

GAHC020001302026



**THE GAUHATI HIGH COURT  
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL  
PRADESH)  
KOHIMA BENCH**

**Case No. : WP(C)/29/2026**

M/S SHRI PETRO CHEMICAL MERCANTILE PVT. LTD.  
PRINCIPAL PLACE OF BUSINESS AT RI BHOI, BYRNIHAT, JORABAT, RI  
BHOI, MEGHALAYA - 793101

VERSUS

THE UNION OF INDIA AND 5 ORS  
REPRESENTED BY THE SECRETARY TO THE GOVT. OF INDIA,  
MINISTRY OF FINANCE, DEPARTMENT OF REVENUE, NORTH BLOCK,  
NEW DELHI - 110001

2:THE DIRECTORATE GENERAL OF GST INTELLIGENCE (DGGI)  
C - BLOCK  
SECTOR 5  
RAMA KHRISHNA PURAM  
NEW DELHI - 110066

3:ASHISH MISHRA  
ADDITIONAL DIRECTOR GENERAL  
DGGI  
SILIGURI ZONAL UNIT  
UDHAM SINGH SARANI  
BYLANE 1  
ASHRAMPARA  
SILIGURI  
WEST BENGAL  
734001

4:MD. NAYEEM  
SENIOR INTELLIGENCE OFFICER (DGGI)  
SILIGURI ZONAL UNIT  
SILIGURI  
WEST BENGAL  
734001

5:PUNJAB AND SIND BANK DIMAPUR BRANCH  
KALIBARI ROAD  
WEST YARD COLONY  
MARWARI PATTI  
DIMAPUR  
NAGALAND - 797112

6:PUNJAB AND SIND BANK  
4TH FLOOR  
PSB BUILDING  
T SOHANLAL MARG  
RAJENDRA PLACE  
NEW DELHI - 11000

**Advocate for the Petitioner** : A SARAF, M SOLO,P BARUAH,,,

**Advocate for the Respondent** : ,

**BEFORE  
HON'BLE MR. JUSTICE NELSON SAILO**

**ORDER**

**Date : 22.06.2026**

Heard Dr. A. Saraf, learned Senior Counsel through RVC assisted by Mr. M. Solo, learned counsel for the petitioner. Also heard Mr. C. Phom, learned counsel appearing on behalf of Mr. Yangerwati, learned C.G.C., who represents the respondent No. 1 and Mr. Thepfukedo, learned counsel appearing for the respondent Nos. 5 & 6.

**[2.]** The learned Senior Counsel submits that the petitioner is aggrieved with the Provisional Attachment of its property (Bank Account) under Section 83 of the Central Goods and Services Tax Act, 2017 (Act of 2017), vide the impugned Attachment Order dated 27.02.2026 (Annexure – V). Referring to the said Attachment Order,

the learned Senior Counsel submits that the same has been issued by the respondent No. 3 in a mechanical manner and not in terms of what has been prescribed by Section 83 of the Act of 2017. The learned Senior Counsel submits that it is mandated under the said provision that attachment has to be preceded by formation of an opinion for the purpose of protecting the interest of the Government revenue but on perusal of the impugned Attachment Order, it merely says that the attachment is directed to protect the interest of the revenue by exercising the power under Section 83 of the Act of 2017.

**[3.]** The learned Senior Counsel, submits that law in this regard is no longer *res integra*, in view of the fact that the Hon'ble Apex Court in *Radha Krishan Industries Vs. State of Himachal Pradesh & Ors.*, reported in *AIR 2021 SC 2114* has held in clear terms that the law under Section 83 of the Act of 2017 being draconian in nature, the requirement of the competent authority to form an opinion prior to invoking the said provision is mandatory. The same is necessary in view of the fact that exercise of unguided discretion would leave the citizens and their legitimate business activities to the peril of arbitrary power. Therefore, the ingredients provided under Section 83 of the Act of 2017 must be strictly applied before a provisional attachment on the property of an assessee can be levied.

**[4.]** The learned Senior Counsel has referred to paragraph Nos. 48, 49 & 50 and the conclusion of the Hon'ble Apex Court at Paragraph No. 72 of the said Judgment in particular, to support his submission.

**[5.]** The learned Senior Counsel appearing for the respondent Bank i.e., Punjab & Sind Bank, Dimapur Branch submits that he has no

instructions from the Bank in this regard.

**[6.]** Similarly, the learned counsel appearing on behalf of the learned C.G.C., who represents the respondent No. 1 and also submits that the respondent Union of India, considering the issue involved has no say in the matter.

**[7.]** None appears for the respondent Nos. 2, 3 & 4, although they were represented on earlier occasions by Mr. S. C. Keyal or Mr. K. Jain.

**[8.]** Dr. A. Saraf, learned Senior Counsel submits that in view of the fact Attachment Order of the bank account of the petitioner, the petitioner is suffering great hardship as the employees employed by it cannot be paid their salary or their dues. Therefore, the impugned Attachment Order being in clear violation of the expressed provisions provided by Section 83 of the Act of 2017 and the decision rendered by the Hon'ble Apex Court in *Radha Krishan Industries (supra)*, the same may be set aside.

**[9.]** I have heard the learned counsels and also perused the materials available on record.

**[10.]** A perusal of the impugned Attachment Order of the bank account of the petitioner does not show that the Competent Authority had formed an opinion before directing a provisional attachment of the bank account. All that it says that in order to protect the interest of revenue and as provided by the powers conferred under Section 83 of the Act of 2017, the bank account of the petitioner is provisionally attached. The Hon'ble Apex Court in *Radha Krishan Industries (supra)* in the given facts of that case held

that an attachment which is contemplated in Section 83 of the Act of 2017 is at a stage which is anterior to the finalization of an assessment or raising of a demand. The legislature having being conscious of the nature of the power to be draconian and the serious consequences which emanate from the attachment of any property including a bank account of the taxable person, therefore, specifically provided certain conditions to invoke the said power. Firstly, the language of the statute indicates the necessity of formation an opinion by the Commissioner; secondly, the formation of an opinion before ordering a provisional attachment; thirdly, the existence of an opinion that it is necessary to do so for the purpose of protecting the interest of the government revenue; fourthly, the issuance of an order in writing for the attachment of any property of the taxable person; and fifthly, the observance of the Commissioner of the provisions contained in the Rules in regard to the manner of attachment. The Hon'ble Apex Court further went on to observe that when the exercise of the power is challenged, the validity of its exercise will depend on a strict and punctilious observance of the statutory preconditions by the Commissioner. Having found, the same to be absent, in the given facts and circumstances of the case, the impugned Attachment Order was set aside by the Hon'ble Apex Court.

**[11.]** In the present case, from a perusal of the impugned Attachment Order and particularly, in absence of any material available to the contrary, it can be seen that the impugned order has been passed in a mechanical manner without there being any formation of opinion by citing that the requirement was to protect the interest of the revenue and the authority was empowered to do

so under Section 83 of the Act of 2017. The same in the considered view of this Court, in view of the decision rendered by the Hon'ble Apex Court, runs short of the required or the mandatory procedure prescribed of forming an opinion prior to issuance of such an Attachment Order.

**[12.]** Accordingly, this Court of the view that the impugned Attachment Order dated 27.02.2026 which was digitally signed on 26.02.2026 (Annexure – V) is not sustainable in law, accordingly, the same is set aside. Consequently, upon setting aside of the impugned Attachment Order the respondent Bank, i.e., respondent Nos. 5 & 6 are directed to de-freeze the bank account of the petitioner.

**[13.]** With the above observations and directions, the writ petition stands disposed of as allowed.

Sd/-

**JUDGE**

**Comparing Assistant**