

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/SPECIAL CIVIL APPLICATION NO. 19216 of 2021

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M/S. UTKARSH ISPAT LLP
Versus
STATE OF GUJARAT

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Appearance:

MR.AVINASH PODDAR(9761) for the Petitioner(s) No. 1
for the Respondent(s) No. 2,3,4

ADVANCE COPY SERVED TO GOVERNMENT PLEADER/PP(99) for the
Respondent(s) No. 1

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CORAM:HONOURABLE MS. JUSTICE SONIA GOKANI
and
HONOURABLE MS. JUSTICE NISHA M. THAKORE

Date : 17/12/2021

ORAL ORDER
(PER : HONOURABLE MS. JUSTICE SONIA GOKANI)

1. The petitioner is before this Court seeking direction against the respondent No. 3 to release the provisional attachment of the bank accounts, plant & machinery, factory premises etc on the ground that the provisional attachment made is de hors the provisions of Section 83 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the CGST Act) and Gujarat Goods and Services Tax Act, 2017.

2. It appears that search proceedings had been carried under sub-section (2) of section 67 of the CGST Act at the registered premises of the petitioner and residential premises of the petitioner as well as the premises of the staff and consultants. The allegation is to the effect that the petitioner has availed Input Tax Credit on the basis of fake invoices issued by fictitious firms without any movement of goods.

Respondent No. 3 has issued multiple form DRC-22 on 25.11.2021 along with reasons of attachment and provisionally attached the properties (movable and immovable) under section 83 of the CGST Act, 2017.

3. What has bothered the petitioner is that not only his authorized representative had appeared before the respondent No. 3 pursuant to the note issued by the respondent No. 3 but he has also raised the serious objections against the action of the authorities. The petitioner is aggrieved since the petitioner has to make payment of due salary to around 150 employees and the electricity bills and the liability of GST. The objections raised by the petitioner under rule 159(5) of the CGST Rules have not been attended to and the petitioner is unable to continue his business operations.

4. The petitioner has given a chart showing the worth of his movable and immovable properties and the possible statutory liability, if at all, that is finalized by the authorities. He therefore has urged that the business transaction should be permitted and non-attending to his grievances within the statutory time period is the reason for him to approach this Court with the following reliefs:

(a) To quash the FORM GST DRC-22 dated 25.11.2021, 26.11.2021 and 27.11.2021 issued by the respondent No. 3 de hors the provisions of section 83 of the CGST Act, 2017

(b) to direct the respondent No. 3 to

release the provisional attachment of the Stock, bank accounts including fixed deposits and the sundry debtors which have been provisional attached to allow the petitioner to conduct business operations smoothly;

(c) To issue a writ of mandamus or any other appropriate writ, order or direction, directing the Respondent No. 4 to lift the debit freeze and allow the petitioner to conduct business operations;

(d) To issue a writ of mandamus or any other appropriate writ, order or direction, as an ad-interim relief, to allow the petitioner to maintain the stock and debtors balance at Rs.1,91,41,848/- & Rs.9,40,00,000/- respectively and subsequently allow it to conduct business operations with stock and debtors beyond the above values;

(e) to issue order(s), direction(s), writ(s) or any other relief(s) as this Hon'ble Court deems fit and proper in the facts and circumstances of the case and in the interest of justice;

(f) to award costs of and incidental to this application be paid by the Respondents;

5. We have heard learned advocate Mr. Poddar who has drawn our attention to the Rule 159 more particularly 159 (5) and (6). We notice that the objections have been filed by the petitioner well within time. The commissioner has also afforded opportunity of hearing. However, he needs to pass an order which since has not come, the petitioner is before this Court.

6. Let such order be passed within 3 days. Any further actions on the part of the respondents if aggrieved by the outcome shall be permissible under the law.

7. With these observations, the present application is disposed of accordingly.

8. Over and above the regular mode of service Direct service TODAY is permitted through speed post as well as e-mode.

(SONIA GOKANI, J)

(NISHA M. THAKORE, J)

SHRIJIT PILLAI