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Sl-870
Ct.551
(S.R.)

WPA 1785 of 2025
With
CAN 1 of 2026

Kirti Deora, Proprietor of M/s Tirupati Trading
v.
The State of West Bengal & Ors.

Mr. Debasish Ghosh
Mr. Ankit Kanaria
Ms. Megha Agarwal
Ms. Tulika Roy
Mr. Piyush Khaitan ... for the petitioner.

Ms. Soni Ojha ... for the respondent no.2.

Mr. Arijit Chakraborty
Mr. Debsoumya Basak
Ms. Swati K. Singh ... for the CGST.

1. It has been pointed out that there are two typographical errors in the order dated January 30, 2026. WPA ***"1785 of 2026"*** shall be corrected as WPA ***"1785 of 2025"***. In the last line of second paragraph of the said order, the expression ***"Andhra Pradesh"*** shall be replaced by the expression ***"Arunachal Pradesh"***. Let the aforesaid corrections be incorporated in the order dated January 30, 2026.
2. This writ petition has been filed alleging arbitrary debit freezing of the petitioner's bank account on the basis of a notice dated January 06, 2025 issued by the respondent no.3.
3. A notice dated January 6, 2025 had been issued by

the respondent no.3 i.e. the Officer-in-charge, Police Station Itanagar, Papumpare, Arunachal Pradesh to the Branch Manager, ICICI Bank thereby calling upon the addressee of the notice, *inter alia,* to debit freeze the Account bearing No.104905500535 standing in the name of the petitioner.

4. Accordingly, the bank proceeded to debit freeze the petitioner's bank account and informed the petitioner about the same. Assailing such act of debit freeze of the petitioner's bank account, the petitioner has approached this Court by way of the present writ petition.

5. At the very outset, Mr. Chakraborty, learned advocate appearing for the respondent CGST authorities has taken a preliminary objection and contended that this Court should not entertain the writ petition inasmuch as this Court lacks territorial jurisdiction to entertain this writ petition.

6. It is submitted by Mr. Chakraborty that since the petitioner's Bank account has been directed to be debit frozen in course of an investigation undertaken by the police authorities upon a complaint being lodged by the CGST authorities in Arunachal Pradesh, the respondent Police authorities have their respective seats in Arunachal Pradesh and since the proceedings under the CGST

Act, 2017 are also being conducted in Arunachal Pradesh, therefore, this writ petition should be filed in the High Court of Guwahati and this Court does not have territorial jurisdiction to entertain the same.

7. In support of his contention he has relied on the following judgments

i*. *Kusum Ingots & Alloys Ltd. v. UOI, reported at ***2004 (168) E.L.T. 3 (S.C.),***

ii. State of Goa v. Summit Online Trade Solutions Pvt. Ltd., reported at ***(2023) 4 Centax 280 (S.C.)*** and

iii. Venkata Sai Ram Traders v. CUS., C.Ex. & S.T. Sett. Comm., Chennai, reported at ***2018 (9) G.S.T.L. 235 (Mad.)***.

8. Mr. Ghosh, learned advocate appearing for the petitioner submits that this writ petition is only confined to the arbitrary debit freezing of the petitioner's bank account at the instance of the police authorities and the entire cause of action therefor has arisen within the territorial limits of this Court. It is submitted that as the petitioner's bank account is within the territorial jurisdiction of this Court therefore, the act of attachment/debit freezing has also occurred within the territorial jurisdiction of this Court. It is further submitted

that the petitioner has been adversely affected within the territorial jurisdiction of this Court and therefore this Court has the territorial jurisdiction to entertain the writ petition.

9. He further submits that the petitioner is neither challenging the action of the CGST authorities nor the investigation conducted by the police officer by way of the present writ petition, and that, the subject matter of the present writ petition is only the debit freezing of the petitioner's account.

10. In support of his contention that since the petitioner's rights have been infringed within the territorial jurisdiction of this Court therefore, the petitioner can very well maintain this writ petition before this Court, Mr. Ghosh has relied on a judgment of the Hon'ble Supreme Court in the case of ***Nawal Kishore Sharma v. Union of India & Ors.*** reported at ***(2014) 9 SCC 329***.

11. Mr. Ghosh has also relied on a Coordinate Bench judgment of this Court, in the case of ***Tamasha Samanta v. Union of India & Ors.***, WPA 19956 of 2025 in support of his submission that the debit freezing of the petitioner's bank account is illegal.

12. Ms. Ojha, learned advocate appearing for the respondent bank authorities submits that the bank

authorities have acted in terms of the directions of the respondent police authorities inasmuch as the notice issued to the bank threatened the bank with penal action, in case, the bank failed to comply with the directions contained therein.

13. Heard the learned advocates appearing for the respective parties and considered the materials on record.

14. It is very well settled that whenever any question as regards the invocation of jurisdiction of this Court on the basis of Article 226(2) of the Constitution of India arises, the same should be answered on the basis of the averments/pleadings in the writ petition. The same would be evident from the judgments of the Hon'ble Supreme Court in the case of ***Kusum Ingots & Alloys Ltd.*** (supra) as well as ***State of Goa*** (supra).

15. The relevant portion of the judgment in the case of ***Kusum Ingots & Alloys Ltd.*** (supra) is quoted hereinbelow:-

> *"18. The facts pleaded in the writ petition must have a nexus on the basis whereof a prayer can be granted. Those facts which have nothing to do with the prayer made therein cannot be said to give rise to a cause of action which would confer jurisdiction on the Court*

16. The following extract from the judgment of

the Hon'ble Supreme Court in the case of ***State of Goa*** (supra) also deserves notice:

"15. This is a case where clause (2) of Article 226 has been invoked by the High Court to clothe it with the jurisdiction to entertain and try the writ petitions. The constitutional mandate of clause (2) is that the "cause of action", referred to therein, must at least arise in part within the territories in relation to which the High Court exercises jurisdiction when writ powers conferred by clause (1) are proposed to be exercised, notwithstanding that the seat of the Government or authority or the residence of the person is not within those territories.

16. The expression "cause of action" has not been defined in the Constitution. However, the classic definition of "cause of action" given by Lord Brett in Cooke v. Gill [Cooke v. Gill, (1873) LR 8 CP 107] that "cause of action means every fact which it would be necessary for the plaintiff to prove, if traversed, in order to support his right to the judgment of the court", has been accepted by this Court in a couple of decisions. It is axiomatic that without a cause, there cannot be any action. However, in the context of a writ petition, what would constitute such "cause of action" is the material facts which are imperative for the writ petitioner to plead and prove to obtain relief as claimed.

17. Determination of the question as to whether the facts pleaded constitute a part of the cause of action, sufficient to attract clause (2) of Article 226 of the Constitution, would necessarily involve an exercise by the High Court to ascertain that the facts, as pleaded, constitute a material, essential or integral part of the cause of action. In so determining, it is the substance of the matter that is relevant. It, therefore, follows that the party invoking the writ jurisdiction has to disclose that the integral facts pleaded in support of the cause of action do constitute a cause empowering the High Court to decide the dispute and that; at least, a part of the cause of action to move the High Court arose within its jurisdiction. Such pleaded

facts must have a nexus with the subject-matter of challenge based on which the prayer can be granted. Those facts which are not relevant or germane for grant of the prayer would not give rise to a cause of action conferring jurisdiction on the court. These are the guiding tests."

17. Following the "guiding tests" mentioned by the Hon'ble Supreme Court as aforesaid, the pleadings in the writ petition may now be noticed. The writ petitioner has in paragraph no.1 of the writ petition averred as follows: -

"1. Your Petitioner in the present writ petition under Article 226 of the Constitution of India, 1950 are praying for quashing of the notice issued by the Officer In Charge, Police Station Itanagar, District Papumpare, Arunachal Pradesh, being the Respondent No.3, directing debit freeze of the Bank account maintained by your Petitioner with ICICI Bank, Kankurgachi Branch, represented by the Branch manager, being the Respondent No.2, having account number 104905500535, under section 94 of the Bhartiya Nagrik Suraksha Sanhita (hereinafter referred to as 'BNSS 2023) as the same is beyond the provisions of section 83 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as CGST Act, 2017) and as the CGST Act, 2017 being a special statue, any attachment or debit freeze of the bank account of your Petitioner cannot be done except in circumstances as per section 83 of the CGST Act, 2017. Your Petitioner also challenges the above action on the ground that the investigation is already been conducted by the Assistant Commissioner (A/E), CGST & CX, Itanagar Commissionerate, being the Respondent No.4, and your Petitioner has replied to the notice issued by the Respondent No.4 and the total amount of ITC alleged to have been availed by

your Petitioner is Rs. 298,575/-, therefore the direction of the Respondent No.3 to direct entire debit freeze from the account maintained by your Petitioner with the Respondent No.2 is wholly illegal and without any authority of law".

18. Further, in paragraph 2.3 the petitioner has averred as follows: -

"2.3. Your Petitioner state that the cause of action in the instant case has arisen within the territorial jurisdiction of this Hon'ble Court".

19. A meaningful reading of the pleadings made by the petitioner in paragraph 1 and 2.3 of the writ petition clearly show that the petitioner is aggrieved by the attachment/debit freezing of the petitioner's bank account within the territorial jurisdiction of this Court. To wit, the petitioner has pleaded that her Bank account which is at the "*Kankurgachi Branch"* of the *ICICI Bank* has been debit frozen. The petitioner seeks quashment of the freezing order. In the case at hand the act of debit freezing of the petitioner's bank account is the main cause of action for the writ petition. The same has arisen within the territorial jurisdiction of this Court and therefore the test that the facts pleaded must form an integral part of the cause of action arising within the territorial limits of a given High Court for it to entertain a writ petition stands overwhelmingly answered.

20. This Court is cognizant of the fact that in ***Kusum Ingots & Alloys Ltd.*** (supra) the Hon'ble Supreme Court held that even if a small part of a cause of action arises within the territorial jurisdiction of the High Court, the same by itself may not be considered to be a determinative factor compelling the High Court to decide the matter on merits. In the case at hand, as has already been indicated hereinabove, the main part of cause of action for the present writ petition has arisen within the jurisdiction of this Court. Since the writ petition does not seek quashment either of the proceedings initiated by the CGST authorities or the investigation conducted by the police authorities and since it is only confined to the order of debit freezing of her Bank account, therefore, the writ petitioner would not be necessarily required to plead and prove the illegality of the investigation conducted by the respondent police authorities or the proceedings initiated by the CGST authorities for the purpose of the present writ petition.

21. In ***Nawal Kishore Sharma*** (supra) the Hon'ble Supreme Court has clearly held that a writ petition can be maintained, if the petitioner can establish that a legal right, claimed by him, has been infringed by the respondents within the

territorial limit of the Court's jurisdiction. Paragraph 16 of the said judgement may be noticed:

> ***16.*** *Regard being had to the discussion made hereinabove, there cannot be any doubt that the question whether or not cause of action wholly or in part for filing a writ petition has arisen within the territorial limit of any High Court has to be decided in the light of the nature and character of the proceedings under Article 226 of the Constitution. In order to maintain a writ petition, the petitioner has to establish that a legal right claimed by him has been infringed by the respondents within the territorial limit of the Court's jurisdiction.*

22. In the case at hand the petitioner has clearly made out a case of her right being infringed by the debit freezing of the petitioner's bank account within the territorial limit of this Court's jurisdiction. In such view of the matter, it cannot be said that this Court lacks territorial jurisdiction to entertain the writ petition.

23. The judgment in the case of ***Venkata Sai Ram Traders*** (supra) has been rendered in the facts of the case, which does not help the respondent CGST.

24. Coming to the merits of the case, the petitioner's bank account has been debit frozen on the basis of a notice under Section 94 of the BNNS.

25. Section 94 of the BNSS reads as follows: -

"94. Summons to produce document or other thing.

(1)Whenever any Court or any officer in charge of a police

station considers that the production of any document, electronic communication, including communication devices, which is likely to contain digital evidence or other thing is necessary or desirable for the purposes of any investigation, inquiry, trial or other proceeding under this Sanhita by or before such Court or officer, such Court may issue a summons or such officer may, by a written order, either in physical form or in electronic form, require the person in whose possession or power such document or thing is believed to be, to attend and produce it, or to produce it, at the time and place stated in the summons or order.

(2)Any person required under this section merely to produce a document, or other thing shall be deemed to have complied with the requisition if he causes such document or thing to be produced instead of attending personally to produce the same.

(3)Nothing in this section shall be deemed-(a) to affect sections 129 and 130 of the Bharatiya Sakshya Adhiniyam, 2023 or the Bankers' Books Evidence Act, 1891 (13 of 1891); or(b) to apply to a letter, postcard, or other document or any parcel or thing in the custody of the postal authority.A bare perusal thereof would reveal that the same does not empower the police authorities to debit freeze a bank account".

26. Power of seizure is there in section 106 of BNSS. In such context section 106 of BNSS may be noticed:

"106. (1) Any police officer may seize any property which may be alleged or suspected to have been stolen, or which may be found under circumstances which create suspicion of the commission of any offence.

(2) Such police officer, if subordinate to the officer in charge of a police station, shall forthwith report the seizure to that officer.

(3) Every police officer acting under sub-section (1) shall

forthwith report the seizure to the Magistrate having jurisdiction and where the property seized is such that it cannot be conveniently transported to the Court, or where there is difficulty in securing proper accommodation for the custody of such property, or where the continued retention of the property in police custody may not be considered necessary for the purpose of investigation, he may give custody thereof to any person on his executing a bond undertaking to produce the property before the Court as and when required and to give effect to the further orders of the Court as to the disposal of the same:

Provided that where the property seized under sub-section (1) is subject to speedy and natural decay and if the person entitled to the possession of such property is unknown or absent and the value of such property is less than five hundred rupees, it may forthwith be sold by auction under the orders of the Superintendent of Police and the provisions of sections 505 and 506 shall, as nearly as may be practicable, apply to the net proceeds of such sale.

27. Section 107 provides for attachment. The same also deserves notice:

(1)Where a police officer making an investigation has reason to believe that any property is derived or obtained, directly or indirectly, as a result of a criminal activity or from the commission of any offence, he may, with the approval of the Superintendent of Police or Commissioner of Police, make an application to the Court or the Magistrate exercising jurisdiction to take cognizance of the offence or commit for trial or try the case, for the attachment of such property.

(2)If the Court or the Magistrate has reasons to believe, whether before or after taking evidence, that all or any of such properties are proceeds of crime, the Court or the Magistrate may issue a notice upon such person calling upon him to show cause within a period of

fourteen days as to why an order of attachment shall not be made.

(3)Where the notice issued to any person under sub-section (2) specifies any property as being held by any other person on behalf of such person, a copy of the notice shall also be served upon such other person.

(4)The Court or the Magistrate may, after considering the explanation, if any, to the show-cause notice issued under sub-section (2) and the material fact available before such Court or Magistrate and after giving a reasonable opportunity of being heard to such person or persons, may pass an order of attachment, in respect of those properties which are found to be the proceeds of crime:Provided that if such person does not appear before the Court or the Magistrate or represent his case before the Court or Magistrate within a period of fourteen days specified in the show-cause notice, the Court or the Magistrate may proceed to pass the ex parte order.

(5)Notwithstanding anything contained in sub-section (2), if the Court or the Magistrate is of the opinion that issuance of notice under the said sub-section would defeat the object of attachment or seizure, the Court or Magistrate may by an interim order passed ex parte direct attachment or seizure of such property, and such order shall remain in force till an order under sub-section (6) is passed.

(6)If the Court or the Magistrate finds the attached or seized properties to be the proceeds of crime, the Court or the Magistrate shall by order direct the District Magistrate to rateably distribute such proceeds of crime to the persons who are affected by such crime.

(7)On receipt of an order passed under sub-section (6), the District Magistrate shall, within a period of sixty days distribute the proceeds of crime either by himself or authorise any officer subordinate to him to effect such distribution.

(8)If there are no claimants to receive such proceeds or no claimant is ascertainable or there is any surplus

after satisfying the claimants, such proceeds of crime shall stand forfeited to the Government.

28. Thus while exercise of initial powers of seizure by police under section 106 of BNSS is ultimately dependent upon reporting thereof to the jurisdictional Magistrate, attachment under section 107 of BNSS can only be done upon orders passed by the jurisdictional Magistrate pursuant to application made by the police.

29. In such context the following extracts from judgment rendered by the a Coordinate Bench of this Court in the case of ***Tamasha Samanta*** (supra), which has been relied on by Mr. Ghosh is relevant. The said judgment has taken into consideration a number of other judgments and held as follows: -

"9. The learned counsel for the petitioner has relied upon an unreported judgment in the case of ***Mr. Kartik Yogeshwar Chatur Vs. Union of India & Ors.*** *in* ***Criminal Writ Petition No. 321 of 2025*** *passed by the Hon'ble Division Bench of Bombay High Court, Nagpur Branch dated November 20, 2025 wherein the Hon'ble Division Bench of Bombay High Court, Nagpur Branch rely upon a judgment passed by the Hon'ble Kerala High Court in the case of* ***Headstar Global Pvt. Ltd. Vs. State of Kerala & ors. (Crl. MC No. 3740 of 2025)*** *dated June 2, 2025. The Hon'ble Kerala High Court held that a police officer investigating a crime has to approach jurisdictional Magistrate under Section 107 of the BNSS to seek attachment of any property believed to be derived directly or indirectly from a criminal*

activity or the commission of an offence. Subsequent course will have to be adopted in terms of the order passed by the Magistrate. The Court further clarified that while Section 106 speaks of seizure, Section 107 deals with attachment, forfeiture and restoration. The seizure under Section 106 can be carried out by a police officer, and an ex post facto report submitted to the Magistrate. On the other hand, attachment under Section 107 can be effected only upon the orders of the Magistrate. The logic behind this distinction being that the purpose of seizure is more to secure the evidence during an investigation, whereas attachment is intended to secure the proceeds of crime by preventing its disposal and thus ensuring its availability for legal procedure such as forfeiture and distribution to the victims.

10. The judgment passed by the Hon'ble Kerala High Court makes it clear that the debit freezing account is not permissible under Section 106 of the BNSS. The order passed by the Kerala High Court was also challenged before the Hon'ble Supreme Court in SLP being SLP (Cri.) No. 13433 of 2025, where the Hon'ble Supreme Court denied to interfere with the said judgment.

11. Considering the above, this Court finds that in the present case, on the basis of the instruction of the Cyber Cell Department, the Bank has kept the account of the petitioner in lien and in the account, it is recorded that the disputed amount is Rs. 25,000/-. The Bank has taken the stand that unless and until no objection has been obtained by the petitioner from the concerned Cyber Cell authorities, it is not possible for the Bank to defreeze the account but the legal possession is otherwise".

30. In the case at hand there is nothing on record to show that the concerned Investigating Officer has approached the jurisdictional Magistrate and any

order of seizure or attachment has been passed or that the debit freezing has been reported to the jurisdictional Magistrate. A debit freeze of bank account cannot be continued indefinitely without any appropriate order of the jurisdictional Magistrate. In such view of the matter, the impugned notice dated January 06, 2025 issued by the mandating debit freezing of the petitioner's bank account cannot be said to be in accordance with law and cannot directed to be continued. Accordingly, such part of the notice dated January 06, 2025 issued by the Officer-in-charge, Police Station Itanagar, Papumpare, Arunachal Pradesh to the Branch Manager, ICICI Bank, whereby the bank has been directed to debit freeze the petitioner's bank account is set aside and quashed. The bank shall allow the petitioner to operate the petitioner's bank account bearing No.104905500535.

31. However, it is made clear that this order will not prevent the respondent police authorities for taking appropriate steps including debit freezing of the petitioner's bank account, in accordance with law.

32. It is recorded that when the respondent no.3 i.e. the Officer-in-charge Police Station Itanagar did not appear despite notice, this Court had on the

prayer of the petitioner allowed the Superintendent of Police, Papumpare, Arunachal Pradesh to be added as respondent and requested the learned Registrar General of this Court to serve notice on the said Superintendent of Police as well as the respondent no.3. A report dated January 3, 2026 was filed by the learned Registrar General confirming that service had been effected on the said two respondents, however, none appeared on their behalf in the proceedings despite service. Accordingly, the matter has been decided in their absence.

33. WPA 1785 of 2025 stands disposed of with the above observations.

19. There shall, however, be no order as to costs.

20. Since by the order dated January 30, 2026, CAN 1 of 2026 had already been treated to be a part of the writ petition, the same should also be treated as having been disposed of.

21. Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Om Narayan Rai, J.)