

Kesari Nandan Mobile v. Office of Assistant Commissioner of State Tax (2), Enforcement Division-5

Case number: Civil Appeal No. 9543 of 2025

Citation: 2025 INSC 983; [2025] 8 SCR 936

Decision date: 2025-08-14

Direct GST: one-year statutory lapse and impermissible renewal of provisional attachment under section 83

Court: Supreme Court

Bench: Dipankar Datta and Augustine George Masih, JJ.; judgment by Dipankar Datta, J.

Decision stage: Final judgment allowing the appeal against renewed provisional attachments

01 Facts

The appellant challenged the Gujarat High Court's dismissal, on 29 January 2025, of Special Civil Application No. 16339 of 2024. The tax authority had provisionally attached bank accounts on 17 and 26 October 2023. According to the case recorded by the Court, the appellant objected under rule 159(5) on 1 May 2024, but its representation remained undecided. The earlier attachments lapsed after one year, from 18 and 27 October 2024 respectively. The authority then issued orders dated 13 November and 18 December 2024 described as renewals. The High Court reasoned that section 83 did not prohibit a second attachment. The appellant challenged the absence of renewal power, the substantially unchanged satisfaction notes and the officer's territorial/delegated jurisdiction. Revenue relied on alleged fraud, apprehended asset disposal and recovery risk. These were its contentions, not findings establishing tax fraud. The central issue was whether a fresh or renewed provisional attachment could be issued after the initial order had ceased under section 83(2).

Pinpoint: Paragraphs 1-15, official SCR PDF pages 4-7 (reported pages 939-942).

02 Court Discussion

The Hon'ble Court treated the one-year limit in section 83(2) as an operative statutory safeguard. Section 83(1) confers a drastic pre-emptive power, requiring strict observance of its conditions, as explained in *Radha Krishan Industries*. The absence of an express prohibition on renewal did not itself create executive power. Although executive instructions can supplement statutory provisions within lawful limits, they cannot displace an inconsistent statutory command; no statutory authority or consistent executive instruction justified these renewals. Permitting the same attachment to be revived indefinitely would deprive section 83(2) of effect. Paragraph 31 specifically rejects fresh orders on substantially the same grounds and repeated renewals with no changed circumstances. The Court did not affirm a general power to make a second attachment merely because an officer labels material as new; that issue would require its own lawful foundation and analysis. Provisional attachment protects revenue before adjudication and cannot become a substitute for the statutory recovery process once a final demand is made. The Court agreed with the limited de-freezing order in *RHC Global Exports* dated 18 September 2024, while expressly recognizing that it was an interim-application order and that the SLP was then pending. It approved the Kerala High Court's approach in *Ali K*. It also discussed the GST Council's recommendation to align rule 159 and the attachment form with the statutory lapse, emphasizing compliance with the Act. The separate

delegation/jurisdiction contention was left undecided because the attachment orders failed on the legal issue already resolved.

Pinpoint: Paragraphs 16-19, PDF pages 8-11; paragraphs 20-32, pages 11-16; paragraphs 33-40, pages 16-19. Same-ground renewals: paragraph 31, page 16. Recovery distinction: paragraph 32, page 16. Undecided delegation question: paragraph 40, page 19.

03 Decision

The Court answered the framed question against the Revenue and held that the respondent could not issue the attachment orders dated 13 November and 18 December 2024 after the prior attachments had ceased by operation of law. It directed that the bank accounts stand de-frozen and be made operable forthwith on production of a copy of the judgment before the banks. The civil appeal was allowed on those terms. Paragraph 43 expressly preserved the ongoing investigation and any further steps taken in accordance with law, restricting the judgment to the attachment issue before the Court.

Pinpoint: Paragraphs 40-43, official SCR PDF pages 19-20 (reported pages 954-955); de-freezing direction in paragraph 41, page 19.

04 In Favour Of

Kesari Nandan Mobile on renewed attachment and de-freezing; investigation and lawful further steps preserved

In favour of Kesari Nandan Mobile on the renewed bank attachments, with immediate operational relief subject to production of the judgment before the banks. This is a final determination of the attachment appeal, not a determination that no GST was due, that alleged fraud was disproved, or that the investigation had ended. Revenue remained free to investigate and take otherwise lawful steps. The Court did not decide the territorial/delegation ground.

Pinpoint: Paragraphs 40-43, PDF pages 19-20.

05 AKHB REVIEW POINT

AKHB REVIEW POINT: Maintain a separate chronology for each attachment order, the one-year expiry, objections, release requests and any subsequent attachment. Compare the authority's original and later reasons rather than accepting a new date or the word "renewal" as fresh legal authority. Where a freeze rests only on an expired order or an impermissible same-ground renewal, use the statutory lapse and the operative judgment to seek removal promptly, supported by the actual orders and bank records. This decision does not excuse non-compliance with lawful investigative steps and does not extinguish an adjudicated demand. If a final demand exists, identify the precise recovery provision instead of treating section 83 as an indefinite recovery mechanism. A genuinely different factual basis or proceeding should be separately examined; the judgment supplies no automatic new-circumstances exception. Check the applicable dated text of rule 159, the prescribed forms, later court orders and current statutory amendments before advising on the release procedure. Do not repeat the judgment's discussion of Council recommendations as a certification that a rule amendment remains unimplemented today.

Pinpoint: AKHB analysis based on paragraphs 19, 28-32 and 35-43; PDF pages 11 and 15-20.

Sources and limitations

Relevant provisions

Central Goods and Services Tax Act, 2017: sections 83(1), 83(2) and reference to section 122(1A) in the section 83 text reproduced by the Court

Central Goods and Services Tax Rules, 2017: rule 159, including objection and release procedure; Forms GST DRC-22, DRC-22A and DRC-23

Constitution of India: Articles 13, 73 and 162 in the discussion of executive authority

Central Excise Act, 1944, section 11DDA and Customs Act, 1962, section 28BA, as statutory comparisons only

Statutory note

The note reports section 83 and rule 159 as reproduced and applied to the 2023-2024 attachments by this judgment. Paragraph 16 reproduces the section 83(1) text referring to proceedings under Chapters XII, XIV or XV and persons specified in section 122(1A). The Excise and Customs extension provisions are comparisons; their time limits cannot be imported into GST. Paragraphs 37-38 discuss a Council proposal concerning rule 159 and Form DRC-22; that discussion is not an independently verified statement of the current rules or a complete amendment history. No comprehensive statutory/notification currency check through 12 October 2026 has been completed.

Treatment note

The complete primary reported judgment and an official pronouncement record were checked on 12 October 2026. Limited official-domain web searches did not establish a comprehensive subsequent-treatment or review/clarification history. The judgment's statement that the RHC Global Exports SLP and the appellant's investigation were pending describes the position at the judgment date; their present status has not been independently verified. No assertion of an unmodified current legal position, absence of review, or bank compliance is made. This AI-assisted AKHB research note is based on identified primary material. It does not represent verified human legal review and is not a substitute for professional advice on a particular case.

Scope of source review

All 20 pages of the official SCR rendition were read. Pages 1-3 contain the report cover, editorial headnotes, authorities, appearances and case-origin information; the Court's judgment is paragraphs 1-43 on PDF pages 4-20 (reported pages 939-955). The reported cover verifies the title, appeal number, neutral/SCR citations, date and bench; the judgment identifies its author. The source is an official reported rendition, not a signed-original facsimile, and its eSCR-generated URL may expire. Merits and relief are drawn from the judicial text, not the editorial headnote. The one-page official pronouncement record dated 14 August 2025 independently confirms that the appeal was allowed in terms of the signed judgment; it is corroboration of the same decision, not an additional judgment.

Primary source

Source description: Official Supreme Court Reports rendition of the judgment dated 14 August 2025

Official source: [Open source document](#)

AKHB source PDF: [Open source document](#)

Judges: Dipankar Datta; Augustine George Masih

Outcome type: final

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