**Part-48-One Pager Snapshot to the Latest Cases**

**CA Arpit Haldia**

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| **S. N.** | **Section** | **Case Subject** | **Case** | **Held** |
| 1. | Section 83 | Order disposing objections submitted in Rule 159(5) is not an appealable order and only remedy available is writ.  Expiry of one Year from the date of provisional attachment makes the order inoperative.  Mere noting in the File does not tantamount to order being passed.  Commissioner has the power to attach bank account under Section 83 of a person located outside the State. | **Bharat Parihar v. State of Maharashtra [2023] 152 taxmann.com 6 (Bombay)** | **High Court relying upon decision of Hon’ble Apex Court in the matter of Radha Krishan Industries v. State of Himachal Pradesh [2021] 6 Supreme Court Cases 771 held that order disposing the objections to provisional attachment of bank account was not an appealable order and only remedy available was invocation of writ jurisdiction under Article 226**.  The order for Provisional Attachment was made on 21st April 2022 and period of one year from the said date expired on 21st April 2023. **Therefore, provisional attachment order dated 21st April 22 ceased to have effect by operation of law and was held not operative after 21st April 23.**  Revenue sent a letter dated 19th April 2023 to the bankers with a copy marked to the Petitioner for continuation of attachment. They stated that fresh order passed was noted on the order sheet. The High Court did not find any fresh order having being passed to attach the bank account on 19th April 2023 and **mere noting’s in the file of the concerned Officer was held to be not to constitute an order without a formal order as the law may mandate being passed and most importantly such order being communicated to the affected person, whose bank account is attached**. Revenue failed to show firstly such order being passed and secondly being served on the Petitioner. **The High Court further observed that the revenue has also not disputed that letter of 19th April 2023 was only a communication to the bank, to retain provisional attachment of the account and thus, it can never be a fresh order under Section 83(1) provisionally attaching the Petitioner's bank account.**  It was submitted by the Petitioner that Respondents do not have the jurisdiction to pass the provisional attachment order, since the Petitioner was in Chennai and the bank account, in respect of which the provisional attachment order was communicated, was also in Chennai. The High Court observed that Sub-section (1) of Section 83 empowers Commissioner to provisionally attach any property, including bank account belonging of taxable person or "*any person" specified in Section 122(1-A)*and Section 122(1-A), refers to "any person", who has retained benefit of a transaction and in whose presence, transaction is conducted. It does not contemplate of a situation where the person should be located within the State in which the transaction is carried out. **Therefore, Respondents were held to have the jurisdiction to resort to the provisions of Section 83 of the Act with respect to the Petitioner located in Chennai.**  **Cases Referred-** Radha Krishan Industries v. State of Himachal Pradesh [2021] 6 Supreme Court Cases 771, *Guru Nanak Motor House*v*. Union of India* 2021-TIOL-2017-HC-Mum-GST. |
| 2. | Section 7, Section 15 and Section 16 | For Financial Credit Notes issued for post-sale discount, No ITC reversal required as there was no corresponding reduction of outward liability at the end of the supplier. | **Vedmutha Electricals India (P.) Ltd [2023] 152 taxmann.com 7 (AAR - ANDHRA PRADESH)** | Applicant was issued commercial credit notes for Turnover Discounts, Quantity Discounts, Cash Discounts, Additional Scheme Discounts. The credit notes issued were without GST. The supplier had made no adjustment in price in respect of goods already sold. The petitioner relied upon Circular No. 122/3/2010, dated 30-4-2010 issued by CBEC in context of Rule 4(7) of the Cenvat Credit Rules, 2004, Circular No. 877/15/2008-CX, dated 17th November, 2008, regarding reversal of Cenvat credit in case of trade discount and C.B.E. & C. Flyer NO. 19, DATED1-1-2018. **AAR held that corresponding reduction in ITC was not warranted as there was no corresponding reduction of outward liability by the supplier.** |
| 3. | Section 129 read with Rule 138 | E-way Bill required to be generated even for transaction other than supply | **KIA Motors India (P.) Ltd. *v.* State of Madhya Pradesh [2023] 152 taxmann.com 9 (Madhya Pradesh)** | The petitioner contended that demo vehicle was transported in the State of Madhya Pradesh not for sale and therefore, was not exigible to GST. The High Court observed that Rule 138(1)(*ii*) makes it clear that causing of movement of a goods exceeding the value of Rs.50,000/- even for the reasons other than supply, makes it incumbent upon the supplier to inform about the supply of goods in Form-A GST, EWB-01 alongwith other information as required and no such information as mandatory in Rule 138(1) of GST Rules, was given by the petitioner supplier. **Therefore, in absence of information given, entry of demo car into the State of Madhya Pradesh was held to be exigible to GST**. |