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By Nidhi, Advocate



Judgment No.: 146
Dt.: 18-06-2024



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Judgment Deals With

Provisional Attachment under Section 83 cannot be done without issuing proper notice under Section 74	
Section/Rule	Section 74
Authority	Punjab & Haryana High Court
Case Name	M/s Nova Publications & Printers Pvt. Ltd. VS Union of India and others
Dated	29 th May, 2024
Citation	CM No.9476 of 2024 and CWP No.8805 of 2024

Brief Facts of the Case:

Search and seizure action was taken against the petitioner in terms of Chapter XIV of the Act of 2017 and provisional attachment was thereafter ordered on 15.03.2024. The Electronic Credit Ledger was locked by another order dated 18.03.2024.

The petitioner was not served with any notice under Section 74 of CGST Act, 2017 and the attachment proceedings initiated under Section 83 of the CGST Act, 2017, was illegal and unjustified. The attachment of account should be revoked.

Findings & Decision of the Court:

From the perusal of the reply, it is apparent that no notice under Section 74 of the CGST Act, 2017 was issued to the petitioner and the account of the petitioner and his Electronic Credit Ledger have been locked which has resulted in that his entire business being affected. Attachment proceedings are of very serious nature and strong repercussions on the business of an individual.

The proceedings of attachment should only be taken as a last resort. While Department may be required for the purpose of protecting the interest of the Revenue, the same needs to be taken to its logical end after search and seizure proceedings have been initiated under Chapter XIV of the Act of 2017.

The Revenue was required to proceed further and issue notice u/s 74 of CGST Act, 2017 if anything was found of having committed any fraud or concealment.

As noticed under Section 74 of CGST Act, 2017 has not been issued, it would not be appropriate to allow continuing the attachment of the account. Therefore, the attachment order dated 15.03.2024 and 18.03.2024 locking the Electronic Credit Ledger stands revoked and the same shall be released.

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