

## Issue Involved

- Provisional Attachment of Bank Accounts under {Section 83 of CGST Act, 2017}.
- Expiry of statutory period of one year for recovering any dues under {Section 83(2) of CGST Act, 2017}.

## Held that

As per Provisions of Section 83(2) of CGST Act, Operation of an order provisionally attaching bank account would cease to be operative after expiry of statutory period of one year. Therefore, the court held that the impugned order was no longer operative, allowing the petitioner to operate their bank accounts.

## Case Reference

Citation: [2023] 150 taxmann.com 373 (Delhi)

## Facts of the Case:

### Revenue:

- The revenue had passed an order under Section 83 of the CGST Act, 2017, provisionally attaching the bank accounts of Merlin Facilities (P.) Ltd.
- The revenue claimed that the petitioner was a non-existing person and had not cooperated in the investigation.
- The order was aimed at protecting the government revenue, as the petitioner was suspected of evading taxes.
- However, no further orders were issued for recovering any dues. The revenue defended the constitutionality and validity of Section 13(8)(b) and Section 8(2) of the IGST Act, 2017.

### Petitioner:

- Merlin Facilities (P.) Ltd. filed a writ petition challenging the order passed under Section 83 of the CGST Act, which provisionally attached their bank accounts.
- The petitioner argued that they had been falsely implicated and that they had not cooperated in the investigation.
- They claimed that the revenue's allegations were baseless. The petitioner contended that the provisional attachment order should be set aside as it had caused hindrances in operating their bank accounts.

### Contributed By



### CA Vaibhav Jain

Partner

vaibhavjain@mehragoelco.com



### CA Prashant Agrawal

Assistant Manager- Taxation

prashantagrawal@mehragoelco.com

## Summary:

In the case of Merlin Facilities (P.) Ltd., the Delhi HC ruled that the operation of an order provisionally attaching bank accounts would cease to be operative after the expiration of one year as per Section 83(2) of the CGST Act, 2017. The petitioner had challenged an order under Section 83 that had provisionally attached their bank accounts, but no further orders were issued for recovering any dues. Therefore, the court held that the impugned order was no longer operative, allowing the petitioner to operate their bank accounts.

### Notes to News & Updates:

Please note that Facts of the Case and Queries are as summarized by us based on our reading of case law and our interpretation based on law prevailing as on the judgement date. No assurance is being given on the correctness of the facts, and our opinion / analysis is given solely based on facts provided herein above. Please note that this news and update is prepared by author for spreading knowledge, and the view is a matter of interpretation, and law is subject to various interpretations. The application of law and impact can vary widely based on the specific facts and interpretation of statute. Our views expressed above is based on facts and assumptions indicated above. No assurance is given that the authorities and/or Courts will concur with our views. We do not accept any liability, for any loss or damage caused as a result of any action taken on the above opinion expressed by us.

We hope you will find the above in order and we shall be too glad to provide any other assistance as may be required. In case you are looking specific expert help in relation to matters connected to this update or otherwise, please feel free to write to us on [vaibhavjain@mehragoelco.com](mailto:vaibhavjain@mehragoelco.com) ; [mg@mehragoelco.com](mailto:mg@mehragoelco.com)

### New Delhi

503, Chiranjiv Tower, 43,  
Nehru Place, New Delhi 110019. India  
+91-11-2622-3712, 26226933

### Pune

Flat No 03, Plot No 28,  
Gowardhan Housing Society,  
Maharshi Nagar, Pune – 411037

### Gurugram

GLOBAL BUSINESS SQUARE  
Building No. 32, Sector 44,  
Institutional Area, Gurgaon, 122002, India  
Tel : +91-124-4786200

### Chennai

Sri Raghava Nilayam, Old No 38 , New No  
28, West Circular Road, Mandavelipakkam,  
Chennai, Tamil Nadu, India, 600028

### Mumbai

305-306, Garnet Palladium,  
Goregaon (East), Mumbai,  
Maharashtra-400063

### Dubai (UAE):

R-3035, Reef Tower,  
Cluster O, Jumeriah Lake Tower,  
Dubai, UAE.

