

High Court releases attached bank accounts as Fixed deposit suffices to protect revenue interest

Facts of the case - FCS Manufacturing (India) (P.) Ltd. v. Deputy Director of Income-tax, (Investigation) - [2022] (Gujarat)

Assessee-company engaged in the business of manufacturing injection moulding machines. During the relevant assessment year, a search was conducted on the assessee's premises and books of accounts were seized by the authorities. The bank accounts of the assessee were also attached.

The attachment led to the stoppage of payment of day-to-day expenses and creditors and instigated the stoppage of business. As the balance in bank accounts was more than the demand raised by the department, a request pertaining to the release of such an attachment was made but failed.

Aggrieved by order of the Assessing Officer (AO), the assessee preferred a writ petition to the Gujarat High Court.

Decision of the case:

- i. The Court held that the AO must exercise the powers relating to provisional attachment only in appropriate cases after recognising valid reasons. These provisions cannot be implemented merely based on the phraseology of the section, and such provisional orders cannot be passed based only on the opinion of the AO.
- ii. Although the provisional attachment order was passed after obtaining all the required approvals, the attachment is proven drastic under the said circumstances. The attachment has become a hindrance in the continuation of the business of the assessee.
- iii. It was held that the interest of the revenue could be protected by directing a particular amount furnished by way of a Bank Guarantee to the authority. Provisional attachment of both bank accounts is unnecessary if the Fixed Deposit furnished is sufficient to protect the revenue's interest.
- iv. Therefore, the assessee was directed to provide an undertaking to the department stating to fulfill the obligations in future if the assessments result in enhanced demand. The assessee made fixed deposit with one of the bank accounts, and thus, AO was ordered to release the other bank account.