

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 9586 of 2020

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M/S MAHAVIR ENTERPRISE
Versus
STATE OF GUJARAT

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Appearance:

MR.AVINASH PODDAR(9761) for the Petitioner(s) No. 1

NOTICE SERVED(4) for the Respondent(s) No. 1,2,3,4

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CORAM:HONOURABLE MS. JUSTICE BELA M. TRIVEDI and

HONOURABLE DR. JUSTICE ASHOKKUMAR C. JOSHI

Date : 19/08/2021

ORAL ORDER

(PER : HONOURABLE MS. JUSTICE BELA M. TRIVEDI)

Learned AGP Trupesh Kathiriya for respondent – State has placed on record a copy of the remarks by the Assistant Commissioner of State Tax, Unit-60, Surat – respondent No. 4. From the said remarks, it appears that no proceedings under either Sections 73 or 74 were pending on the date of order passed for the provisional attachment of the property of the petitioner under Section 83 of the GST Act. It is needless to say that the powers under Section 83 of the GST Act with regard to provisional attachment could be exercised only during pendency of proceedings either under sections 62 or Section 63 or Section 64 or Section 67 or Section 73 or Section 74. Hence, prima-facie the exercise of powers under Section 83 of the GST Act appears to be arbitrary and de hors the said provision. Under the circumstances respondent No. 4 is called upon to state on affidavit as to under what circumstances the impugned order of

attachment was passed.

Put up on **02.09.2021**.

In the mean time, the respondent No. 4 is directed to lift the provisional attachment forthwith, if not done so far.

(BELA M. TRIVEDI, J)

(A. C. JOSHI, J)

prk

