

फा. स. GST/INV/Provisional Attachment/Advisory/2023-24

वित्त मंत्रालय
राजस्व विभाग
केन्द्रीय अप्रत्यक्ष कर एवं सीमा शुल्क बोर्ड
GST-Investigation Wing

10वां माला, टावर-2,
जीवन भारती बिल्डिंग
कनाट सर्कस, नई दिल्ली-110001.
दिनांक 2nd September, 2023

कार्यालय ज्ञापन

Subject: Procedure to be followed with respect to sub-section (2) of section 83 of CGST Act, 2017 when provisional attachment of property ceases to have effect - reg.

Attention is invited to section 83 of the CGST Act, 2017. It has the provisions to issue order for provisional attachment of property, including bank account, to protect interests of revenue in appropriate cases. At present, the procedure for provisional attachment and release/restoration of such property is prescribed in rule 159 of CGST Rules, 2017. In this regard, GST Policy Wing has also issued instructions vide CBEC-20/16/05/2021-GST dated 23.02.2021.

2. The section 83(2) of CGST Act, 2017 states - "Every such provisional attachment shall cease to have effect after the expiry of a period of one year from the date of the order made under sub-section (1)." Where such provisions apply, say in the provisional attachment of bank account, there are instances noticed where person concerned filed writ petition seeking that Commissioner should also follow up by issuing intimation of release of such provisional attachment because Banks/relevant authority ask for such communication. Such matters have come up before the Hon'ble High Court of Delhi.

3.1 The matter has been examined in consultation with the policy wing. It is noted that in terms of the legal position of said section 83(2) of the Act, read with said rule 159, in effect, the property is no longer liable to provisional attachment, however, it requires further consultation and actions to incorporate a prescribed language for such type of release/restoration of provisional attachment in a specified Form (like GST DRC-23).

3.2 Therefore, for the present, and keeping in view the convenience of taxpayers, the Board prescribes the procedure that in such types of situations, the Commissioner shall issue communication/an intimation to the concerned authority/bank, drawing attention to the particulars of the Order/Form DRC-22 (which made the provisional attachment) and the provisions of section 83 (2) of the CGST Act, 2017, and further indicating the release/restoration of the relevant property/account, in terms of those provisions. This intimation shall be copied to the person concerned. This procedure be implemented immediately, including for dealing with similar pending cases.

(विजय मोहन जैन)
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सेवा में,

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