

कमिश्नर, वाणिज्य कर,
उत्तर प्रदेश, लखनऊ।

सेवा में,

एडीशनल कमिश्नर, वाणिज्य कर, गौतमबुद्धनगर, जोन-नोएडा।
समस्त एडीशनल कमिश्नर ग्रेड-1, वाणिज्य कर, उ0प्र0।

(वाद अनुभाग)
महोदय,

लखनऊ :: दिनांक :: 13 जून, 2024

कृपया अपर आयुक्त ग्रेड-1 (उ0न्या0कार्य), राज्य कर, प्रयागराज के पत्रसंख्या-676 दिनांक 21.05.2024 (प्रति संलग्न) का संदर्भ ग्रहण करने का कष्ट करें, जिसके साथ अपर मुख्य स्थायी अधिवक्ता के पत्र दिनांक 17.05.2024 की प्रति प्रेषित करते हुये रिट टैक्स संख्या-699/2024 मेसर्स आर0डी0 इण्टरप्राईजेज बनाम यूनियन ऑफ इण्डिया व अन्य के वाद में माननीय उच्च न्यायालय इलाहाबाद द्वारा पारित आदेश दिनांक 06.05.2024 के संबंध में आवश्यक कार्यवाही हेतु प्रेषित किया गया है। माननीय उच्च न्यायालय इलाहाबाद द्वारा पारित आदेश दिनांक 06.05.2024 के बिन्दु निम्नवत हैं -

- "7. On the strength of such instructions, Shri Parv Agarwal further states that provisional attachment order would stand lifted allowing the petitioner to utilise the bank account, as before. We find such occurrences are becoming common. Frequently, petitions are being filed for similar relief. It appears to be a common mistake being caused by revenue authorities where provisional attachment orders may never continue for more than one year are allowed to exist beyond that end date. Such error on the part of the revenue authorities leaves the assessee with no option but to approach this Court for effective direction on the revenue authorities to actually lift the provisional attachment.
8. In face of the statutory provision being unequivocally clear, the revenue authorities when called upon by this Court, take a stand as has been noted in the present facts. Thus, the provisional attachment orders are actually lifted only upon the revenue authorities being questioned about the illegality of their action, by this Court.
9. Such a course is wholly undesirable. Once the statutory law admits of no doubt and the revenue authorities do offer correction to the error committed by them upon being pointed out by this Court, we find such litigation whenever it arises to be wholly avoidable.

10. Without reaching any further conclusion as to the intent and purpose of the individual revenue officers in committing such errors, we dispose of the writ petition with the following directions :

- (i) Let a copy of this order be communicated to the Central Board of Indirect Taxes and Customs for taking corrective and necessary action.
- (ii) Since the provisions of the Act and the litigation arising therefrom are similar, both under the Central Act and the State Act, we also require, a copy of this order be made available to Shri Nimai Dass, learned Additional Chief Standing Counsel for the State for its onward communication to the Commissioner, Commercial Tax, U.P. for his notice and also remedial action."

अतः अपर आयुक्त ग्रेड-1 (उ०न्या०कार्य), राज्य कर, प्रयागराज के पत्रसंख्या-676 दिनांक 21.05.2024 के साथ अपर मुख्य स्थायी अधिवक्ता के पत्र दिनांक 17.05.2024 की प्रति इस पत्र के साथ संलग्न कर इस निर्देश के साथ प्रेषित किया जा रहा है कि अपने अधीनस्थ अधिकारियों को भी उक्त निर्णय से अवगत कराएं तथा संबंधित अधिकारियों द्वारा माननीय उच्च न्यायालय के निर्णय का कड़ाई से पालन सुनिश्चित किया जाये ।

यह पत्र कमिश्नर, वाणिज्य कर, उ०प्र० के अनुमोदनोपरान्त जारी किया जा रहा है ।
संलग्नक-उपरोक्तानुसार ।

भवदीय,

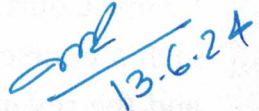
(अमर नाथ यादव)

एडीशनल कमिश्नर (विधि), वाणिज्य कर,
उत्तर प्रदेश, लखनऊ ।

पृष्ठांकन पत्र संख्या व दिनांक उक्त ।

प्रतिलिपि-निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित ।

1. एडीशनल कमिश्नर ग्रेड-1/2 (उ०न्या०कार्य), वाणिज्य कर, प्रयागराज/लखनऊ ।
- ✓2. ज्वाइंट कमिश्नर (आई०टी०), वाणिज्य कर, मुख्यालय को इस निर्देश के साथ कि उक्त को विभागीय वेबसाइट पर समस्त अधिकारियों के सूचनार्थ प्रकाशित करने का कष्ट करें।


13.6.24
एडीशनल कमिश्नर (विधि), वाणिज्य कर,
उत्तर प्रदेश, लखनऊ ।

Office-Additional Commissioner Gr-I
Commercial Tax, Prayagraj
(High Court Works)



परिपत्र



कोर्ट केस/महत्वपूर्ण

प्रेषक,

अपर आयुक्त ग्रेड-1 (उ०न्या०कार्य)
राज्य कर, प्रयागराज।

सेवा में,

आयुक्त, राज्य कर,
(वाद अनुभाग)
उ०प्र०, लखनऊ।

पत्रांक 676 /अपर आयुक्त ग्रेड-1(उ०न्या०कार्य) रा०क० प्रयाग० : 9 | मई, 2024
विषय : रिट टैक्स संख्या-699/2024 सर्वश्री आर०डी० इन्टर प्राइजेज बनाम यूनियन ऑफ इण्डिया व अन्य के वाद के सम्बन्ध में।

महोदय,

अपर मुख्य स्थायी अधिवक्ता, उच्च न्यायालय इलाहाबाद द्वारा दिनांक 17.05.2024 को उक्त रिट से सम्बन्धित पत्र प्रेषित किया गया है जो आपको सम्बोधित एवं इस कार्यालय को पृष्ठांकित है।
उक्त वाद में मा० उच्च न्यायालय द्वारा पारित आदेश दिनांक 08.05.2024 की इन्टरनेट प्रति एवं उक्त वाद की रिट की छायाप्रति तथा अपर मुख्य स्थायी अधिवक्ता द्वारा प्रेषित पत्र दिनांक 17.05.2024 मूल रूप में इस पत्र के साथ संलग्न कर आवश्यक कार्यवाही हेतु आपकी सेवा में प्रेषित।
संलग्नक-उपरोक्तानुसार।

मुक्तदीय

(सी०पी०मिश्र)

संयुक्त आयुक्त (टैक्स आडिट) राज्य कर,
प्रयागराज जोन, प्रयागराज
प्रभार- संयुक्त आयुक्त (उ०न्या० कार्य) राज्य कर
प्रयागराज।

प०प०सं० : /व दिनांक उक्त।

प्रतिलिपि : श्री निमाई दास, अपर मुख्य स्थायी अधिवक्ता, उच्च न्यायालय, इलाहाबाद को पत्र दिनांक 16.05.2024 के सन्दर्भ में सूचनार्थ प्रेषित।

संयुक्त आयुक्त (टैक्स आडिट) राज्य कर,
प्रयागराज जोन, प्रयागराज
प्रभार- संयुक्त आयुक्त (उ०न्या० कार्य) राज्य कर,
प्रयागराज।

1063
27/05/24

सी०पी०मिश्र
A3
र.प्र.सं.

Court No. - 39

Case :- WRIT TAX No. - 699 of 2024

Petitioner :- M/S Rd Enterprises

Respondent :- Union Of India Through Director General
Directorate And 2 Others

Counsel for Petitioner :- Srijan Pandey, Swetashwa Agarwal

Counsel for Respondent :- A.S.G.I., Parv Agarwal

Hon'ble Saumitra Dayal Singh, J.

Hon'ble Donadi Ramesh, J.

1. Heard Shri Swetashwa Agarwal, learned counsel for the petitioner and Shri Parv Agarwal, learned counsel for the revenue.

2. Present petition has been pressed primarily for the following relief :

"Issue an appropriate writ, order or direction in the nature of Mandamus commanding the Respondent no. 2 - Additional Director, Directorate General of Goods and Services Tax Intelligence, Zonal Unit Meerut to release/restore the provisionally attached bank account no. 069363300003066 of the Petitioner Firm maintained at the Karol Bagh Branch, YES Bank, New Delhi, in view of provision of Section 83(2) CGST Act."

3. On 29.4.2024, we passed the below quoted order :

"1. The provisional attachment of the bank account of the petitioner firm is described to have expired on 15.02.2024 in view of the provisions of Section 83(2) of the CGST Act, 2017. Yet, the provisional attachment continues.

2. Shri Parv Agarwal, learned counsel for the revenue prays for and is granted three days' time to complete his instructions.

3. Put up as fresh on 6.5.2024."

4. Today, Shri Parv Agarwal, learned counsel for the revenue has

produced written instructions received by him. Copy of the same has been marked as 'X' and retained on record.

5. The said instructions issued by the Additional Director General, Directorate General of Goods & Services Tax Intelligence Meerut Zonal Unit reads as below :

"F. No. DGGI/INT/INTL/226/2023/249(SIL)

Date: 01.05.2024

DIN- 202405 DNN 40000 611136.

To,
The Branch Manager,
YES Bank, Ground Floor & Basement,
3380, Christian Colony,
D. B. Gupta Road, Karol Bagh, New Delhi-110005

Sub: Provisional attachment of property under section 83 of CGST Act, 2017-m/r

Please refer to DRC-22 dated 16-02-2023 (CBIG-DIN:: 202302DNN40000278282) issued by this office. As per said DRC-22 (copy enclosed herewith for ready reference), the bank account no. 069363300003066 belonging to M/s RD Enterprises, 5131/2, Krishna Nagar, Delhi-05 bearing GSTIN: 07ABRFM0225B1ZM, PANABRFM0225B, was attached provisionally.

2. Now, in this connection, your kind attention is invited toward Section 83(2) of CGST Act 2017; which is reproduced as below: -

83(2) "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 subsection (1)."

3. Since one year has passed, the provisional attachment of the said account has ceased. Necessary action in this regard may please be taken.

Encl: As above

(Satyendra Mathuria)

Additional Director General"

6. Thus, the cause of action does not appear to exist, insofar as the revenue authorities have realised that provisional attachment order dated 16.2.2023 does not survive.

7. On the strength of such instructions, Shri Parv Agarwal further states that provisional attachment order would stand lifted allowing the petitioner to utilise the bank account, as before. We find such occurrences are becoming common. Frequently, petitions are being filed for similar relief. It appears to be a common mistake being caused by revenue authorities where provisional attachment orders may never continue for more than one year are allowed to exist beyond that end date. Such error on the part of the revenue authorities leaves the assessee with no option but to approach this Court for effective direction on the revenue authorities to actually lift the provisional attachment.

8. In face of the statutory provision being unequivocally clear, the revenue authorities when called upon by this Court, take a stand as has been noted in the present facts. Thus, the provisional attachment orders are actually lifted only upon the revenue authorities being questioned about the illegality of their action, by this Court.

9. Such a course is wholly undesirable. Once the statutory law admits of no doubt and the revenue authorities do offer correction to the error committed by them upon being pointed out by this Court, we find such litigation whenever it arises to be wholly avoidable.

10. Without reaching any further conclusion as to the intent and purpose of the individual revenue officers in committing such errors, we **dispose of** the writ petition with the following directions :

(i) Let a copy of this order be communicated to the Central Board of Indirect Taxes and Customs for taking corrective and necessary

action.

(ii) Since the provisions of the Act and the litigation arising therefrom are similar, both under the Central Act and the State Act, we also require, a copy of this order be made available to Shri Nimai Dass, learned Additional Chief Standing Counsel for the State for its onward communication to the Commissioner, Commercial Tax, U.P. for his notice and also remedial action.

Order Date :- 6.5.2024
SA

(Donadi Ramesh, J.) (S.D. Singh, J.)

MAI DASS
ADVOCATE
ADDL. CHIEF STANDING COUNSEL
STATE OF U.P.



Dated: 17.05.2024

To,
Commissioner, Commercial Tax,
U.P Lucknow

Dear Sir,

Sub: Compliance with order dated 06.05.2024 passed in Writ Tax No. 699/2024.

In compliance with the order dated 06.05.2024 passed in Writ Tax No. 699/2024 – M/s RD Enterprises vs Union of India and others, you are requested to kindly apprise the Commissioner, Commercial Tax U.P. of the following –

“7. On the strength of such instructions, Shri Parv Agarwal further states that provisional attachment order would stand lifted allowing the petitioner to utilise the bank account, as before. We find such occurrences are becoming common. Frequently, petitions are being filed for similar relief. It appears to be a common mistake being caused by revenue authorities where provisional attachment orders may never continue for more than one year are allowed to exist beyond that end date. Such error on the part of the revenue authorities leaves the assessee with no option but to approach this Court for effective direction on the revenue authorities to actually lift the provisional attachment.

8. In face of the statutory provision being unequivocally clear, the revenue authorities when called upon by this Court, take a stand as has been noted in the present facts. Thus, the provisional attachment orders are actually lifted only upon the revenue authorities being questioned about the illegality of their action, by this Court.

9. Such a course is wholly undesirable. Once the statutory law admits of no doubt and the revenue authorities do offer correction to the error committed by them upon being pointed out by this Court, we find such litigation whenever it arises to be wholly avoidable.

10. Without reaching any further conclusion as to the intent and purpose of the individual revenue officers in committing such errors, we dispose of the writ petition with the following directions :

(i) Let a copy of this order be communicated to the Central Board of Indirect Taxes and Customs for taking corrective and necessary action.

(ii) Since the provisions of the Act and the litigation arising therefrom are similar, both under the Central Act and the State Act, we also require, a copy of this order be made available to Shri NimaiDass, learned Additional Chief Standing Counsel for the State for its onward communication to the Commissioner, Commercial Tax, U.P. for his notice and also remedial action.”

ndass

MAI DASS
ADVOCATE
ADDL. CHIEF STANDING COUNSEL
STATE OF U.P.



Copy of the Additional Commissioner (Grade-1), Commercial Tax U.P., High Court Works,
Allahabad.

Thank You

Yours sincerely,

Nimai Dass

(NimaiDass)

Addl. Chief Standing Counsel U.P.

High Court Allahabad

+91 9335107269

*Encl: Copy of the order dated 06.05.2024 passed in Writ Tax No. 699/2024 - M/s RD
Enterprises vs Union of India and others.*