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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 11683/2023**
CHAMAN GOEL Petitioner

Through: Mr. Vikas Sareen,
Mr. Akhil Krishnan
Maggu, Ms. Maninder
Kaur & Ms. Oshin Maggu,
Advs.

versus

**COMMISSIONER, CENTRAL GOODS
AND SERVICE TAX & ORS.** Respondents

Through: Mr. Harpreet Singh, SSC
with Ms. Suhani Mathur &
Mr. Jatin Kumar Gaur,
Advs.
Mr. Yashu Rustagi, Adv.
for R5

CORAM:

**HON'BLE MR. JUSTICE VIBHU BAKHRU
HON'BLE MR. JUSTICE AMIT MAHAJAN**

ORDER
05.09.2023

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CM APPL. 45610/2023 (for exemption)

1. Exemptions allowed, subject to all just exceptions.
2. The application stands disposed of.

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3. The petitioner has filed the present petition, impugning the communications dated 25.10.2021 and 27.01.2022 (hereafter '**impugned communications**'), issued by the respondent under Section 83 of the Central Goods and Services Act, 2017 (hereafter '**CGST Act**'), freezing the following bank accounts of the petitioner:

S. No.	Bank Account No.	Bank Name & Branch
1	10055058714	IDFC First Bank Ltd., Punjabi

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		1 branch, New E
2	308882626980	RBL Bank Ltd., West Patel Nagar branch, New Delhi
3	34901000021336	Indian Overseas Bank, Roop Nagar branch, New Delhi
4	7044698322	Indian Bank, Naraina branch, New Delhi

4. One year has elapsed since the impugned communications have been issued under Section 83 of the CGST Act and, therefore, in terms of Section 83(2) of the CGST Act, the same are no longer operative.

5. The Board has also issued an advisory dated 02.09.2023, *inter alia*, stipulating the procedure to be followed where the period of one year has elapsed since the issuance of orders of provisional attachment. The relevant paragraphs of the said advisory are set out below:

“2. The section 83(2) of CGST Act, 2017 states – “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).” Where such provisions apply, say in the provisional attachment of bank account, there are instances noticed where person concerned filed writ petition seeking that Commissioner should also follow up by issuing intimation of release of such provisional attachment because Banks/relevant authority ask for such communication. Such matters have come up before the Hon’ble High Court of Delhi.

3.1 The matter has been examined in consultation with the policy wing. It is noted that in terms of the legal position of said section 83(2) of the Act, read with said rule 159, in effect, the property is no longer liable to provisional attachment, however, it requires further consultation and actions to incorporate a prescribed language for such type of release/restoration of provisional attachment in a specified Form (like GST DRC-23).



3.2 Therefore, for the convenience of taxpayers, the Board prescribes the procedure that in such types of situations, the Commissioner shall issue communication/an intimation to the concerned authority/bank, drawing attention to the particulars of the Order/Form DRC-22 (which made the provisional attachment) and the provisions of section 83 (2) of the CGST Act, 2017, and further indicating the release/restoration of the relevant property/account, in terms of those provisions. This intimation shall be copied to the person concerned. This procedure be implemented immediately, including for dealing with similar pending cases.”

6. In view of the above, the petitioner’s challenge to the impugned communications, issued under Section 83 of the CGST Act are academic. The said orders are no longer operative.

7. In view of the above, the concerned Banks (Respondent Nos. 2 to 5), shall not interdict the operation of the bank accounts, on account of the impugned communications. The concerned Officer is also directed to follow the procedure as prescribed in the advisory dated 02.09.2023, as set out above.

8. The petition is disposed of in the aforesaid terms.

VIBHU BAKHRU, J

AMIT MAHAJAN, J

SEPTEMBER 5, 2023

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