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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ **W.P.(C) 12521/2025 & CM APPL. 51100/2025**

M/S OSIYA METAL INDUSTRIES THROUGH ITS PARTNER SH MUKESH KUMAR SHARMA .....Petitioner

Through: Mr. R. P. Singh, Mr. Aman Sinha, Mr. Yash Aggarwal, Mr. Nirmal Dixit & Mr. Anant Vijay, Advs

versus

DIRECTOR GENERAL DIRECTORATE GENERAL OF GOODS AND SERVICES TAX INTELLIGENCE, (THROUGH ITS ADDITIONAL DIRECTOR GENRAL) & ORS. .....Respondents

Through: Mr. Atul Tripathi, SSC.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE SHAIL JAIN

<u>O R D E R</u>

% 20.08.2025

1. This hearing has been done through hybrid mode.

<u>CM APPL. 51101/2025 (for Ex.)</u>

2. Allowed, subject to all just exceptions. Application stands disposed of.

<u>W.P.(C) 12521/2025 & CM APPL. 51100/2025</u>

3. The present petition has been filed by the Petitioner under Article 226 of the Constitution of India, *inter alia*, challenging the re-attachment of two bank accounts of the Petitioner in ICICI Bank bearing no. 349005001076 and Yes Bank bearing no.105863730000533.

4. The ground on which the challenge has been raised by Mr. R. P. Singh, ld. Counsel for the Petitioner is that these very accounts were earlier attached

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by the Respondent No. 1 and the one year period had already elapsed, in terms of Section 83 of the Central Goods and Service Tax Act, 2017 (hereinafter, '*CGST Act*'). Ld. Counsel has placed reliance on the decision of the Supreme Court in ***Civil Appeal No. 9543/2025*** titled ***'Keshari Nandan Mobile vs Office of Assistant Commissioner of State Tax (2), Enforcement Division-5'*** wherein the Supreme Court has categorically held that issuance of the attachments upon the expiry of the first attachment would not be permissible in law.

5. Mr. Atul Tripathi, ld. SSC on the other hand counters the said argument made by the ld. Counsel for the Petitioner and submits that there has been a change in the circumstances and the position would be governed by paragraph 31 of the said judgement *i.e.*, ***'Keshari Nandan Mobile (Supra)*** itself. He submits that there is allegation of fraudulent availment of ITC to the tune of more than 40 crores. Ld. SSC further submits that the earlier attachment order was only of the ICICI bank account. Moreover, ld. SSC wishes to file a counter affidavit in this matter.

6. Be that as it may, from the submissions of Mr. Atul Tripathi, ld. SSC it is clear that the allegation is one of fraudulent availment of Input Tax Credit (hereinafter, '*ITC*') to the tune of Rs 40 Crores from total of 15 suppliers which is disputed by the Petitioner.

7. On behalf of the Petitioner, it is submitted by ld. Counsel that the entire business of the Petitioner has come to a standstill due to the attachment of these bank accounts and there is balance of more than of Rs 6 Crores combined in the bank accounts of the Petitioner.

8. The Court has heard ld. Counsel for parties. A perusal of the record would show that previously, the attachment had been directed of the same very

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bank account, which was challenged in ***WP (C) No. 10219/2025*** titled ***'Ms Osiya Metal Industries through its Partner Sh Mukesh Kumar Sharma v. Director General Directorate General of Goods and Service Tax Intelligence & Anr.'*** which was disposed of *vide* order dated 23rd July, 2025 with the following order:-

> *" 2. The present writ petition has been filed by the Petitioner under Article 226 of the Constitution of India, inter alia, assailing the Provisional Attachment Order in Form GST DRC-22 issued on 02nd May, 2024 (hereinafter, 'impugned order') by which the bank account of the Petitioner has been frozen in terms of Section 83 of the Central Goods and Service Tax Act, 2017 (hereinafter, 'CGSTAct'). In terms of Section 83 of the CGST Act, the impugned order would only be valid for a period of one year.*
> *3. Mr. Atul Tripathi, ld. Sr Standing Counsel for the Respondents submits that the CGST Department has now issued a fresh Provisional Attachment*
> *Order on 18th July, 2025.*
> ***4. This Court notes with some consternation that this writ petition was filed on 17th July, 2025 and immediately the CGST Department appears to have issued a fresh Provisional Attachment Order of the bank account. Moreover, a perusal of the panchnama would also reveal that the investigation in the present matter commenced on 2nd May, 2024 as it is evident from the panchnama but no Show Cause Notice has been issued in this matter till date.***
> ***5. In any event, since a fresh Provisional Attachment Order has been issued by the CGST Department, the present writ petition becomes infructuous. Accordingly, the Petitioner is given liberty to avail his remedies in accordance with law."***

9. As can be seen from the above order, since a fresh Provisional

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Attachment Order was issued to the Petitioner, the earlier writ petition had been disposed of.

10. Today, the Provisional Attachment Orders that have been challenged are both dated 18th July, 2025, both for ICICI Bank and Yes Bank.

11. It is also submitted that during the course of the investigation which commenced in May, 2024 the Petitioner had paid a sum of Rs 1.2 Crores under protest.

12. Under such circumstances, this Court is of the opinion that even if the principle of 10% pre-deposit is applicable, there is a substantial amount of funds in the bank accounts of the Petitioner which cannot be held up in this manner. Moreover, despite the investigation having commenced in May, 2024, till date no Show Cause Notice (hereinafter, '*SCN*') has been issued to the Petitioner under Section 74 of the CGST Act which is the provision under which the provisional attachment has been directed.

13. *Prima facie*, this Court is of the view that the interest of the revenue would be sufficiently protected if balance of Rs 2 Crores in the ICICI bank account bearing no. 349005001076 is maintained. Accordingly, it is directed that a sum of Rs. 2 Crore shall be maintained in the ICICI bank account bearing no. 349005001076 in a Fixed Deposit. Subject to this condition, the freezing of the bank account is relaxed and the Petitioner is free to conduct its business using the funds in the said bank accounts.

14. Let a counter affidavit be filed within four weeks. Rejoinder, if any, be filed within four weeks thereafter.

15. The legal issue that has been raised by the Petitioner on the validity of such re-attachments, shall be considered after the pleadings are completed.

16. List before Joint Registrar on 23rd September, 2025.

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17. List before this Court on 21st November, 2025.

PRATHIBA M. SINGH, J.

SHAIL JAIN, J.

AUGUST 20, 2025
Sk/ck

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