 74(5) of the CGST Act, 2017 read with rule 142(2) and (3) of CGST Rules, 2017 and a scheme of payment has been set out for payment of balance tax liability. The second instalment of the tax was paid on October 30, 2019.
- However, on November 5, 2019, the Managing Director of the Petitioner wrote a letter to the tax authorities retracting their statement given during investigation as it had been forcibly made under the influence of coercion, threat and in a state of panic

[2] 2021-VIL-194-AP
[3] 2021-VIL-271-MAD

without providing any workings of determination of tax liability.

- The Petitioner also stated that they were not liable to pay tax and they were forced to accept the tax liability and the payment was not voluntary.
- The dispute revolves around the issue of whether the products sold are branded or unbranded. If unbranded, then there is no liability to GST. While the Petitioner uses the trademark Shivam, Trishul, Cycle and Nandhi, they claim that these are not registered trademarks and moreover that the Petitioner voluntarily forgoes any actionable claim or enforceable right in regard to the usage of the aforesaid trademarks.
- The legal issue raised is whether the Petitioner is entitled to the refund of the amounts paid during investigation wherein the revenue has relied upon the provisions of section 74(5) of the CGST Act, 2017.
- The provisions of sub-section (5) and (6) of section 74 of the CGST Act, 2017 provide an opportunity for the assessee and / or the revenue to ascertain the proper amount of tax, interest and penalty for closure of the proceedings prior to issue of show cause notice on the basis of either a **self-ascertainment** by an assessee and acceptance of this by the revenue or vice versa.
- If there is no closure of the proceedings as contemplated under section 74(5) and (6) of the CGST Act, 2017 the proper officer has the option of continuing with the proceedings and issue a SCN.
- In the present case, the Petitioner has made the payment of tax liability through Form DRC-03 which is an intimation of payment made voluntarily. Therefore, revenue is contending that the said payment is voluntary by the Petitioner.
- The Petitioner has relied on various judicial precedents which state that any amount collected during investigation should be refunded in absence of determination of demand.
- Revenue contended that the said decisions have been rendered under the erstwhile Central Excise and Service Tax laws. Further, prior to the introduction of the GST Act, there were many instances where tax officials were infamous for collecting advance payments of tax from assessees, many a time under coercion, and during investigation itself.
- There are several decisions of Courts wherein such acts have been frowned upon, with Courts consistently holding that no amounts may be collected prior to an actual determination of an amount payable by an assessee. With the introduction of section 74(5), it is the case of the revenue that the collection of amounts in advance has attained statutory sanction, provided these are voluntary in Form GST DRC-03.
- Thus, according to the revenue, the remittances made by the Petitioner during investigation in terms of section 74(5) amount to '*self-ascertainment*'.
- After considering the facts of the case and the contentions of the parties, the Hon'ble High Court observed as follows:
  - The basis of argument of revenue is flawed as the Court is not in agreement with the submission that section 74(5) is a statutory sanction for advance tax payment, pending final determination in assessment.
  - The ratio of the decisions relied by the Petitioner would continue to be applicable.
  - To establish that the tax paid has been self-ascertained by the taxpayer, the records must contain material to show that:
    - the assessee accepts the ascertainment made by it;
    - the revenue has applied its mind and arrived at the position that the self-ascertainment by the assessee is inadequate;
    - an ascertainment by the officer of the balance tax liability, if any, after taking note of the amount paid by the Petitioner.

- However, the statement recorded at the time of search admitting GST liability and setting the scheme of instalments was retracted by the Petitioner on November 05, 2019 and the Petitioner has consistently and vehemently contested the liability to tax. Importantly, the records also do not contain any ascertainment by the officer and, with this, the requirement of 'ascertainment' under section 74(5) of the CGST Act, 2017, fails.
- Merely because an assessee has, under the stress of investigation, signed a statement admitting tax liability and has also made a few payments as per the statement, this cannot lead to self-assessment or self-ascertainment.
- Reliance was also placed on various other judicial precedents in this regard.

Judgment

The Hon'ble High Court has issued the writ of mandamus directing the Revenue to refund the amount collected.

Dhruva Comments:

Payment of ad-hoc amounts during the course of investigation has been a practice continuing from the pre-GST era. The decision has re-emphasised the principle that no collection can be insisted before final determination of liability is done. There should be adequate records to substantiate ascertainment of tax liability under section 74 of the CGST Act, 2017. Payments made under force or duress during investigation do not tantamount to admission of tax liability / tax ascertainment.

Rulings under GST era

M/s. Kou-Chan Technologies Pvt. Ltd. – Authority for Advance Ruling, Karnataka[4]

Issue for Consideration

Applicability of GST on various charges collected by the taxi aggregator from the passengers in relation to the transportation services.

Discussion

- The Applicant proposes to operate a mobile based taxi aggregation service on a pan India basis. The business model consists of three parties namely (i) Applicant, the 'taxi aggregator'; (ii) 'Associate Partner' ("AP"), an In-charge for each district (iii) 'taxi driver / owner'. The Applicant does not own any vehicle, nor does he employ the driver.
- The AP is responsible for onboarding and scaling up of business by registering passengers, drivers on the app. The AP is responsible for wellbeing of passengers and drivers and handle accident situation, legal cases, resolving issues at local level, etc. as the Applicant cannot be present everywhere. AP gets a certain percentage of ride fare for his services.
- The breakup of the gross fare collected by the Applicant from the passenger is as follows:

Sr. No.	Particulars	Amount (₹)
1	Basic fare paid to vehicle owner	100
2	Add: pick up cost or incentive to owner	12
3	Add: share of participating service providers:	
3.1	Applicant service charges	7.90
3.2	AP charges	0.10
4	Payment gateway charges for loading money to app wallet by	2

[4] KAR ADRG 22 / 2021 dated April 07, 2021

	passengers, borne by the Applicant	
	Total	122
5	GST @ 5% on basic fare	5
6	Fare collected from passenger	127

- The Applicant also provides insurance coverage to the passengers and the premium is collected from the passengers. There is also a 'Goodwill bonus' (i.e. tip) which is paid by the passengers to the drivers after the end of the ride which is voluntary. This amount is credited to the app wallet of the driver on which the Applicant collects the service charges (3.1 above) and also GST on gross value.
- In addition, when a passenger requests for a ride, a desired indicative fare is sent to the driver. The driver may either accept the fare or quote their offer and counteroffer which can be a 'fixed amount', 'meter rate' or 'discount on meter rate'. **These are within the regulations framed by the Karnataka Government.** The Applicant charges the driver ₹0.30 paise per bid, which is a 'participation fee' collected by the Applicant, irrespective of the bid being successful or not.
- In light of the above business background, the Applicant approached the Authority for Advance Ruling ("the Authority") on various issues. The Authority gave its decision on the questions raised:

Whether various supplies of the Applicant qualify as composite supply

– The Applicant is providing two taxable services i.e. an online platform and insurance coverage to passengers. The insurance coverage is optional and online platform is neither related nor ancillary to insurance service. Thus, they are not naturally bundled and not supplied in conjunction with each other in the ordinary course of business. Accordingly, such services are not composite supply in terms of section 2(30) of the CGST Act, 2017.

Whether 5% GST is to be paid on the pickup charges paid to the driver / owner

– The driver provides the pickup service to passenger and charges for the same are collected by the Applicant through the e-commerce platform. The driver needs to pick up the passenger before the start of the taxi service and hence the pickup service is incidental to the main service of transportation of passenger. Thus, the pickup charges and basic fare are part of the passenger transportation service.
– Since the Applicant is liable for paying the tax in respect of passenger transportation service provided through its e-commerce portal in terms of section 9(5) of the CGST Act, 2017 read with notification no. 17/2017-Central Tax (Rate) dated June 28, 2017, the tax should be paid on the pickup charges at the rate of 5%.

Whether there are any services provided by the AP to the Applicant. If yes, what is the rate of GST applicable on the same

– The AP is responsible for scaling of business and to take care of the wellbeing of the drivers and passengers during certain events. The said services are not a part of passenger transportation services through e-commerce operator and not covered under section 9(5) of the CGST Act, 2017.
– Though the Applicant collects the AP charges from the passenger, but the passenger is not aware about the nature of the various charges collected from him.
– The AP is providing services to the Applicant which will be chargeable to tax at 18% under sr. no. 23(ii) of notification no. 11/2017-Central Tax (Rate) dated June 28, 2017 ("rate notification").

Whether the bidding charges are taxable at 5% or 18%

– The bidding charges are outside the fold of basic fare i.e. it is not related to the service provided by the driver to the passenger through the e-commerce operator. Therefore, 5% GST is not applicable.

- It is covered under sr. no. 23(ii) of the rate notification and taxable at 18%.

Whether the goodwill bonus on which service charges is collected by the Applicant, is liable to GST

- Goodwill bonus is a voluntary payment made when the passenger is happy with the service provided by the driver. It is outside the basic fare charged to the passenger.
- The service charges collected for facilitating the payment of goodwill amount to drivers is consideration in terms of section 2(31) of the CGST Act, 2017 and liable to GST at 18% under sr. no. 23(ii) of the rate notification.

Whether GST is to be paid on the charges collected for cancellation of a trip

- The activity of tolerating the cancellation by the Applicant for a consideration is a supply of service as per para 5(e) of Schedule II of the CGST Act, 2017 and liable to tax at 18%.

Whether the insurance charges come under composite supply

- As per the terms and conditions, the passenger has to give their specific consent for the insurance coverage before the start of the trip and is therefore optional. Accordingly, it is not a composite supply.

Dhruva Comments:

The applicability of GST / Service tax on the aggregator services has been quite evolving considering the various types of business models in vogue. Further, every state has their own set of regulations to govern such transactions. Accordingly, the tax implications need to be evaluated taking cognisance of the State regulations. Further, one also needs to take into account the terms and conditions between the aggregator, the actual service provider and the recipient so as to determine the applicability of taxes.

M/s. Bharat Earth Movers Limited – Authority for Advance Ruling, Karnataka[5]

Issues for Consideration

- If each cost centre undertakes predefined activities, can the supplies made by different cost centres under a single contract be regarded as a composite supply?
- If yes, can a refund be claimed of the excess taxes paid by treating each supply as an independent supply?

Discussion

- The Applicant is a Public Sector Undertaking and is also one of the leading manufacturers of rail and metro coaches.
- The Applicant was a successful bidder in the tender invited by the Bangalore Metro Rail Corporation Ltd ("BMRCL") for supply of 150 numbers of Standard Gauge Intermediate Cars ("Cars") which are compatible and suitable for integration with the existing trains and installation and commissioning of Cars supplied, including training, supervision and maintenance, supply of spares, preparation of manuals etc.
- The supply made by the Applicant to BMRCL involves both the supply of goods and services which are to be supplied in a phased manner from the various cost centres ('A' to 'H') (*cost centre F is deleted in the contract*) of the Applicant. For this purpose, the Applicant procures imported as well as indigenous goods. Further, the contract price is inclusive of duties and taxes paid at the time of procurement of goods.
- The Applicant was raising separate invoices on BMRCL based on the nature of the supplies made by the respective cost centres. GST was being charged at the rate of 5% / 12% / 28% in respect of supply of various goods and the supply of services were being taxed at 18%. The GST rate on supply of Cars was 12%.

[5] 2021-VIL-192-AAR

- BMRCL disputed the levy of GST charged by the Applicant for supplies made vide cost centres D, E and G (i.e.18% for rendition of various services in relation to the Cars and 18% / 28% in respect of supply of spares from cost centre G) stating that the said supplies are composite in nature and would be taxable at the rate applicable to principal supply of Cars.
- The Applicant paid the GST as per the invoices raised upto June 2019, however the differential GST was not paid by BMRCL to the Applicant.
- Accordingly, the Applicant approached the Authority for Advance Ruling ("the Authority") to contend that supply of goods and services from the respective cost centres should be treated as independent supplies on the following grounds:
  - The intention of the parties to the contract is of paramount importance to determine the scope of supplies and its taxability. In the present case, the scope of activities to be undertaken are clearly demarcated in the contract and accordingly each cost centre is making separate supplies and issuing separate invoices for the supply of each of the goods / services.
  - The contract categorically stipulates that scope of each cost centre is separate and accordingly the obligations and responsibilities of each of the cost centres should be based on their independent scope of work.
  - The activities undertaken by cost centre C is supply of Cars to BMRCL and clearly falls in the ambit of supply of goods defined under section 2(52) of the CGST Act, 2017. The said supply falls under HSN 8603 and leviable to tax at 12% in terms of notification no. 01/2017-Central Tax (Rate) dated June 28, 2017 (as amended). Further, the invoices are being raised based on achievement of milestones and thus, the time of supply of goods should be the date for raising of invoices.
  - Cost centre D is involved primarily in the activity of commissioning and installation of the metro rails while cost centre E undertakes the activity of rectifying the defects observed during trial runs and submission of related documentation in relation thereto. Both the activities undertaken are a supply of service classifiable under HSN 998739 and the rate of tax applicable would be 18% under notification no. 11/2017-Central Tax (Rate) dated June 28, 2017. The time of supply for the said services would be the date of the issue of invoice as per the milestones achieved.
  - Supplies effected by cost centre G (i.e. supply of spares) is on need basis which is independent of the supplies made by other cost centres. It is completely contingent upon the requirement of BMRCL. The classification / rate of tax on supply of such goods is based on the nature of spares supplied. The time of supply for the aforesaid supplies would be the date of issue of invoice.
  - The Applicant placed reliance on the circular no. 47/21/2018-GST dated June 8, 2018 wherein it was clarified that in relation to servicing of cars which involves both supply of goods and services and the values of such supplies are shown separately, the goods and services would be liable to tax at the rates as applicable to such goods and services separately.
  - Further, bundling of supply is not relevant in the present case as the interdependence of each transaction is absent.
  - Even though there is one single contract, but the obligations of supplies envisaged therein are distinct and separable, in such case the courts have interpreted it to be two separate activities under the same contract which are taxable separately on their own merits with different classification and rates. Reliance was placed on various advance rulings[6] issued in this regard.

[6] *Kalyan Toll Infrastructure Ltd.* (2019-VIL-428-AAR); *Randox Laboratories India Private Limited* (2019-VIL-435-AAR)

- Alternatively, the supply of goods and services from cost centres D and E should be treated as composite supply with the supply of Cars undertaken by cost centre C as the principal supply.
- With reference to above, if the supplies under different cost centres are to be considered inter-dependent and naturally bundled, the supply of goods and services from cost centre D and E can be treated as composite supply with the supply of Cars undertaken by cost centre C as the principal supply and the rate of tax would be 12%. Further, the time of supply would be the time of completion of each milestone. Also, the Applicant should be eligible for the refund of the additional tax paid.

- The Authority, after considering the aforesaid submissions by the Applicant, and after reviewing the contract observed as follows:
  - The contract is a single contract for the supply of goods and services related to those goods supplied like installation, integration, commissioning, training and maintenance in relation to supply of goods. The splitting of the entire contract is only for the purpose of milestone. Further, the contract cannot be separated and awarded to different persons since the nature of the spares and services are exclusive to the main supply, it cannot but be awarded to the same person.
  - After analysis of clause 4 of the contract, which is related to contract price and completion time, it is understood that the total contract price is split up into separate contract prices on cost centre basis. There are specified charges for cost centres A to E. Cost centre G, which is related to spares, the price is based on the actual quantity of supplies made and cost centre H is optional. Thus, the total contract price is not a rigid one, but a variable one, based on the supplies made at periodic intervals and hence the total contract price can be treated as the variable price.
  - Supply of spares from cost centre G would be a separate supply which is supplied in conjunction with the principal supply.
  - Further, para 6 of attachment B of the contract, states that the contract is divided into various activities to enable cash flows to the contractor according to the several phases involved in the supply of Cars.
  - Hence, the entire supply done under cost centre A to G are to be treated as composite supply with principal supply as sale of Cars.
  - There can be multiple supplies in a contract when the parties intend to treat them as different supplies. In the present case, the intention of the parties is to make multiple supplies an integral part of the same supply contract for "Supply of 150 Standard Guage Intermediate Cars".
  - The advance rulings relied upon by the Applicant are not applicable in the present case since they are applicable to that specific Applicant and the department only.
  - The time of supply would be the date of issue of the invoice in terms of section 12 read with section 31(4) and 31(5) of the CGST Act, 2017.

Ruling

- Supplies made by cost centres A to G are to be treated as composite supplies as per section 8 of the CGST Act, 2017 with supply of Cars being the principal supply.
- The time of supply would be the date of issue of the invoice as per section 12 read with section 31(4) and (5) of the CGST Act, 2017.
- In respect of claim for refund of excess payment of tax, the said question is outside the scope of section 97(2) of the CGST Act, 2017.

Dhruva Comments:

There has been a plethora of rulings under GST on the subject issue. One needs to determine the real nature and substance of the transaction and not merely the form of the transaction to decide the classification of

supply as composite or otherwise. A transaction needs to be seen in its entirety and the method of invoicing should not be the sole factor to determine whether there is a single supply or separate supplies.

It would also be interesting to evaluate as to whether the transaction could be regarded as a composite supply if the work which was being undertaken by different cost centres were distinct persons under GST.

Guidelines

Provisional attachment of property under section 83 of the CGST Act, 2017

- The CBIC has issued guidelines[7] in respect of provisional attachment of property under section 83 of the CGST Act, 2017. These guidelines are being issued in lieu of the observations made by various Courts on the modalities of implementation of the said section. The guidelines issued in brief are as follows:

Grounds for provisional attachment

- There must be pendency of a proceeding against a taxable person under the sections mentioned in section 83.
- The commissioner must have formed an opinion that it is necessary to provisionally attach the property belonging to the taxable person for the purpose of protecting the interest of the revenue. The commissioner must exercise due diligence and carefully examine all the facts of the case to believe that the taxable person may dispose of the property, if not attached provisionally.
- The basis on which the opinion has been formed should be duly recorded.

Procedure for provisional attachment

- The commissioner must pass an order in FORM GST DRC - 22 with proper document identification number mentioning the details of property attached.
- A copy of the order should be sent to concerned revenue authority or transport authority or bank or relevant authority to place encumbrance on the property.
- A copy of such attachment order must be provided to the taxable person as early as possible so that objections if any to the said attachment can be made by taxable person within seven days prescribed under rule 159 of the CGST Rules, 2017. An opportunity of being heard should be provided.
- The commissioner if satisfied that the property was or is no longer liable for attachment, he may release such property by issuing an order in Form GST DRC-23.
- Each provisional attachment shall cease to have effect after the expiry of a period of one year from the date of the order of attachment.

Cases fit for provisional attachment

- The following are the type of cases, where provisional attachment can be resorted to, subject to the specific facts of the case:
  - Supply of any goods or services or both without issue of any invoice, or in violation of the provision of act or the rules made there under, with an intention to evade tax; or
  - Any invoice or bill issued without the supply of goods or services or both in violation of the provision of the act or rules made thereunder; or
  - Input tax credit availed fraudulently without any invoice or bill; or
  - Any amount collected as tax but failed to pay the same to the government beyond a period of three months from the date on which such payment becomes due; or
  - Fraudulently obtained refund; or
  - Input tax passed fraudulently to the recipient, but the tax has not been paid.

[7] CBEC-20/16/05/2021-GST 359 dated February 23, 2021

Types of property that can be attached

- The value of the property attached should not be excessive but to the extent it is required to protect the interest of the revenue.
- The property attached should be belonging to the taxable person against whom proceedings have been initiated under section 83.
- Moveable property should not be attached if immovable property is available to safeguard interest of revenue.
- As far as possible, it should be ensured that the attachment does not hamper the normal business activities of the taxable person.
- In case where any movable property, including bank accounts are attached, they may be released, if the person offers any immovable property to protect the interest of the revenue subject to the same being free from any subsisting charge, liens, mortgage or encumbrances and not involved in any legal dispute.

Investigation and Adjudication

- Though the provisional attachment is to protect the interest of revenue, it may also affect the working capital of the person. Therefore all such cases should be investigated and adjudicated at the earliest well within the period of attachment.

Share in property

- If the property to be attached belongs to the taxable person and another as co-owners, the provisional attachment shall be made by order to the concerned person prohibiting him from transferring the share or interest or charging it in any way.

Property exempted from attachment

- All such property as is by the Code of Civil Procedure, 1908 (5 of 1908), exempted from attachment and sale for execution of a decree of a Civil Court shall be exempt from provisional attachment.

- The aforesaid guidelines are based on existing provisions of section 83 of CGST Act, 2017 and shall stand modified once the amended section 83 comes into effect from a date to be notified.

Dhruva Comments:

In the recent past, the GST authorities have been unearthing cases of fake invoices / fraudulent claims of input tax credit and invoking provision of provisional attachment.

However, each case cannot be looked upon suspiciously to attach the property as it impacts functioning of the business of assessee. It should not be used in a routine manner even on interpretational issues. Also, use of such power should be exercised in a judicious manner.

Furthermore, various Hon'ble High Courts have also made observations on the subject such as the properties being attached for more than 1 year which is beyond the permissible limit, bank accounts being attached of other family members in addition to that of the concerned person, value of properties attached being more than the tax dues, etc. Accordingly, the above guidelines would certainly be useful when the provisions of section 83 of the CGST Act, 2017 are invoked.

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