

TAX INFO

Dated 23/11/2021

Latest update on GST Law: Information regarding **Provisional attachment ceases to have effect after one year from the date of the attachment order** as given in **Judgement by Bombay High Court.**

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Name of Petitioner	Implement Impex Private Limited
Name of Respondent	State of Maharashtra
Court	Bombay High Court
Date of Judgement	04.08.2021
Appeal No.	Writ Petition No. 3710 of 2021

Brief Facts Of The Case:

The petitioner's bank account was provisionally attached vide order dated February 14, 2020 considering that proceedings initiated against the petitioner under Section 67 of the CGST Act were pending. It is not in dispute that the proceedings stand terminated by an order dated August 28, 2020. Such order has been carried in appeal by the petitioner on October 27, 2020. An amount of Rs.1,25,392/- has been deposited by the petitioner on account of pre-deposit. Despite lapse of more than a year from the date provisional attachment of the petitioner's bank account was ordered, the Joint Commissioner has not lifted such order of provisional attachment.

Contention of Petitioner:

Section 83 of the CGST Act provides as follows:

Where during the pendency of any proceedings under section 62 or section 63 or section 64 or section 67 or section 73 or section 74, the Commissioner is of the opinion that for the purpose of protecting the interest of the Government revenue, it is necessary so to do, he may, by order in writing attach provisionally any property, including bank account, belonging to the taxable person in such manner as may be prescribed. Every such provisional attachment shall cease to have effect after the expiry of a period of one year from the date of the order."

Decision of the Court:

The Court directed the Joint Commissioner to immediately communicate to the petitioner's banker that the attachment order ceases to be operative and that the petitioner may be permitted to operate the relevant bank account which was under attachment. Let this exercise be completed as earlier as possible, but not later than seven days.

Suresh Aggarwal, Advocate

Compliance & Litigation under GST

Address: House No. 54, Pocket A-3, Sector-5, Rohini- 110085

Phone: 91-9810032846; 011 - 45131427

Email: sureshagg@gmail.com

Website: <http://www.sureshtaxation.com>