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Judgment No.: 008
Dt.: 06-11-2023

Judgment Deals With

Section/Rule	Section 83 of CGST Act, 2017
Authority	Delhi High Court
Case Name	Sakshi Bahl & Anr. VS The Principal Additional Director General
Dated	29th March, 2022

Brief Facts:
The impugned order dated 06.02.2023 was passed by ordering provisional attachment of the savings bank accounts of the petitioner. In addition, the Bank Branch Manager of HDFC Bank was directed, not to permit any withdrawal from the bank accounts of the petitioners which were operated under the same PAN numbers, without the permission of the Department.

Contention of Petitioner:
It is the petitioners' case that they are neither taxable persons nor persons covered under Section 122(1A) of the CGST Act, 2017; therefore, the impugned order is ex facie without jurisdiction.

Contention of Department:
The petitioners' bank account was attached in view of the statement made by one, Shri Rajiv Chawla during the course of investigation relating to fake firms involved in passing off fake Input Tax Credit.

Findings & Order:
Section 83 of the Act which empowers the Commissioner to provisionally attach the assets of a taxable person. It is clear that the petitioners are not taxable persons. The power under Section 83 of the Act, to provisionally attach assets or bank accounts is limited to attaching the bank accounts and assets of taxable persons and persons specified under Section 122(1A) of the Act. 17.

Thus, the impugned order cannot be sustained. It is not open for the Department to attach the bank accounts of other persons on a mere assumption that the funds therein are owned by any taxable person. The attachment of bank accounts is a draconian step and such action can only be taken in case conditions specified in Section 83 of the Act, are fully satisfied. The exercise of power under Section 83 of the Act must necessarily be confined within the limits of the aforesaid provision. Therefore, the impugned order dated 06.02.2023 was set aside.

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