

Principal Commissioner of Central Tax, Bangalore East & Anr. v. M/s Narasimhan Engineering Contractors Pvt. Ltd. & Anr.

Whether a pre-decisional hearing is required before provisional attachment under Section 83 of the CGST Act, and whether summons under Section 70 amounts to "initiation of proceedings" enabling attachment.

Date of Order: September 10, 2025
Case Law No: GIB-KHC-2025-69
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CASE DESCRIPTION / SUMMARY

Background

The assessee, engaged in construction services, did not comply with summons under Section 70. Alleging misuse of ITC, the department provisionally attached its ICICI Bank account on 29.01.2025, reciting that proceedings under Sections 74 and 122 had been initiated. The learned Single Judge quashed the attachment for want of a pre-decisional hearing, relying on K-9 Enterprises. The Revenue appealed, confining the challenge to the bank attachment.

Final Verdict

On the first point, the Division Bench held that Section 83, read plainly in line with CIT v. Calcutta Knitweaves, does not require a pre-decisional hearing even by implication; the statute provides a post-attachment hearing through objections under Rule 159(5), and K-9 Enterprises did not concern Section 83. To that extent the Revenue succeeded. On the second point, the Revenue produced no material showing initiation of proceedings under Sections 74 and 122, and argued that summons under Section 70 itself constituted proceedings. Applying Armour Security (India) Ltd. (SC), where summons was held to be only a step in an inquiry, the Court held that **the mere issuance of summons under Section 70 of the CGST Act is not sufficient to invoke provisional attachment under Section 83**. Even though the order-sheet showed an opinion supported by tangible material, **provisional attachment in the absence of initiation of any proceedings under Chapters XII, XIV or XV of the Act is not sustainable**. The writ appeal was allowed in part: the finding requiring a pre-decisional hearing was set aside, but the attachment of the bank account dated 29.01.2025 was quashed.

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