

(2001) 07 AP CK 0063

In the Andhra Pradesh High Court

Case No : Writ Petition No. 5876 of 2001

Sheetal Refineries Pvt. Ltd.

APPELLANT

Vs

The Commercial Tax Officer (Intelligence), No. V,
Enforcement Wing and The Manager, State Bank of
Hyderabad

RESPONDENT

Date of Decision : 03-07-2001

Acts Referred:

Andhra Pradesh General Sales Tax Act, 1957 — Section 17B
Constitution of India, 1950 — Article 300A

Citation : (2002) 2 ALD 493 Supp : (2001) 4 ALT 372 : (2002) 125 STC 86

Hon'ble Judges : S.R. Nayak, J;S. Ananda Reddy, J

Bench : Division Bench

**Advocate : P. Srinivasa Reddy, for the Appellant; Special Government Pleader
for Taxes, for the Respondent**

Final Decision : Partly Allowed

Judgement

S.R. Nayak, J.—In this writ petition, the petitioner has sought for quashing of the provisional attachment notice No. CCT's JC(CT)Enf./CTO-V/10/2000-2001, dated 20.3.2001 issued by the Commercial Tax Officer (Intelligence), No. V, Enforcement Wing, Nampally, Hyderabad, the 1st respondent herein attaching the bank account of the petitioner in exercise of the powers conferred upon him u/s 17B of the Andhra Pradesh General Sales Tax Act, 1957, for short 'the APGST Act'.

2. To state the case of the petitioner in brief, the petitioner's assessment under the provisions of the APGST Act for the years 2000-2001 is pending. Even though the year is ripe for final assessment by the end of March, 2001, the 1st respondent has proposed provisional assessment by notice dated 27.2.2001 for the months of August to November, 2000 to raise the arbitrary demand of about Rs.19 Lakhs. The issue involved in the assessment is relating to the claim of set off made by the petitioner on non-refined sunflower oil from the tax payable on

refined sunflower oil in terms of G.O.Ms.No.191, dated 6.4.2000. The provisional assessment notice is issued alleging that since the petitioner purchases raw material within and outside Andhra Pradesh the set off under the G.O. must be allowed on proportionate basis. In order to claim set off of tax, the petitioner maintains separate stock registers and separate storage tanks in respect of local purchases and outside purchases of sunflower oil and the disposal of the refined sunflower oil is also effected in segregated manner. The petitioner is entitled to claim set off of entire tax paid on local purchases against the tax payable by the petitioner. The provisional assessment orders for 1999-2000 (April to July, 2000) restricting the set off on pro-rata basis was set aside by the appellate authority by its order dated 26.2.2001 holding that proportionate basis need not be adopted in view of the storage facilities and segregated accounting. Therefore, the show-cause notice dated 27.2.2001 issued by the 1st respondent for the period August to November, 2000 proposing to restrict the set off of sales tax and also disbelieving the purchases made from M/s. Shyambaba Agro Tech on the ground that the dealer is fictitious is totally unjustified and illegal. The petitioner sought time of one month by letter dated 30.3.2001 addressed to the 1st respondent. But, the 1st respondent insisted that objections should be filed on or before 29.3.2001. As the petitioner's counsel was pre-occupied with certain time barring assessments, the counsel requested for 21 days time by letter dated 27.3.2001. When the matter stood thus, the petitioner received the impugned provisional attachment notice dated 20.3.2001 addressed to the Manager, State Bank of Hyderabad, the 2nd respondent herein u/s 17B of the APGST Act seeking to attach the bank account of the petitioner.

3. So alleging, the writ petition was filed on 30.3.2001. It is submitted by Sri P. Srinivas Reddy, learned counsel for the petitioner that after filing the writ petition, the petitioner filed objections to the show-cause notice dated 27.2.2001 issued by the 1st respondent for the period August to November, 2000 on 16.4.2001 and 22.5.2001.

4. In response to rule nisi, the 1st respondent has filed a detailed counter opposing the relief claimed by the petitioner. In the counter affidavit, inter alia, it is stated -- The petitioner, M/s. Sheetal Refineries Pvt. Ltd., Hyderabad is a private limited company on the rolls of Commercial Tax Officer, Rajendra Nagar, Hyderabad Rural Division, Hyderabad. The Company is engaged in refining of edible oils having factory at Gaganpahad, Hyderabad. Scrutiny of returns filed by them, for the period from 1.8.2000 to 30.11.2000, revealed that the company has effected purchases to a tune of Rs.4,62,98,570/- from one single dealer M/s. Shyambaba Agro Tech, Hyderabad, who has taken registration certificate from Maharajgunj Circle, Charminar Division, Hyderabad. The Commercial Tax Officer, Maharajgunj vide his letter dated 20.1.2001 has informed that Sri Mahender Agarwal, S/o Radesh Shyam is the Proprietor of M/s. Shyambaba Agro Tech. He has taken registration w.e.f. 23.6.2000 by showing its registered office at 15-9-9, Mukthiargunj, Hyderabad. The said firm has filed monthly returns disclosing gross and exempted turnover of Rs.4.64 Crores from June, 2000 to

November, 2000. The NTO reported is Nil. It was informed to the Commercial Tax Officer, Maharajgunj during enquiry by the accountant of the building, who collects the rent, that there is only one chair and table in the room. The dealer has not disclosed any godown. The Proprietor of the M/s.Shyambaba Agro Tech produced certain books of accounts namely; purchase register, sale register and cash entry register maintained in the form of computer print outs before the Commercial Tax Officer, Maharajgunj. When asked for purchase invoices the proprietor disappeared from the office leaving the books. When the computer printouts were carefully examined the fonts, mode of entry and method of maintenance of accounts exactly tallied with that of M/s.Sheetal Refineries Private Limited. The Commercial Tax Officer, Maharajgunj further informed that there is no proof as could be seen from the bank extracts that the payments were made to the sellers at different places from where sunflower/sunflower refined oil was alleged to have been purchased. He has also informed that the said dealer has not disclosed any godown. Thus there is neither evidence of storage of Sunflower/Sunflower refined oil nor was there sufficient place to store such oils in the said place. Suspecting the bonafides of the dealers vis-?-vis the tax payment on 1st sales, exemptions were ledgerised place-wise and dealer-wise. These details were sent to different Deputy Commissioner's (CT) in the State for verification. Immediate verification was taken up throughout the State by the respective area officers. Perusal of the verification reports from different circles and divisions revealed that the dealers from whom purchases were shown were either non-existent or that the R.C.No. mentioned in the Form 'E' return relates to some other dealer; or the said dealer was dealing in commodities other than oils, as the case may be. Thus, M/s.Shyambaba Agro Tech has indulged in large scale issue of sale bills to M/s.Sheetal Refineries Private Limited by showing purchases of sunflower oil/sunflower refined oil from fictitious and non-existing dealers without there being any movement of goods. The records maintained at different check-posts for this purpose were also verified to know whether such movement of Sunflower/Sunflower Refined oil to M/s.Shyambaba Agro Tech, Hyderabad from the alleged sellers has taken place or not. Perusal of such records revealed no such movement. From this it is seen that M/s.Shyambaba Agro Tech., Hyderabad has not handled the goods but has given only bills to M/s.Sheetal Refineries Private Limited to enable the said dealer to claim exemption fraudulently in order to wilfully evade payment of tax in respect of Sunflower/Sunflower Refined oil. Further enquiries to establish the connection between M/s.Shyambaba Agro Tech, Hyderabad and assessee company were taken up. Enquiries conducted by the Enforcement Wing as well as Commercial Tax Officer, Maharajgunj in the market revealed that Sri Mahender Agarwal is closely related to Sri Jugal Kishore who is the main person running the business in the name and style of M/s.Sheetal Refineries Private Limited, Hyderabad. The Commercial Tax Officer, Maharajgunj has also informed that Sri Mahender Agarwal was acting as commission agent in edible oils particularly the oil products on behalf of M/s.Sheetal Refineries Private Limited. It has also come to notice that Sri Mahender Agarwal was an employee in M/s.Sheetal Refineries Pvt. Ltd., before doing

commission business. From this it is established that M/s.Sheetal Refineries Private Limited has floated M/s.Shyambaba Agro Tech, Hyderabad for the purpose of obtaining purchase invoices without involving the movement and delivery of goods for indulging in large scale clandestine trade in vegetable oils, thereby detruding the government of its legitimate taxes due to the State.

5. In the above circumstances, the 1st respondent states, there was no other alternative to the department than to disallow exemption/set-off claimed by M/s.Sheetal Refineries Private Limited, Hyderabad i.e., petitioner, on the alleged sales of sunflower refined oil against the purchase of raw/refined sunflower oil from M/s.Shyambaba Agro Tech., Hyderabad. Accordingly a provisional show-cause notice dated 27.2.2001 was served on them on 27.2.2001, directing them to file their objections if any against the proposed turnovers within 15 days from the date of receipt of the notice. Instead of filing objections, the petitioner has been seeking adjournments on some pretext or other. In view of the above, Commercial Tax Officer, Enforcement Wing has obtained permission from the Commissioner of Commercial Taxes to provisionally attach the properties of the company u/s 17-B of the APGST Act. A letter was addressed to the Manager, State Bank of Hyderabad, Mahaboobgunj, Hyderabad to attach the bank account of the assessee company on 20.3.2001 as the tax involved in the provisional assessment proceedings are around Rs.19 lakhs.

6. Sri P.Srinivas Reddy, learned counsel for the petitioner while assailing the impugned provisional attachment notice issued by the 1st respondent would contend that the attachment of bank account u/s 17B of the APGST Act is illegal and unauthorised. u/s 17B, a provisional attachment can be made only in respect of a property; a bank account especially a over-draft bank account is not "property" within the meaning of that term and that account is only a lending account of the bank. The learned counsel would further contend the provisional assessment proposed to be made for a period of four months knowing fully well that the year would be completed by the end of March, 2001 is absolutely unjustified and unwarranted. The learned counsel would attack the attitude of the 1st respondent in resorting to provisional piece-meal assessments instead of taking up final assessments. The Counsel would submit that the petitioner is ready for final assessment. The petitioner's assessments are due from the year 1998-99 onwards, the petitioner's counsel would thus continue and contend that instead of taking up the assessment of that year, the 1st respondent is not justified in resorting to piece-meal provisional assessments and issuing the impugned attachment notice. In support of this contention, the learned counsel would place reliance on the judgment of this Court in Smithkline Beecham Consumer Healthcare Ltd., vs. Assistant Commissioner (CT) (A.P.)¹. The learned counsel would submit that the reasoning given by the 1st respondent in the provisional attachment notice that the petitioner should have paid the tax long back and since the financial year is coming to an end, the petitioner may withdraw the amount to avoid payment of tax is baseless and untenable. The assessment is only at the stage of show-cause notice and therefore the 1st

respondent cannot pre-judge the issue by making such observation in the impugned attachment notice and that indicates that the 1st respondent may not consider the objections filed by the petitioner against the show-cause notice fairly and objectively. Although the learned counsel initially contended meekly that since Section 17B provides that provisional attachment of the property belonging to the assessee can be made only in the prescribed manner and since the manner in which the property provisionally be attached is not yet prescribed, invocation of Section 17B would be illegal, however, in the course of the argument, the learned counsel told us that he would not press that contention into service. Therefore, there is no need for us to deal with that contention. The learned counsel would also submit that there is absolutely no satisfactory materials available with the 1st respondent to form opinion that it was necessary for him to attach the property of the petitioner in order to protect the interests of the revenue.

7. On the other hand, the learned Special Government Pleader for Taxes would contest the tenability of the contentions of the learned counsel for the petitioner and would support the impugned action of the 1st respondent. Learned Special Government Pleader would lastly submit that in the event of this Court interfering with the impugned action, the petitioner be directed to furnish atleast bank guarantee for a sum of Rs.19 Lakhs and such a course of action is necessary to protect the interest of the revenue. In support of that request, the learned Counsel would draw our attention to the judgment of this Court in *Ritesh Oil Industries vs. Commercial Tax Officer*².

8. Section 17B of the APGST Act reads :

"17-B. Provisional attachment of property to protect revenue in certain cases :
(1) Where, during the pendency of any proceeding for the assessment of any turnover or for the assessment or reassessment of any turnover which has escaped assessment, the assessing authority is of the opinion that for the purpose of protecting the interest of the revenue it is necessary so to do, he may with the previous approval of the Commissioner, by order in writing, attach provisionally in the prescribed manner any property belonging to the assessee.

(2) Every such provisional attachment shall cease to have effect after the expiry of a period of six months from the date of the order made under sub-section (1) : Provided that the Commissioner may, for reasons to be recorded in writing, extend the aforesaid period by such further period or periods as he thinks fit, so, however, that the total period of extension shall not in any case exceed two years."

9. Section 17B of the APGST Act empowers the Assessing Authority to make a provisional attachment of any property of the assessee during the pendency of any proceeding for the assessment or reassessment of any turnover, even though there is no demand outstanding against the assessee, if he is of the opinion that it is necessary to do so to protect the interest of the revenue. The

order of provisional attachment would be made only after obtaining the approval of the Commissioner. This provision has been made, in our opinion, in order to protect the interest of the revenue in cases where the raising of demand is likely to take time because of investigations and there is apprehension that the assessee may default the ultimate collection of the demand. In other words, Section 17B gives a power to be exercised during the pendency of any proceeding for assessment or reassessment, so that the assessee did not fritter away or secrete his resources out of the reach of the Commercial Tax department when the assessment or reassessment is completed. The expression "for the purpose of protecting the interests of the revenue" occurring in Section 17B of the Act is very wide in its meaning. For that reason as a safeguard, prior approval of a higher authority like the Commissioner, has been made a necessary condition. Further, the orders of provisional attachment must be in writing. There must be some material on record to show that the Assessing Authority had formed an opinion on the basis thereof that it was necessary to attach the property in order to protect the interests of the revenue. The provisional attachment provided u/s 17B is more like an attachment before judgment under the Code of Civil Procedure. It is a liability on the property. However, the power conferred upon the Assessing Authority u/s 17B is very drastic, far-reaching power and that power has to be used sparingly and only on substantive weighty grounds and for valid reasons. To ensure that this power is not misused, a number of safeguards have been provided in the Section 17B itself. One thing is clear that this power should be exercised by the Assessing Authority only if there is a 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 circumspection. It should not be exercised unless there is sufficient material on record to justify the satisfaction that the assessee is about to dispose of the whole or any part of his property with a view to thwarting the ultimate collection of the demand. Moreover, attachment should be made of the properties and to the extent it is required to achieve the above object. It should neither be used as a tool to harass the assessee nor should it be used in a manner which may have an irreversible detrimental effect on the business of the assessee. The Bombay High Court in *Gandhi Trading v. Asst.CIT3* has opined that attachment should be made, as far as possible, of immovable properties if that can protect the Revenue. Attachment of bank accounts and trading assets should be resorted to only as a last resort because, the attachment of bank accounts of the assessee would paralyse the functions and business of the assessee. The Assessing Authority, therefore, should exercise the power conferred upon him u/s 17B of the Act with circumspection and fairly and reasonably. No hard and fast rule can be laid down as to how and under what circumstances the power u/s 17B can be invoked by the Assessing Authority. The discretion conferred on the Assessing Authority shall be brought to bear having regard to facts and circumstances of each case. It is not permissible for the Assessing Authority to equate the provisional attachment envisaged u/s 17B of the Act with attachment in the

course of recovery proceedings.

10. In the premise of the above noted principles, we proceed to consider the contentions raised in this case. We do not find any merit in the 1st contention of the learned counsel for the petitioner that the overdraft bank account held by the petitioner company in the 2nd respondent bank is not a "property". It is true that u/s 17B of the Act, only the property belonging to the assessee can be attached. The term "property" is not defined in the APGST Act. The meaning of the term "property" fell for consideration by the Courts while interpreting that term in Article 300A of the Constitution of India in many cases. In the light of the judgments of the Supreme Court in *Chiranjit Lal Chowdhuri vs. Union of India*⁴, *Dwarakadas Shrinivas vs. Sholapur Spinning & Weaving Co. Ltd.*⁵, *Commissioner, H.R.E. vs. Lakshmindra*⁶ and *State of West Bengal vs. Subodh Gopal Bose*⁷, it can be said that the term "property" means only that which can by itself be acquired, disposed of or taken possession of. Subject to this limitation, it is designed to include private property in all its forms and must be understood both in a corporeal sense as having reference to those specific things that are susceptible of private appropriation and enjoyment as well as in its juridical or legal sense of a bundle of rights which the owner can exercise under the municipal law with respect to the user and enjoyment of those things to the exclusion of all others. The Supreme Court in *Bombay Dyeing & Manufacturing Co. vs. State of Bombay*⁸, *Khem Chand vs. Union of India*⁹, held that the term "property" includes money. In *Madhavrao Phalke vs. State of M.P.*¹⁰, *State of M.P. vs. Ranojirao Shinde*¹¹, it was held that the term "property" includes salary which is accrued and pension. In *Madhavrao Phalke vs. State of M.P.*, *State of M.P. vs. Ranojirao Shinde* (SUPRA 10 and 11) it was further held that the term "property" includes cash grants annually payable by the Government. The judgment of the Madras High Court in *Shirur Mutt vs. Commissioner, H.R.E.Board*¹², and the binding judgments of the Supreme Court in *Dwarakadas Shrinivas vs. Sholapur Spinning & Weaving Co. Ltd.* (supra 5), *Ananda Behra vs. State of Orissa*¹³, *State of Maharashtra vs. Himmathbhai Narbheram Rao*¹⁴ are authorities to state that the term "property" includes not only real and personal property but also incorporeal rights such as patents, copyrights, leases, choses in action and every other thing of exchangeable value which a person may have, 'profit a prendre'. In *Jilubhai Nanbhai Khachar vs. State of Gujarat*¹⁵, the Supreme Court has opined that the word "property" connotes everything which is subject of ownership, corporeal or incorporeal, tangible or intangible, visible or invisible, real or personal; everything that has an exchangeable value or which goes to make up wealth or estate or status. Therefore, in the premise of these well settled principles, it cannot be said that the overdraft bank account of the petitioner company cannot be treated as "property" within the meaning of that term for the purpose of interpreting Section 17B of the APGST Act. It is pertinent to note that whatever amount, whether it is borrowed money or own money of the petitioner company, lying at the credit of the company in the bank account is the property of the company and therefore it is liable to be attached under the

provisions of Section 17B of the APGST Act.

11. As a principle, it cannot be said that the Assessing Authority cannot resort to provisional attachment envisaged u/s 17B of the Act unless demand is raised. The language used in sub-Section (1) of Section 17B of the Act is quite clear, plain and unambiguous and it does not admit more than one meaning. The power conferred upon the Assessment Authority u/s 17B could be invoked during the pendency of any proceeding for the assessment or reassessment of any turnover. The first condition to invoke the power u/s 17B is that the proceedings for assessment or reassessment should be pending on the date of the provisional attachment. In the instant case, admittedly the assessment proceedings were pending on the date of the impugned proceeding by issuance of notice dated 27.2.2001. The other condition which should be satisfied for invoking Section 17B is that the Assessing Authority should form opinion, that resort to Section 17B procedure is necessary to protect the interest of the revenue. If these two conditions co-exist, technically there cannot be any objection to invoke the power conferred upon the Assessing Authority u/s 17B of the Act with prior permission of the Commissioner. Therefore, it cannot be contended that the Assessing Authority acted illegally and without authority of law in invoking power u/s 17B of the Act because provisional assessment proceedings were pending before him. But, it is relevant to notice that the provisional assessment orders for the year 1999-2000 covering the period from April to July, 2000 passed by the very 1st respondent restricting the set off on pro-rata basis was admittedly set aside by the appellate authority by orders dated 26.2.2001 holding, according to the petitioner, that the proportionate basis need not be adopted in view of the storage facilities and segregated accounting. In the light of this development and also having regard to the fact that the petitioner has already filed his objections to the show-cause notice dated 27.2.2001 and the same is pending before the 1st respondent for consideration and having regard to the fact that the petitioner both in the pleading and in the course of argument submitted that he is quite ready for assessment, the question to be considered by us is whether the 1st respondent was justified in invoking the power u/s 17B of the Act in the facts and circumstances of this case. In other words, the question is whether the impugned action suffers from vice of arbitrariness and irrationality. It is well settled that every public power including statutory power, whether discretionary or otherwise, should be exercised reasonably and fairly and to achieve the ends of justice and in the public interest. A Division Bench of this Court in *Smithkline Beecham Consumer Healthcare Ltd., vs. Assistant Commissioner (CT) (A.P.)* (supra 1) had to consider case of almost a similar contour. In that case, the petitioner-assessee questioned the provisional assessment order dated 26.6.1999 passed by the Assessing Authority. It was contended before the Division Bench that the additional tax u/s 5-A cannot be levied if the goods have suffered tax under the substantive charging provisions of the Act. It was also the contention of the learned counsel for the petitioner - assessee that the impugned assessment has been made long after the assessment year had expired quite contrary to the

order of the appellate authority in respect of a part of the same period. In those circumstances of the case, the Division Bench was pleased to observe :

"3. A similar provisional assessment order was made earlier by the first respondent for the period April 1, 1996 to November 30, 1996. The same was questioned before the Appellate Deputy Commissioner, Kakinada. One of the items of dispute was regarding the levy of additional tax u/s 5-A on the turnover of about Rs.3.59 crores. The appellate authority by his order dated March 19, 1998 granted relief in so far as this item of dispute is concerned. He held that, "as long as the purchase of milk is liable to tax at the last purchase, the turnover tax will not be applicable". The appeal was thus partly allowed. It is strange that the first respondent resorted to provisional assessment fastening the liability of tax u/s 5-A despite the appellate authority's orders covering a part of the period (i.e., the period of seven months). It amounts to flagrant violation of the order of the appellate authority by which he is bound under the scheme of the Act. This is a typical example of arbitrary exercise of power by a quasi-judicial authority. Whatever may be said about the period not covered by the appellate order, there is absolutely no justification in making an assessment for the very same period over again so as to visit the petitioner with the liability to pay additional tax."

12. In this case as already pointed out, the petitioner filed objection to the show-cause notice on 16.4.2001. The 1st respondent has to consider the objections raised by the petitioner. Without considering the objections of the petitioner, it may not be appropriate for the respondent to pre-judge that the objections have no merit and they have to be over-ruled. Particularly, such view cannot be taken in the context of this case because the appellate authority has already set aside the provisional assessment order made by the 1st respondent for the period April to July, 2000.

13. It is true that according to the 1st respondent, the petitioner company has floated M/s.Shyambaba Agro Tech, Hyderabad only for the purpose of obtaining purchase invoices without involving the movement and delivery of goods for indulging in large scale clandestine trade in vegetable oils, so as to deny the government of its legitimate tax. It is also true that the 1st respondent in the counter affidavit has stated certain circumstances to form such a prima facie opinion. But, that opinion is an unilateral, ex parte opinion formed by the 1st respondent, and therefore, the 1st respondent is required to consider the objections filed by the petitioner company on 16.4.2001, apply his mind and then decide the case on merit. That stage is not yet reached. As already pointed out supra by us, the power to attach the bank account of the assessee provisionally pending assessment and reassessment is a very drastic and far-reaching power in the hands of the Assessing Authority and that power can be exercised only as a last resort to protect the interest of the revenue. Although in the affidavit filed in support of the writ petition, the petitioner has not disclosed the assets owned and possessed by the petitioner company, Sri P.Srinivas Reddy, learned counsel for the petitioner after hearing was concluded sought to produce some evidence

to show that the petitioner company is owning and possessing sufficient immovable properties and assets to meet the tax liability and therefore, the learned counsel would maintain, by interfering with the impugned provisional attachment notice, no prejudice would be caused to the interest of the revenue because even if ultimately it is held that the petitioner is liable to pay tax of Rs.19 (Nineteen) lakhs, the same can be recovered by initiating appropriate proceedings against the immovable properties and the assets of the petitioner company. Having regard to the facts and circumstances of this case and particularly having regard to the fact that the provisional assessment made by the 1st respondent in respect of previous block period of the same assessment year is already set aside by the appellate authority and in the light of the judgment of this Court in *Smithkline Beecham Consumer Healthcare Ltd., vs. Assistant Commissioner (CT) (A.P.)* (supra 1), we are inclined to think that the impugned action taken by the 1st respondent in attaching the bank over-draft account of the petitioner is not in consonance with the principles of fair-play in action, reasonableness and non-arbitrariness and consequently not justified. We think that the interest of the revenue would be protected by directing the petitioner-company to furnish security of immovable properties for a sum of Rs.19 lakhs to the satisfaction of the 1st respondent. We think that such a direction would meet the ends of justice as regards both the parties. Although, the learned Special Government Pleader for Taxes referred to judgment in *Ritesh Oil Industries vs. Commercial Tax Officer* (supra 2), in support of the request made by him to direct the petitioner company to furnish bank guarantee instead of security of immovable property, such a direction in the fact circumstances of this case is not warranted. In that case, the Court directed the petitioner-assessee to furnish bank guarantee on the basis of the submission made by the learned counsel for the petitioner himself that the petitioner would be willing to furnish bank guarantee. Further, the learned counsel for the petitioner expressed the difficulties for the petitioner company to furnish bank guarantee for Rs.19 Lakhs.

14. In the result and for the foregoing reasons, we allow the writ petition in part and quash the provisional attachment notice No.CCT's JC(CT)Enf./CTO-V/10/2000-2001, dated 20.3.2001 issued by the Commercial Tax Officer (Intelligence), No.V, Enforcement Wing, Nampally, Hyderabad, the 1st respondent herein, and direct the respondents to raise the attachment questioned in this writ petition forthwith on the petitioner furnishing security of immovable property for a sum of Rs.19 (Nineteen) Lakhs within a period of 15 days from today to the satisfaction of the 1st respondent. This arrangement shall be valid till the finalisation of the provisional or final assessment for the block period August to November, 2000. No costs.