



## Dimensions – 83<sup>rd</sup> Edition

### Judgment under GST era

#### *M/s UFV India Global Education v. Union of India and Others*<sup>1</sup>

#### Issue for Consideration

What is the validity of the attachment order once the proceedings under section 67 is already complete and no proceedings under section 63 or 74 of the CGST Act, 2017 have been initiated?

#### Discussion

- The Petitioner is engaged in carrying out academic programmes of University of Fraser Valley, Canada (“UFV Canada”) in collaboration with Goswami Ganesh Dutta Sanatan Dharma College and Punjab University in India.
- The officials of Directorate General of Goods and Services Tax Intelligence (“DGGSTI”) visited the premises of the Petitioner and recorded the statements of its Associate Directors. A panchnama was also prepared on the same date, reflecting the fact that the authorised persons of the Petitioner cooperated and provided access to all the documents.

- Thereafter, an email was sent to the Petitioners communicating that their bank account was provisionally attached under section 83 of CGST Act, 2017.
- The Petitioner filed an objection under rule 159(5) of the CGST Rules, 2017 against the provisional attachment order. The Respondents passed the order for part release of the bank account and rejected the release on the grounds that the Petitioner does not have any property other than the bank account
- Aggrieved by this order, the Petitioner filed the present Writ Petition before the Hon’ble High Court.
- The Petitioner submitted as follows:
  - The order of provisional attachment under section 83 of CGST Act, 2017 was passed on account of proceedings initiated under section 67 of CGST Act, 2017.
  - The proceedings under section 67 of the CGST Act, 2017 have concluded and no other proceedings under section 63 or 74 of the CGST Act, 2017 have been initiated thus far and accordingly the attachment order is redundant.

<sup>1</sup> 2020-VIL-440-P&H



- Reliance was also placed upon the judgment pronounced by the Hon'ble Gujarat High Court in case of *Kushal Ltd. v. Union of India*<sup>2</sup>; wherein it was held that in absence of any proceedings under section 62, 63, 64, 67, 73 or 74 of CGST Act, 2017, the order of provisional attachment of bank account under section 83 of CGST Act, 2017 is without the authority of law and unsustainable.
- The Respondent submitted that the proceedings under section 67 of CGST Act, 2017 shall culminate into proceedings under section 63 or 74 of the CGST Act, 2017 and therefore the proceedings under section 83 of the CGST Act, 2017 have been initiated.
- After perusing the facts of the case, the Hon'ble High Court observed as follows:
  - The bank account of the Petitioner was attached under section 83 of the CGST Act, 2017 on initiation of proceedings under section 67 of the CGST Act, 2017.
  - The proceedings under section 67 of CGST Act, 2017 have concluded and no proceedings under section 63 or 74 of the CGST Act, 2017 have been initiated thus far.
  - A property or a bank account can be provisionally attached in cases involving pending proceedings under section 62 or 63 or 64 or 67 or 73 or 74 of the CGST Act, 2017. Furthermore, it is not stated anywhere that the property or bank account can remain attached if proceedings under section 67 of the CGST Act, 2017 culminated into proceedings under section 63 or 74 of the CGST Act, 2017;
  - The Court observed that the provisional attachment shall come to an end with completion of proceedings initiated under section 63 or 64 or 67 or 73 or 74 of the CGST Act, 2017 as the pendency of the proceedings is the sine qua non.
  - Thus, the impugned orders passed by the Respondent are liable to be quashed as the

proceedings initiated under section 67 of the CGST Act, 2017, are already completed.

### Judgment

The Hon'ble High Court set aside the provisional attachment orders with a direction to the Respondent to release the bank account.

### **Dhruva Comments:**

The power to attach bank account or property on a provisional basis is permitted under section 83 of the CGST Act, 2017 to safeguard the interest of revenue during pendency of proceedings under section 62, 63, 64, 67, 73 or 74 of the CGST Act, 2017. Such provisional orders passed shall stand concluded even where it culminates into proceedings under other provisions, unless new orders are passed for attachment.

## **Notifications under GST**

### ***Extension of time limit for sale of goods sent on approval outside India***

- The Government issued notification no. 35/2020-Central tax dated April 3, 2020 (“the said notification”) whereby the timelines for undertaking various compliances under the law were extended.
- The Government has now inserted a new proviso to the said notification, vide notification no. 66/2020-Central Tax dated September 21, 2020, to state that any time limit for completion or undertaking compliance of any action by any person under section 31(7) of the CGST Act, 2017, in respect of goods taken out of India on approval for sale or return, falling between March 20, 2020 and October 30, 2020 and if the completion or compliance of action has not been done, then the time limit in such cases shall be extended to October 31, 2020.

<sup>2</sup> 2019-VIL-619-GUJ



### **Waiver of late fees on GSTR-4 and GSTR-10**

- The Government vide notification no. 67/2020-Central Tax dated September 21, 2020, has waived the late fees, as mentioned below, payable on the filing of GSTR-4 (applicable to composition dealers) for the quarters from July 2017 to March 2019<sup>3</sup> subject to the returns being filed between September 22, 2020 to October 31, 2020:
  - No late fees if the amount of tax payable is NIL;
  - Late fees in excess of ₹500 (CGST + SGST) shall be fully waived.
- The Government vide notification no. 68/2020-Central Tax dated September 21, 2020, has waived the late fees payable under section 47 of the CGST Act, 2017, which is in excess of ₹500 (CGST + SGST), in case of late filing of GSTR-10, subject to the return being filed between September 22, 2020 to December 31, 2020.

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<sup>3</sup> A corrigendum was issued subsequently to read "March 2020" as "March 2019"





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