Date: ....

To,

Principal Additional Director General

DGGI ....

....

....

Subject: Request for Removal of Provisional Attachment of Bank Account/Property under Form GST DRC-22

Reference: Notice No. .... dated ....

Dear Sir/Madam,

We are writing in response to the notice issued under Form GST **DRC-22** for the provisional attachment of our bank account, Account Number ...., held at (Bank Name and Branch). The said attachment has been made under **Section 83** of the CGST Act, 2017, due to non-filing of **GSTR 3B** for Month of .... 2024.

1. Under **section 83(1)** where, after the initiation of any proceeding under Chapter XII, Chapter XIV or Chapter XV, the Commissioner is of the opinion that for the purpose of protecting the interest of the Government revenue it is necessary so to do, he may, by order in writing, attach provisionally, any property, including bank account, belonging to the Taxable person or any person specified in sub-section (1A) of **section 122**, in such manner as may be prescribed.

2. No such proceedings as prescribed under **section 83(1)** are yet initiated against us. We would like to bring to your kind notice that the delay in filing **GSTR 3B** for Month of .... 2024 was unintentional and due to circumstances beyond our control. [Provide a brief explanation of the reason for the delay, such as technical difficulties, health issues, or other relevant reasons.

3. We have now duly filed the **GSTR 3B** for Month of .... 2024 on Dated .... We have also paid the requisite tax, along with applicable interest and late fees. We are enclosing the proof of filing and the payment receipt for your reference.

4. The attachment of our bank account is causing severe financial hardship, impacting the day-to-day operations of our business and personal obligations. It is also affecting our ability to meet other GST compliance requirements and operational expenses.

5. We assure you that all future GST returns will be filed timely and that we will adhere strictly to all compliance requirements.

Case law :

a). UTKARSH ISPAT LLP vs. STATE OF GUJARAT (GUJ-HC) :(2022) 49 TLC(GST) 074 R/SPECIAL CIVIL APPLICATION NO. 188 OF 2022 Dated - 27-01-2022 The Gujarat High Court found that provisional attachment orders under Sections 83 and 90 of the Central Goods and Services Tax Act, 2017 (CGST Act) and Gujarat Goods and Services Tax Act, 2017 (GGST Act) were unjustifiably applied. The court held that the Department erred in attaching the personal property of a partner in a limited liability partnership (LLP) without determining the firm's tax liability. It emphasized that the firm itself is the taxable entity, not its partners, and the attachment of personal property is invalid until the firm's liability is established.

Additionally, the court ruled against the provisional attachment of the firm's stock and receivables from sundry debtors, as it would disrupt the normal business operations, especially since the entire stock was pledged with a bank under a floating charge for a cash credit facility. The provisional attachment orders were quashed, ensuring they did not hamper the business's regular activities as per CBIC guidelines. The writ application was disposed of in favour of the assessee.

b) RADHA KRISHAN INDUSTRIES vs. STATE OF HIMACHAL PRADESH & ORS. (SC) : (2021) 40 TLC (GST) 012 Civil Appeal No 1155 of 2021 Dated - 20-04-2021 Provisional attachment orders under Section 83 of the Central Goods and Services Tax Act, 2017 (CGST Act), read with Section 107 and Rule 159, the High Court had refused to entertain a writ petition challenging the attachment of the appellant's receivables based on allegations of ITC fraud. The Court deemed that the appellant should have utilized the appeal remedy under Section 107. However, it was found that the provisional attachment order, passed by a Joint Commissioner delegated the powers of the Commissioner, was not subject to appeal under Section 107.

The High Court's decision was overturned, with the finding that the provisional attachment power, being draconian, must be exercised with strict adherence to statutory conditions. Specifically, the Commissioner must form an opinion based on tangible evidence that the assessee is likely to defeat the demand, ensuring a direct link to the protection of government revenue. Additionally, the dual procedural safeguards under Rule 159(5) — submission of objections and an opportunity to be heard — must be strictly followed. The Joint Commissioner's failure to adhere to these requirements rendered the provisional attachment illegal. The High Court's order was thus set aside, and the writ petition was allowed, invalidating the provisional attachment orders.

c). JOINT COMMISSIONER CGST AND CUSTOMS vs. GRABDEAL INTERNATIONAL THROUGH PROPRIETOR PUSHPABEN BABULAL JAIN (GUJ-HC) :(2023) 62 TLC(GST) 163 R/SPECIAL CIVIL APPLICATION NO. 3621 of 2021 Dated - 24-02-2023 Provisional attachment of a bank account under Section 83 of the CGST Act, 2017, it was determined that extending the attachment beyond the prescribed one-year period without issuing a fresh order is illegal and violates the assessee's rights under Article 19 of the Constitution of India. Initially, a provisional attachment order was issued to restrict debits and withdrawals while an investigation into service tax and GST matters continued. Due to ongoing investigations and delays in filing the charge-sheet, the provisional attachment was extended through a fresh order issued after the initial one-year period. The court held that such an extension, although requiring caution due to its draconian nature, was not interfered with as the authority was directed to complete the investigation and file the charge-sheet within a specified time frame. The case emphasized that after the expiry of one year, authorities must either release the provisional attachment or issue a fresh order to continue the attachment if necessary. [Section 83, CGST Act; Rule 159, CGST Rules]

d). VARDHMAN EXIM vs. UNION OF INDIA & ORS. (DEL-HC) :(2021) 48 TLC (GST) 057 W.P.(C) 14848/2021 Dated - 23-12-2021 The provisional attachment of a bank account under Section 83(1) of the CGST Act, 2017, ceases to have effect after one year from the date of the order. This implies that if the attachment is not confirmed or extended within this period, the bank account must be defreezed. In favour of the assessee, it was ruled that the authority must lift the provisional attachment of the bank account after one year, as stipulated by Section 83 of the Central Goods and Services Tax Act, 2017, and the Delhi Goods and Services Tax Act, 2017.

• The Hon'ble Supreme Court in the matter of **Ecom Gill Coffee Trading Pvt Ltd**, **(SC) :(2023) 63 TLC(GST) 017,** CIVIL APPEAL NO. 230 OF 2023 Dated - 13-03-2023.

• That in the matter of **Diya Agencies vs State Tax Officer arising out of W.P.(C). 29769 of 2023**, **(KER-HC) :(2023) 69 TLC(GST) 026** the Hon'ble Kerela High Court held that **"ITC cannot be denied to the recipient solely on the ground that transactions are not reflected in GSTR-2A."** However, GSTR-2A is mere a facilitator and cannot be presumed to be accurate and complete.

In light of the above, we humbly request you to kindly consider removing the provisional attachment of our bank account at the earliest to allow us to continue our business operations without further disruption.

We hope you will consider our request favorably and take immediate action to lift the provisional attachment.

Thank you for your understanding and cooperation.

Yours faithfully,

Name …………………………

Designation…………………….

Firm/Company Name …………………………………..

GSTIN ……………………………………………………

Your Signature

Enclosures:

1. Copy of Notice dated-------------
2. Proof of Filing of GSTR 3B for Month of 2024
3. Payment Receipt of Tax, Interest, and Late Fees
4. Bank Account Statement ....