

GST : Where Competent Authority, exercising under section 83, had attached bank accounts of assessee and High Court by a judgment and order dated 20-12-2018 had set aside impugned order and Competent Authority, by order dated 8-3-2019, once again had attached very same bank accounts of assessee by an identically worded order, Competent Authority was called upon to show cause as to why he should not be made personally liable to pay costs of petition

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[2019] 105 taxmann.com 263 (Gujarat)

HIGH COURT OF GUJARAT

Patran Steel Rolling Mill

v.

Assistant Commissioner of State Tax*

**MS. HARSHA DEVANI AND BHARGAV D. KARIA, JJ.
R/SPECIAL CIVIL APPLICATION NO. 6827 OF 2019
APRIL 15, 2019**

Section [83](#) of the Central Goods and Services Tax Act, 2017/ Section [83](#) of the Gujarat Goods and Services Tax Act, 2017 - Demands and recovery - Provisional attachment - Competent Authority, exercising under section 83, had provisionally attached bank accounts of assessee - High Court, by a judgment and order dated 20-12-2018, had set aside impugned order of attachment - Competent Authority, by order dated 8-3-2019, once again had provisionally attached very same bank accounts of assessee by an identically worded order - Whether Competent Authority was to be called upon to show cause as to why he should not be made personally liable to pay costs of petition - Held, yes [Para 4] [In favour of assessee]

(NR)

FACTS

- The Competent Authority, exercising under section 83, had provisionally attached the bank accounts of the assessee.
- The High Court, on writ petition filed by the assessee, by a judgment and order dated 20-12-2018 had set aside the impugned order of attachment and directed the Competent Authority to forthwith release the bank accounts of the assessee.
- Despite the aforesaid position, the Competent Authority, by order dated 8-3-2019, once again had provisionally attached the very same bank accounts by an identical worded order.

HELD

- A perusal of the original file pertaining to the impugned order dated 8-3-2019 reveals that no satisfaction has been recorded by the concerned officer that for the purpose of protecting the interest of the Government revenue, it is necessary to make an order of provisional attachment under section 83. [Para 2]

- The Competent Authority is called upon to show cause as to why he should not be made personally liable to pay the costs of the petition, as well as, as to why the matter should not be referred to the appropriate Bench taking up contempt matters for disobedience of the directions of the Court in the judgment and order dated 20-12-2018. [Para 4]

CASES REFERRED TO

Patran Steel Rolling Mill v. Asstt. CST [\[2019\] 101 taxmann.com 80 \(Guj.\)](#) (para 4).

D.K. Trivedi for the Petitioner. **Utkarsh Sharma**, AGP for the Respondent.

ORDER

Ms. Harsha Devani, J. - Vide order dated 12.04.2019, this Court had directed the Joint Commissioner of Sales Tax, Bhavnagar to ensure that the original file pertaining to the impugned order is produced before this Court for its perusal.

2. In compliance of the said order, the original file is produced before this Court, a perusal of which reveals that no satisfaction has been recorded by the concerned officer that for the purpose of protecting the interest of the government revenue, it is necessary to make an order of provisional attachment under section 83 of the Gujarat Goods and Services Tax, 2017.

3. Despite the fact that this Court, by judgment and order dated 20.12.2018, had set aside the order of attachment dated 22.10.2018, whereby the first respondent had attached three bank accounts of the petitioner by giving reasons regarding why such action was not warranted including recording satisfaction that no further amount was required to be recovered from the petitioner, and had also laid down guidelines for exercise of powers under section 83 of the Gujarat Goods and Services Tax, 2017, the first respondent has once again passed an identical order attaching the very same bank accounts without recording necessary satisfaction as to why such action was required to be taken in the interest of government revenue.

4. Since the petitioner was constrained to approach this court by way of this writ petition challenging the attachment over its bank accounts on account of the action of Shri S. H. Gandhi, Assistant Commissioner of State Tax (the first respondent herein), which is totally contrary to the judgment and order dated 20.12.2018 passed by this court in petitioner's own case *Patran Steel Rolling Mill v. Asstt. CST* [\[2019\] 101 taxmann.com 80 \(Guj.\)](#) and is in disobedience of the directions and guidelines laid down therein, Shri S. H. Gandhi, Assistant Commissioner of State Tax is called upon to show cause as to why he should not be made personally liable to pay the costs of the petition as well as, as to why the matter should not be referred to the appropriate bench taking up contempt matters for disobedience of the directions of this court in the above referred judgment and order dated 20.12.2018.

5. Stand over to 26th April 2019.

s.k. jain

*In favour of assessee.