

# TAX INFO

*Dated 08/06/2022*

**Latest update on GST Law: Provisional attachment of bank account and Credit Ledger shall cease affect after one year given in Judgment by High Court Of Gujarat.**

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<b>Name of Petitioner</b>	Vimal Yashwant Giri Goswami
<b>Name of Respondent</b>	The State Of Gujarat
<b>Court</b>	High Court Of Gujarat
<b>Date of Judgement</b>	06.01.2022
<b>Appeal No.</b>	R/Special Civil Application No. 5410 Of 2020

## **Brief Facts of the Case Law:**

The petitioner is registered with the GST authority. The officials of CGST had raided the residential premises of the writ-applicant on 19.07.2019. In connection with the investigation of the Heugo Metal, the Department had sealed a drawer in which the files, diary, mobile and laptop were stored and had left the premises and instructed the writ-applicant to appear before him with further details. On 23.07.2019, the Department officials had once-again visited the residential premises of the writ-applicant and search actions were undertaken. On 23.07.2019, the Department had issued summons upon the writ-applicant to appear before him under the powers conferred under Section-70(1) of the CGST Act.

The Department had passed an order on 23.07.2019 and thereby provisionally attached the Current Account bearing No.777705000919 and Saving Account No.231301000919 maintained with the ICICI Bank in exercise of the power conferred under Section-83 of the CGST Act. The laptop and a mobile phone were also seized by the authorities of the Department.

## **Contention of the Petitioner:**

The orders of provisional attachment under challenge could be said to have been outlived statutory right considering the fact that the orders impugned are dated 23.07.2019 and it would cease to operate on expiry of period of one year as prescribed under Section-83. The same is the position with regard to the Rule-86A of the CGST Rules, 2017.

After the goods are seized under sub-section (2) to Section 67 and no notice in respect thereof is issued within six months of the seizure, the authority concerned is obliged to return to the person from whose possession such goods were seized. The proviso enables the authority concerned upon showing sufficient cause to extend the period further not exceeding six months.

## **Decision of the Court:**

As on date, it could be said that there are no orders of attachment of the current account running in the name of writ-applicant maintained with the respective bank as well as there is no attachment of the Input Tax Credit. In the case on hand indisputably no notice has been issued and the time period of six months has also expired. In such circumstances, the authority concerned is obliged to return the seized laptop and mobile phone.

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