

Part-8-One Pager Snapshot to the Latest Cases

CA Arpit Haldia

S. N.	Section	Case Subject	Case	Held	Cases Referred
1.	Section 171	Constitutional Validity of Anti Profiteering Provisions Challenged	Siddha Real Estate Development (P.) Ltd. v. National Anti-Profitteering Authority [2023] 150 taxmann.com 48 (Calcutta)	<p>-The High Court was of the view that there could not be any urgency for granting any interim order since the petitioner was sitting over the aforesaid impugned adjudication order for the last six months.</p> <p>-It is a well established principle of law that every piece of legislation should be treated as a valid piece of legislation till the same is declared unconstitutional by any court of law and every action taken under such law should be deemed to be valid by an authority so long it is not declared unconstitutional. Since the constitutional validity of Section 171 of CGST Act has been challenged, writ petition being WPA 7189 of 2023 was entertained however, the court was not inclined to grant any interim order of stay of the aforesaid impugned adjudication order dated 30th September, 2022 in view of the facts and circumstances of this case as appears from record and by considering the submission of the parties.</p>	-
2.	Section 83	Attachment of Bank Account of other persons not being taxable person or covered under Section 122(1A) of CGST Act, 2017	Sakshi Bahl v. Principal Additional Director General [2023] 150 taxmann.com 47 (Delhi)	It is not open for the respondent to attach the bank accounts of other persons on a mere assumption that the funds therein are owned by any taxable person and the fact is 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. In view of the above, the impugned order was not sustained.	-
3.	Section 69 and Section 132	Condition directing the appellant to deposit a sum of Rs.2 crores for grant of bail was not liable to be sustained	Anatbhai Ashokbhai Shah v. State of Gujarat [2023] 150 taxmann.com 46 (SC)	The Apex Court observed that since the facts are almost identical to the case referred, there was no reason to deviate from the view taken in the said case vide judgment and order dated 20.01.2023. Following the reasons given in the said judgment and order, it was held that the condition directing the appellant to deposit a sum of Rs.2 crores was not liable to be sustained and was hereby set aside. The rest of the conditions in the impugned order were sustained. The appeal accordingly, was allowed to that extent.	Subhash Chouhan v. UOI [2023] 147 taxmann.com 211 (SC)