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Judgment No.: 175
Dt.:19-09-2024



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Judgment Deals With

Section 83(1) mandates that any provisional attachment order must contain reasons for the Commissioner's decision to protect the government's revenue and failure to provide such reasons renders the provisional attachment order invalid.

Section/Rule	Section 83
Authority	Bombay High Court
Case Name	Elitecon International Limited VS Union Of India
Dated	05 th September, 2024
Citation	Writ Petition NO. 4934/2024

Brief facts of the case:

The provisional attachment order dated 24.07.2024, have been passed by Department. The impugned order does not reflect the opinion of the Commissioner, that for the purpose of protecting interest of the Government revenue it is necessary to do so.

Contention of the Petitioner:

The impugned orders does not reflect any reasons for recording such reason for forming an opinion by the Commissioner that for the purpose of protecting the interest of the Government revenue, it is necessary to issue an order of provisional attachment of the properties of the petitioner.

Findings & Decision of the Court:

The language of Section 83(1) of CGST Act, 2017, is mandatorily to be followed as it visits the petitioner with penal consequences. It was, therefore, necessary that the impugned order, indicate the reasons which weighed with the **Commissioner to form an opinion, that for the purpose of protecting the interest of the Government of revenue, the order of provisional attachment was necessary.**

However, **in absence of any reason for forming such an opinion, the impugned orders cannot be sustained.** Thus, the same were quashed and set aside.

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