Goisu Realty Pvt. Ltd. vs State of Maharashtra & Ors.

Provisional attachment of bank account under Section 83 of the MGST Act, 2017 in relation to alleged wrongful availment of Input Tax Credit under Section 17(5)(d). Scope and conditions for exercising power of provisional attachment when dispute is purely

Date of Order: January 31, 2025
Case Law No: GIB-BHC-2025-35
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

Case Facts:

The petitioner challenged an order dated 28 January 2025 passed under Section 83 of the MGST Act attaching its bank account.

The department alleged wrongful availment of Input Tax Credit (ITC) under Section 17(5)(d) and initiated proceedings under Section 67.

The petitioner contended that the issue was purely legal and relied on judicial precedent and CBIC guidelines.

It was argued that the attachment severely impacted business operations and lacked proper justification.

Court Decision:

The Court held that the power under Section 83 is drastic and must be exercised strictly in accordance with statutory conditions.

It observed that no material was placed on record to show that the petitioner was likely to defeat the demand or that attachment was necessary to protect revenue.

The impugned order was found to be based on insufficient reasoning and amounted to a colourable exercise of power.

Upon instructions, the State agreed to withdraw the attachment order.

The Court set aside the order and directed immediate operation of the bank account.

Cases Referred by Court:

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- *Radha Krishan Industries vs State of Himachal Pradesh*
- *Safari Retreats* (Supreme Court judgment referred in context of ITC eligibility)

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