

IMPORTANT GST UPDATES



Issued in case of M/S. Sri Sai Balaji Associates by Andhra Pradesh High Court | Order No: 4663/2023 | 23-02-2023

Ruling

The Andhra Pradesh High Court has held that the department or Proper Officer has no power under Section 70 (1) of the GST Act, 2017 to summon Party to stop all GST Payments.

Observations & Findings

Sri Sai Balaji Associates, the petitioner challenged the notice under Section 70 (1) of GST Act, 2017 issued by the 3rd respondent to M/s. Sterlight technologies limited, Vishakhapatnam who are the customers of the petitioner with directions to stop payment.

It was contended by the petitioner that the respondent in terms of Section 70 (1) of the GST Act, has the power to summon any person whose attendance is considered necessary either for giving evidence or producing a document or any other thing in any inquiry in the same manner, however, that power is not extended to direct the summoning of a party to stop all further payments, which he ought to receive from the customers.

It was evident that the impugned notice was issued under Section 70(1) of the GST Act but not under Section 83 of the GST Act. Under Section 70 (1) of the GST Act, the proper officer cannot exercise powers to direct the summoning party to stop payment to the assessee which is beyond the scope of 70 (1) of the GST Act. Under Section 83 of the GST Act, if the Commissioner thinks that to protect the government revenue, he may by order provisional attachment of any property including a bank account belonging to the taxed person or any person specified in Sub Section 1 (A) of Section 122 in such manner as prescribed.

A two-member bench observed that the impugned notice was issued under Section 70 (1) of the GST Act but not in the exercise of powers conferred under Section 83 of the GST Act and further held such a direction as beyond the jurisdiction of the 3rd respondent. While allowing the petition, the Court set aside the impugned portion of the notice issued under Section 70 (1) of the GST Act and liberty is given to the 3rd respondent to proceed by law so far as the other part of the notice issued by him under section 70 (1) of GST Act is concerned.