

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**  
**R/SPECIAL CIVIL APPLICATION NO. 2787 of 2022**

**FOR APPROVAL AND SIGNATURE:**

**HONOURABLE MR. JUSTICE J.B.PARDIWALA**

**and**  
**HONOURABLE MS. JUSTICE NISHA M. THAKORE**

1	Whether Reporters of Local Papers may be allowed to see the judgment ?	
2	To be referred to the Reporter or not ?	
3	Whether their Lordships wish to see the fair copy of the judgment ?	
4	Whether this case involves a substantial question of law as to the interpretation of the Constitution of India or any order made thereunder ?	

ARYA METACAST PVT. LTD. & 1 other(s)  
 Versus  
 STATE OF GUJARAT & 1 other(s)

Appearance:  
 UCHIT N SHETH(7336) for the Petitioner(s) No. 1,2  
 MR UTKARSH SHARMA AGP for the Respondent(s) No. 1,2

**CORAM: HONOURABLE MR. JUSTICE J.B.PARDIWALA**  
**and**  
**HONOURABLE MS. JUSTICE NISHA M. THAKORE**

Date : 17/03/2022

**ORAL JUDGMENT**  
**(PER : HONOURABLE MS. JUSTICE NISHA M. THAKORE)**

1. By this writ application under Article 226 of the Constitution of India, the writ applicants have challenged the provisional attachment order passed under the Gujarat Goods and Services Tax Act, 2017 (for short "GST Act").

2. Brief facts giving rise to this writ petition as pleaded by the writ applicants are summarized as under:

2.1 The writ applicant No.1 is a Private Limited Company and the writ applicant no.2 the Managing Director of the said company. The writ applicant no.1 is engaged in manufacture and sale of ingots, having factory situated near Rajkot, Gujarat State. The writ application is duly registered under the GST Act and is thus a registered taxable person.

2.2 The writ applicants have claims to have regularly paid output tax for three Financial Years i.e. A.Y. 2018-19, 2019-20 and 2020-21. It is further pleaded by the writ applicants that they have entered in business transaction only with genuine dealers who are registered taxable persons under the GST act. In support, the writ applicants have placed on record regularly maintained record of the purchase transactions, which include invoices, e-way bill, weightment slips, photographs of material being unloaded and material received inspection report etc.

2.3 It appears that the office of the Deputy Commissioner of State Tax, Vadodara, suspected that the writ applicant had shown purchase from fictitious firms, which are otherwise non-existent. The respondent launched the proceedings against the writ applicants whereby search was carried out at the business premises of the writ applicants as per the procedure prescribed under Section 67 of the GST Act.

2.4 It appears that pursuant to the said search, the dispute arose

with regard to the claim for input tax credit availed by the writ applicants on the ground that the Firm from whom the writ applicants had made purchase, were not found to be genuine.

2.5 The writ applicants during such search had cooperated with the respondent authority. Pursuant to such search, the writ applicants were served with three form GST DRC-22 dated 27.11.2021, whereby the respondent authority had passed an order of provisional attachment of various properties of the writ applicant. The details of which are summarized as under:

Property Name	Property located at	Approx. Value	Nature of property
Factory Shed & machinery	Survey No.99/P, Nr. Bamanbore GIDC, Plot No.17 to 22, 31 and 32, Bamanbore, Gujarat	2.17 Crore	Immovable
Plant & Machinery	As above	1.87 Crore	Immovable
Pollution Control Unit	As above	0.42 Crore	Immovable
Stock of Goods	As above	4.91 Crore	Immovable.

Type of Account	Depository Participant	Type of Investment	AC No.	Present Value
Demat Account	Zerodha	Equity	DP ID-12081600 Client ID – 88065444	4127672
Demat Account	Zerodha	Mutual Fund	DP ID-12081600 Client ID-88065444	1589741

Type of	Bank	Branch	AC No.	Closing
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Account	Name			Balance as on today
Current	Axis Bank	Main Branch KKV Hall, Rajkot	911020021554206	103364

2.6 It is the case of the writ applicants that apart from the aforesaid properties, the respondent authorities have also seized the mobile phone, laptop and other documents from the business premises of the writ applicants by passing the seizure order as reflected at Annexure B. The writ applicants have made representation followed by subsequent reminders which are placed on record as Annexure H collectively, but the same are not responded. In such circumstances, the writ applicants have approached with this writ petition, before this Court seeking reliefs as prayed for.

3. We have heard Mr. Uchit Sheth, the learned counsel appearing for the writ applicants as well as Mr. Utkarsh Sharma, the learned AGP for the respondent State Authorities.

4. Mr. Sheth, the learned counsel appearing for the writ applicants has drawn attention of this Court to the subjective satisfaction arrived at by the Assistant Commissioner of the State Tax (4), Enforcement Division -5, Vadodara. He has contended that exercise of power for ordering the provisional attachment must be preceded by formation of an opinion by the Commissioner that *"it is necessary so to do for the purpose of protecting the interest of the Government revenue"*. He further submitted that while

exercising such power of provisional attachment of the properties of the taxable person including bank account, demat account is draconian in the nature and such condition of forming opinion by the Commissioner should be strictly adhered to before passing order of provisional attachment. Mr. Sheth therefore argued that upon bare reading of the subjective satisfaction recorded by the Assistant Commissioner of State Tax (4), Enforcement Division -5, Vadodara, is without any base of tangible material and therefore, the action of the respondent authority of provisional attachment of the properties of the writ applicants is completely arbitrary and illegal and is required to be quashed and set aside.

5. Mr. Sheth has further referred to and relied upon the decision of the Supreme Court in the case of **Radhe Krishan Industries Vs. State of Himachal Pradesh** reported in **(2021) 6 SCC 771**. Mr. Sheth has further drawn attention of this Court to the Circular bearing No. CBEC-20/16/05/2021-GST dated 23.02.2021, whereby the Central Board of Indirect Taxes and Customs of the Revenue Department have laid down various guidelines for provisional attachment of the property under Section 83 of the CGST Act, 2017. It would be apposite at this stage to look into the guidelines issued by the Central Board of Indirect Taxes and Customs. Mr. Sheth by referring to and relying upon the aforesaid guidelines has submitted that the respondent authority should not have acted in manner to hamper normal business activities of the writ applicants by provisionally attaching the stock of goods worth Rs.4.91 Crore, demat account worth Rs.57,17,413/- as well as current account having closing balance amount of Rs.1,03,374/-. He further submitted that even considering the satisfaction note,

even if accepted then also the prima facie tax liability of the writ applicant company comes to around Rs.4,73,39,338/- which in future with penalty and interest may result into total amount of Rs.10,76,61,243/-. He further submitted that as on date no substantial proceedings have been initiated against the writ applicants and on the other than the period of almost four months have passed since the order of provisional attachment dated 27.11.2021. He therefore urged this Court to grant reliefs as prayed for.

6. Alternatively, Mr. Sheth submitted that in any case, the interest of revenue can be protected presuming for the sake of arguments, the future demand which may arise if at all the same may be secured by imposing suitable conditions or at least permit the writ applicants to operate the demat account as well as current account and provisional attachment qua the stock of the goods be lifted. Mr. Sheth has further requested this Court to consider his prayer for return of electronic devices including mobile phone, laptop as well as documents seized during the search proceedings and has further assured to not to dispose of the aforesaid electronic items and documents so seized and has offered to retain the same in its original form.

7. On the other hand, Mr. Utkarsh Sharma, the learned AGP appearing for the respondent authorities has vehemently objected to grant to any of the reliefs so sought for by the writ applicants. Attention of this Court was drawn to the affidavit-in-reply filed by one Jaydipkumar Gadhavi, Assistant Commissioner of State Tax, Enforcement, Division -5 Vadodara and has contended that the writ applicants seems to be engaged in bogus billing by entering

into purchase transaction with 15 fictitious firms which upon investigation are either found non-existent at the business place or the owners are not traceable and the firms are in the name of the persons of no means and the owners are not aware of such alleged business activities. Learned AGP has further referred to list of such 15 fictitious firms and has submitted that prima facie the investigation so far undertaken reveals that the writ applicants have wrongly availed the input tax credit worth Rs.4,73,39,338/- which has ultimately resulted into tax evasion and as on date the total evasion of tax including penalty and interest comes to Rs.10,76,61,243/-. Mr. Sharma has further contended that the Assistant Commissioner of State Tax, during the course of inquiry, has seized various invoices of the aforesaid fictitious firms. He further emphasize that such tangible material has lead to believe the Assistant Commissioner of State Tax(4) to prima facie arrived at subjective satisfaction that the assessee is likely to defeat the demand and at the same time, the quantum of tax evasion involved is likely to increase further which may enhance the gravity of the case. Mr. Sharma further submitted that the Assistant Commissioner of State Tax (4) in order to protect the interest of Revenue has formed the opinion to provisionally attached various properties of the writ applicants in exercise of power conferred under Section 83 of the Act. It was therefore, submitted that the respondent Authorities have duly adhered to the provisions of law as well as guidelines issued by the Central Board of Indirect Taxes and Customs before passing the impugned order of provisional attachment. He therefore, prayed to not to interfere at this stage.

8. We have carefully gone through the records as well as have

also examined the documents and the judgments relied upon by the learned counsel for the writ applicants. Before we decide the aspect of the exercise of powers by the respondent authority, while passing the impugned order, it would be appropriate at this stage to look into the instructions issued by the Central Board of Indirect Taxes and Customs vide dated 23.02.2021.

**“CBEC-20/16/05-2021-GST/359**  
**Government of India**  
**Ministry of Finance**  
**Department of Revenue**  
**Central Board of Indirect Taxes and Customs**  
**GST Policy Wing**

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New Delhi Dated 23<sup>rd</sup> February , 2021

To, The Principal Chief Commissioners/  
Chief Commissioners/  
Principal Commissioners /  
Commissioners of Central Tax (All)  
The Principal Director (Generals/Director Generals (All))

Madam / Sir,

**Subject: Guidelines for provisional attachment of property under section 83 of the CGST Act, 2017-Reg.**

1. I am directed to refer to the section 83 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "the Act"). This section provides for provisional attachment of property for the purpose of protecting the interest of revenue during the pendency of any proceeding under section 62 or section 63 or section 64 or section 67 or section 73 or section 74 of the Act.
2. Doubts have been raised by the field formations on various issues pertaining to provisional attachment of property under the provisions of section 83 of the Act read with rule 159 of Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the "CGST Rules"). Besides, in a number of cases, Hon'ble Courts have also



*made observations on the modalities of implementation of provisions of section 83 of the Act by the tax officers. In view of the same, the following guidelines are hereby issued with respect to the exercise of power under section 83 of the Act.*

### **3.1 Grounds for provisional attachment of property**

*3.1.1 Section 83 of the Act is reproduced hereunder.*

*"83. Provisional attachment to protect revenue in certain cases*

*(1) Where during the pendency of any proceedings under section 62 or section 63 or section 64 or section 67 or section 73 or section 74, the Commissioner is of the opinion that for the purpose of protecting the interest of the Government revenue, it is necessary so to do, he may, by order in writing attach provisionally any property, including bank account, belonging to the taxable person in such manner as may be prescribed*

*(2) 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).*

*3.1.2 Perusal of the above provision of the law suggests that the followings grounds must exist for resorting to provisional attachment of property under the provisions of section 83 of the Act.*

*(i) There must be pendency of a proceeding against a taxable person under the sections mentioned in section 83 of the Act;*

*(ii) The Commissioner must have formed the opinion that provisional attachment of the property belonging to the taxable person is necessary for the purpose of protecting the interest of the Government revenue.*

*3.1.3 For forming an opinion under section 83, it is important that Commissioner must exercise due diligence and duly consider as well as carefully examine all the facts of the case, including the nature of offence, amount of revenue involved, established nature of business and extent of investment in capital assets and reasons to believe that the taxable person, against whom the proceedings referred in section 83 are pending, may dispose of or remove the property, if not attached provisionally.*

*3.1.4 The basis, on which, Commissioner has formed such an opinion, should be duly recorded on file.*

*3.1.5 It is reiterated that the power of provisional attachment*

*must not be exercised in a routine/mechanical manner and careful examination of all the facts of the case is important to determine whether the case(s) is fit for exercising power under section 83. The collective evidence, based on the proceedings/ enquiry conducted in the case, must indicate that prima-facie a case has been made out against the taxpayer, before going ahead with any provisional attachment. The remedy of attachment being, by its very nature, extraordinary, has to be resorted to with utmost circumspection and with maximum care and caution.*

### *3.2 Procedure for provisional attachment of property*

*3.2.1 In case, the Commissioner forms an opinion to attach any property, including bank account, of the taxable person in terms of section 83, he should duly record on file the basis, on which he has formed such an opinion. He should, thereafter, pass an order in FORM GST DRC-22 with proper Document Identification Number (DIN) mentioning therein the details of property being attached.*

*3.2.2 A copy of the order of attachment should be sent to the concerned Revenue Authority or Transport Authority or Bank or the relevant Authority to place encumbrance on the said movable or immovable property. The property, thus attached, shall be removed only on the written instructions from the Commissioner.*

*3.2.3 A copy of such attachment order shall be provided to the said taxable person as early as possible so that objections, if any, to the said attachment can be made by the taxable person within the time period prescribed under rule 159 of the CGST Rules. If such objection is filed by the taxable person, Commissioner should provide an opportunity of being heard to the person filing the objection. After considering the facts presented by the person in his written objection as well as during the personal hearing, if any, the Commissioner should form a reasoned view whether the property is still required to be continued to be attached or not, and pass an order in writing to this effect. In case, the Commissioner is satisfied that the property was or is no longer liable for attachment, he may release such property by issuing an order in FORM GST DRC-23.*

*3.2.4 Even in cases where objection is not filed within the time prescribed under Rule 159(5) of CGST Rules, the Commissioner may take the grounds mentioned in the said objection/representation on record and pass a reasoned*

*order. Where the Commissioner is satisfied that the property was or is no longer liable for attachment, he may release such property by issuing an order in FORM GST DRC-23,*

*3.2.5 Each such provisional attachment shall cease to have effect after the expiry of a period of one year from the date of the order of attachment.*

*3.2.6 If the provisionally attached property is of perishable/hazardous nature, then such property shall be released to the taxable person by issuing order in FORM GST DRC-23, after taxable person pays an amount equivalent to the market price of such property or the amount that is or may become payable by the taxable person, whichever is lower, and submits proof of payment. In case the taxable person fails to pay the said amount, then the said property of perishable/hazardous nature may be disposed of and the amount recovered from such disposal of property shall be adjustable against the tax, interest, penalty, fee or any other amount payable by the taxable person. Further, the sale proceeds thus obtained must be deposited in the nearest Government Treasury or branch of any nationalised bank in fixed deposit and the receipt thereof must be retained for record, so that the same can be adjusted against the amount determined to be recoverable from the said taxable person.*

### **3.3 Cases fit for provisional attachment of property**

*3.3.1 As mentioned above, the remedy of attachment being, by its very nature, extraordinary. needs to be resorted to with utmost circumspection and with maximum care and caution. It normally should not be invoked in cases of technical nature and should be resorted to mainly in cases where there is an evasion of tax or where wrongful input tax credit is availed or utilized or wrongfully passed on. While the specific facts of the case need to be examined in detail before forming an opinion in the matter, the following are some of type of cases, where provisional attachment can be considered to be resorted to, subject to specific facts of the case:*

*Where taxable person has:*

- a. supplied any goods or services or both without issue of any invoice, in violation of the provisions of the Act or the rules made there under, with an intention to evade tax; or*
- b. issued any invoice or bill without supply of goods or*

*services or both in violation of the provisions of the Act, or the rules made there under; or*

*c. availed input tax credit using the invoice or bill referred to in clause (b) or fraudulently availed input tax credit without any invoice or bill, or*

*d. collected any amount as tax but has failed to pay the same to the Government beyond a period of three months from the date on which such payment becomes due; or e. fraudulently obtained refund; or*

*f. passed on input tax credit fraudulently to the recipients but has not paid the commensurate tax*

*3.3.2 The above list is illustrative only and not exhaustive. The Commissioner, may examine the specific facts of the case and take a reasoned view in the matter.*

#### **3.4 Types of property that can be attached**

*3.4.1 It should be ensured that the value of property attached provisionally is not excessive. The provisional attachment of property shall be to the extent it is required to protect the interest of revenue, that is to say, the value of attached property should be as near as possible to the estimated amount of pending revenue against such person,*

*3.4.2 More than one property may be attached in case value of one property is not sufficient to cover the estimated amount of pending revenue against such person. Further, different properties of the taxpayer can be attached at different points of time subject to the conditions specified in section 83 of the Act.*

***3.4.3 It may be noted that the provisional attachment can be made only of the property belonging to the taxable person, against whom the proceedings mentioned under section 83 of the Act are pending.***

*3.4.4 Movable property should normally be attached only if the immovable property, available for attachment, is not sufficient to protect the interests of revenue.*

***3.4.5 As far as possible, it should also be ensured that such attachment does not hamper normal business activities of the taxable person. This would mean that raw materials and inputs required for production or finished goods should not normally be attached by the Department.***

*3.4.6 In cases where the movable property, including bank account, belonging to taxable person has been attached, such movable property may be released if taxable person*

*offers, in lieu of movable property, any other immovable property which is sufficient to protect the interests of revenue. Such immovable property should be of value not less than the tax amount in dispute. It should also be free from any subsisting charge, liens, mortgages or encumbrances, property tax fully paid up to date and not involved in any legal dispute. The taxable person must produce the original title deeds and other necessary information relating to the property, for the satisfaction of the concerned officer.*

### **3.5 Attachment Period**

*3.5.1 Every provisional attachment shall cease to have effect after the expiry of a period of one year from the date of the provisional attachment order.*

*3.5.2 Besides, the provisional attachment order shall also cease to have effect if an order in FORM GST DRC-23 for release of such property is made by the Commissioner.*

### **3.6 Investigation and Adjudication**

*As the provisional attachment of property is resorted to protect the interests of the revenue and may also affect the working capital of the taxable person, it may be endeavored that in all such cases, the investigation and adjudication are completed at the earliest, well within the period of attachment, so that the due liability of tax as well as interest, penalty etc. arising upon adjudication can be recovered from the said taxable person and the purpose of attachment is achieved.*

### **3.7 Share in property**

*Where the property to be provisionally attached consists of the share or interest of the concerned taxable person in property belonging to him and another as co-owners, the provisional attachment shall be made by order to the concerned person prohibiting him from transferring the share or interest or charging it in any way.*

### **3.8 Property exempt from attachment**

*All such property as is by the Code of Civil Procedure, 1908 (5 of 1908), exempted from attachment and sale for execution of a Decree of a Civil Court shall be exempt from provisional attachment*

*4. It may be noted that an amendment to section 83 has been proposed in Finance Bill 2021. However, such proposed amendment shall come into effect only from a date to be notified in future. The present guidelines, which*

*are based on the existing provisions of section 83 of the Act, shall stand modified according to the amended provisions of section 83, once the said amendment comes into effect.*

*5. Difficulty, if any, in the implementation of the above guidelines may please be brought to the notice of the Board.*

Sd/-  
(Sanjay Mangal)  
Commissioner (GST)”

9. On bare reading of the contents of the aforesaid instructions, we find that the respondent no.2, inspite of repeated reminder by this Court in various decisions has once again overlooked the aforesaid guidelines issued by the Central Board of Indirect Taxes and Customs dated 23.02.2021, which otherwise in clear terms provides the guidelines to be adhered while exercising powers conferred upon the respondent authority under Section 83 of the GST Act. We may guardedly put the respondent authorities a word of caution to note that such instructions were issued by the CBITC in woke of the observations made by the Courts as regards modalities of implementation of provisions of section 83 of the act by the Tax officers. This Court in the case of *Valerius Industries Vs. Union of India* , reported in [2019] 70 GSTR 147 (Guj) has held that power of provisional attachment under section 83 of the act should be exercised by the authority only if there is reasonable apprehension that the assessee may default the ultimate collection of the demand that is likely to be raised on completion of the assessment. It should therefore be exercised with extreme care and caution. The Court held that power under section 83 of the act should not be used as a tool to harass the assessee nor should it be used in as manner *which may have irreversible detrimental*

*effect on the business of the assessee.* However, we may once again remind the respondent authorities what has been instructed, more particularly, in form of Clause 3.4.3 to 3.4.5, which reads as under:

**“3.4.3 It may be noted that the provisional attachment can be made only of the property belonging to the taxable person, against whom the proceedings mentioned under section 83 of the Act are pending.**

**3.4.4 Movable property should normally be attached only if the immovable property, available for attachment, is not sufficient to protect the interests of revenue.**

**3.4.5 As far as possible, it should also be ensured that such attachment does not hamper normal business activities of the taxable person. This would mean that raw materials and inputs required for production or finished goods should not normally be attached by the Department.**

10. Apart from the aforesaid guidelines, the above stated decision in the case of *Valerius Industries (supra)*, has been recognized in the recent pronouncement of the Supreme Court in the case of *Radhe Krishan Industries vs. state of H.P. reported in (2021) 6 SCC 771* and has in detail has dealt with similar provision on statute book of Himachal Pradesh Goods and Service Tax act, 2017. The Supreme Court set aside the judgment passed by the Himachal Pradesh High Court and the orders of provisional attachment passed by the Joint commissioner. The Supreme Court held that, the power to order a provisional attachment of the property of the taxable person including a bank account is draconian in nature and the conditions which are prescribed by the

statute for a valid exercise of the power must be strictly fulfilled. The summary of findings recorded by the Supreme Court reads as under :

- The Hon'ble HP High Court has erred in dismissing the writ petition on the ground that it was not maintainable;
- The power to order a provisional attachment of the property of the taxable person including a bank account is draconian in nature and the conditions which are prescribed by the statute for a valid exercise of the power must be strictly fulfilled;
- The exercise of the power for ordering a provisional attachment must be preceded by the formation of an opinion by the Commissioner that it is necessary so to do for the purpose of protecting the interest of the government revenue. Before ordering a provisional attachment the Commissioner must form an opinion on the basis of tangible material that the assessee is likely to defeat the demand, if any, and that therefore, it is necessary so to do for the purpose of protecting the interest of the government revenue.
- The expression "necessary so to do for protecting the government revenue" implicates that the interests of the government revenue cannot be protected without ordering a provisional attachment; The formation of an opinion by the Commissioner under Section 83(1) of the HPGST Act must be based on tangible material bearing on the necessity of ordering a provisional attachment for the purpose of protecting the interest of the government revenue;
- In the facts of the present case, there was a clear non-application of mind by the Respondent to the provisions of Section 83 of the HPGST Act, rendering the provisional attachment illegal;
- Under the provisions of Rule 159(5), the person whose property is attached is entitled to dual procedural safeguards:
  - a. An entitlement to submit objections on the ground that the property was or is not liable to attachment; and
  - b. An opportunity of being heard;
- There has been a breach of the mandatory requirement of Rule 159(5) of the HPGST Rules and the Respondent was clearly misconceived in law in coming into conclusion that the Respondent had a discretion on whether or not to grant



- an opportunity of being heard;
- The Respondent is duty bound to deal with the objections to the attachment by passing a reasoned order which must be communicated to the taxable person whose property is attached;
  - The Appellant having filed an appeal against the order under Section 74(9) of the HPGST Act, the provisions of Sections 107(6) and Section 107(7) of the HPGST Act will come into operation in regard to the payment of the tax and stay on the recovery of the balance as stipulated in those provisions, pending the disposal of the appeal.

11. In the facts of the case, undisputedly, the respondent no.2 has not only provisionally attached the stock of goods lying at the factory premise of the writ applicants, at the same time, the respondent No.2 has also provisionally attached the demat account and current account of the writ applicants. These are the valuable assets of the writ applicants, more particularly, raw material and the finished goods are valuables which are otherwise necessary for running of the business of the applicants. Even operating the demat account and current account are essentially required for the routine business of the writ applicants. Time and again, this Court as well as even the instructions issued by the higher authority of the respondents, has directed the proper officer to ensure that their action of the provisional attachment should not hamper normal business activities of the taxable person. Even thereafter this Court vide judgment dated 27.01.2022 passed in **Special Civil Application No.188 of 2022** in the case of ***M/s. Utkarsh Ispat LLP Vs. State of Gujarat*** had an occasion to deal with the similar facts whereby the respondent authorities have provisionally attached goods, stock and receivables and also bank accounts. This Court did not approve the provisional attachment of the goods, stock and receivables,

more particularly, when the entire stock and receivables have been pledged and a floating charge has been created in favour of the Kalupur Commercial Bank Limited for the purpose of availing the cash credit facility with the provisional attachment of the goods, stock and receivables the entire business will come to a standstill.

12. For the aforesaid reasons, present writ application succeeds in part. We hereby quash and set aside the order of the provisional attachment dated 27.11.2021 qua the stock of goods, two demat accounts as well as current account of the writ applicants is concerned. So far the prayer of the writ applicants with regard to release of electronic items including Mobile Phone, laptop and other documents seized during the search proceedings are concerned, same is also directed to be released forthwith on condition that the writ applicants shall file an undertaking before the respondent no.2 thereby declaring that the aforesaid goods electronic items including mobile phone, laptop and other seized documents shall be retained in its original form and shall not be disposed of pending the investigation, if any. At the same time, we permit the respondent authorities to secure the original data by availing necessary certificate under Section 65B of the Information and Technology Act.

With the aforesaid, the petition stands disposed of accordingly.

**(J. B. PARDIWALA, J)**

**(NISHA M. THAKORE, J)**

Y.N. VYAS