IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2517 of 2026

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M/s Nxtify Technologies Private Limited 3rd Floor, 1034A, Sri Sri Sai Arcade, 24th Main, 9th Cross, Sector-1, HSR Layout, Bengaluru- 560102, through its Director, Ashish Kumar, aged about 31 years, Male, S/o J.S.P. Baranwal, R/o H.No.-138, Street No.- 39, Saraswati Enclave, Gopal Nagar, Najafgarh, P.O. and P.S.- Najafgarh, District - South- West Delhi, Delhi - 110043.

... ... Petitioner

Versus

1. The Union of India through its Secretary, Ministry of Finance, Department of Revenue, North Block, New Delhi.
2. The Office of the Commissioner of Customs (Preventive), through the Assistant Commissioner of Customs, 5th Floor, Central Revenue Building, Bir Chand Patel Path, Patna.
3. ICICI Bank Limited, through its Authorised Representative, 273, 15th Cross, 20th Main, J P Nagar, 5th Phase, Bengaluru- 560078.
4. RBL Bank Limited, through its Authorised Representative, 135 Mig, 60ft Road, 1st Cross, KHB Colony 5th Block, Near Jyothi Nivas College Back Gate, Koramangala, Bengaluru - 560095.
5. IDFC First Bank Limited, through its Authorised Representative, Ground Floor, No.- 8/3, PID No. 49-6-8/3, Bull Temple Road, Basavanagudi, Bengaluru- 560004.
6. Kotak Mahindra Bank Limited, through its Authorised Representative, The Pinnacle, Ground Floor, No.- 8, 5th Block, Koramangala, Bangalore, Karnataka- 560095.
7. Yes Bank Limited, through its Authorised Representative, Obelisk Municipal No.- 3, Kasturba Road, Bengaluru - 560001.
8. IndusInd Bank Limited, through its Authorised Representative, Ground Floor, Centenary Building, No.- 28, M G Road, Bengaluru - 560001.

... ... Respondents

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Appearance :

For the Petitioner/s	:	Mr. Prashant Singh, Advocate Mr. Ali Muqtadir Ahmad, Advocate Mr. Maarij Ahmad, Advocate
For Respondent (UOI)	:	Mr. Dr. K.N. Singh (ASG) Mr. Sriram Krishna, Sr. SC Customs Mr. Devansh Shankar Singh, Jr. S.C. Mr. Prabhat Kr. Singh, JC to ASG
For the ICICI Bank	:	Mr. Dayanand Singh, Advocate Mr. Nagedeo Choubey, Advocate Mr. Dhananjay Kashyap, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
CAV JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date : 11-09-2026

Heard learned counsel for the parties.

2. Petitioner in the present writ application is engaged in digital marketing and affiliate digital marketing. It is also engaged in reselling of various brands, gift vouchers/cards, etc. Initially, this writ petition was filed seeking the following reliefs:-

> "(i) For issuance of the writ in the nature of Mandamus directing the Respondent(s) for calling for records, thereby disclosing the details of the provisional attachment orders issued under section 110(5) of the Customs Act, 1962, and;
> (ii) For issuance of writ in the nature of Certiorari for quashing of the Provisional Attachment Orders placed on Petitioner's Bank Accounts maintained with Respondents No. 3 to 8, and;
> (iii) For issuance of a writ in the nature of Mandamus for commanding and directing Respondents No. 3 to 8:
> a. To unfreeze the ICICI Bank (Account No. 16690500167) freezed on 15.10.2025 maintained with Respondent No. 3,
> b. To unfreeze the ICICI Bank (Account No. 166905000336) freezed on 27.10.2025 maintained with Respondent No. 3,
> c. To unfreeze the RBL Bank (Account No. 409000538920) maintained with Respondent No. 4,
> d. To unfreeze the IDFC First Bank (Account No. 10110595384) maintained with Respondent No. 5,
> e. To unfreeze the Kotak Mahindra Bank (Account No. 2912039178) maintained with Respondent No. 6,
> f. To unfreeze the Yes Bank (Account No. 002224000000121) maintained with Respondent No. 7,

> g. To unfreeze the IndusInd Bank (Account No. 259901328805) maintained with Respondent No. 8, and;
> (iv) For issuance of writs, orders or directions to pass an ad-interim order staying the operation of the Provisional Attachment Orders placed on Petitioners Bank Accounts maintained with Respondents No. 3 to 8, and;
> (v) For issuance of any other relief/reliefs which this Hon'ble Court may deem, fit and proper in the facts and circumstances of the present case and for which the Petitioners may be entitled."

Brief facts of the Case

3. On or about October, 2023, the respondent no. 2 initiated an investigation against certain firms, namely, M/s Venus Exports, M/s Vidhur Enterprises and M/s B.K. Overseas for the alleged contraventions of the provisions contained in Section 50 of the Customs Act, 1962. The allegations were of fraudulent export activities and wrongful availment of Input Tax Credit (in short 'ITC') under Section 54 of the Central Goods and Services Tax Act 2017 (hereinafter referred to as the 'CGST Act').

4. In course of investigation, the respondent authority found that the firms against whom investigation was going on had transferred huge amount in the account of this petitioner. Even as no investigation was against this petitioner, the respondent no. 2 formed an opinion that to secure the money which were fraudulently transferred in the account of the petitioner, a provisional attachment of certain bank accounts of the petitioner maintained with ICICI Bank Limited (respondent no. 3) and RBL Bank Limited (respondent no. 4) were made.

5. The petitioner was served with a notice with an allegation that it was a third-party beneficiary of certain amount allegedly fraudulently availed by the exporters. Respondent no. 2 provisionally attached some more bank accounts of the petitioner maintained with IDFC First Bank Limited (respondent no. 5), Yes Bank Limited (respondent no. 7) and IndusInd Bank Limited (respondent no. 8) under the Customs Act.

6. Being aggrieved by and dissatisfied with the said provisional attachments, the petitioner moved before the Hon’ble Karnataka High Court by filing W.P. No. 28128 of 2024 on 01.10.2024. Provisional attachment of its bank accounts were challenged. During pendency of the said writ petition, respondent no. 2 passed adjudication orders dated 18.10.2024 in respect of two show-cause notices issued to the exporters, imposing penalties of Rs. 50,00,000/- and Rs. 1,50,00,000/- respectively. The said amounts were appropriated from the petitioner’s bank accounts which had been provisionally attached. On 29.10.2024, the Hon’ble Karnataka High Court was pleased to grant an interim stay of the provisional attachment orders but respondent no. 2 further debited amounts of Rs. 87,924.64/- and Rs. 82,00,000/-

from the petitioner’s bank accounts on 04.11.2024 and 14.11.2024 respectively. Against the adjudicatory orders, the petitioner has preferred statutory appeals before the Commissioner (Appeals), Patna on 16.12.2024, which are presently pending. The prayer of the petitioner before the Hon’ble Karnataka High Court seeking refund of the amounts illegally debited from its bank accounts did not work as the Hon’ble Karnataka High Court granted liberty to the petitioner to withdraw the writ petition and to approach the appropriate forum.

7. It is stated that after withdrawal of the writ petition filed by filed before the Hon’ble Karnataka High Court, the petitioner had approached this Court by filing writ petition bearing number CWJC 14059 of 2025 on 05.08.2025 challenging the appropriation of money by respondent no. 2 pursuant to three orders in original passed under the Customs Act. During pendency of the said writ petition, in October 2025, the petitioner came to know that its bank accounts maintained with respondent nos. 3 to 6 had again been subjected to a ‘debit freeze’. Thereafter, on 27th October 2025, another bank account of the petitioner maintained with respondent no. 3 was also placed under debit freeze. The details of the bank accounts provisionally attached during the pendency of the writ petition before this Court are given in the writ application. A perusal thereof would show that altogether five bank accounts of the petitioner maintained with ICICI Bank, RBL Bank, IDFC First Bank and Kotak Mahindra Bank were put on debit freeze in October 2025. The details are provided in Annexure 'P/6' series to the writ application.

<u>Submissions on behalf of the petitioner</u>

8. Learned counsel for the petitioner submits that prior to putting the accounts on debit freeze no notice was given to the petitioner. The petitioner filed one I.A. No. 01 of 2025 in the pending writ petition seeking to amend the prayers and quashing of the provisional attachment/debit freeze imposed on the bank accounts. It is submitted that the learned coordinate Bench of this Court disposed of CWJC No. 14059 of 2025 on 20.11.2025 directing the appellate authority to consider and dispose of the pending appeals of the petitioner preferably within a period of six months from the date of production of a copy of the order. I.A. No. 01 of 2025 was not entertained but disposed of without passing any order thereon with an observation that challenge to the provisional attachment/debit freeze pertain to a distinct and independent cause of action. It is in this background, the petitioner has preferred the present writ application.

9. Learned counsel for the petitioner has drawn the attention of this Court towards Annexure 'P/6' series and 'P/7' series to the writ application to submit that on perusal thereof it would appear that in the various accounts of the petitioner debit freeze were marked due to standing instructions. The banks sent SMS to the petitioner. The grievance of the petitioner is that after getting knowledge of the debit freeze imposed in the bank accounts in October 2025, multiple representations were made by the petitioner to the office of respondent no. 2 as well as to the Chief Commissioner, Customs, Patna vide emails followed by written representations, but for the first time, the respondent no. 2 responded *vide* communication dated 17.11.2025. The respondent no. 2 informed the petitioner that during the course of investigation relating to certain exporters, a purported trail of funds had been noticed in the petitioner's bank accounts. Thus, directions had been issued to respondent nos. 3 to 6 to attach the said accounts under Section 110(5) of the Customs Act. It was informed that defreezing was not possible due to the alleged ongoing investigation.

10. The submission of the petitioner is that the debit freeze orders were placed with the banks without any provisional attachment orders having been issued or communicated to the petitioner at that stage. It is stated that such orders were ultimately issued only on 07.01.2026, i.e. post facto in order to legitimize and cure the earlier arbitrary and unauthorized debit freezes imposed at the behest of respondent no. 2.

11. It is pleaded that the exercise of power under Section 110(5) must necessarily precede and not follow the attachment of a bank account. Therefore, it is submitted that the freezing of the petitioner's bank accounts in October 2025 followed by issuance of the impugned orders only on 07.01.2026 constitutes a clear and impermissible post facto attempt to retrospectively validate an action taken without authority of law.

12. Learned counsel for the petitioner has submitted that the impugned orders cannot operate retrospectively so as to cure or validate an otherwise illegal attachment. Reliance has been placed on the judgment of the Hon'ble Bombay High Court in case of **Chokshi Arvind Jewellers vs. Union of India** reported in **2024 SCC OnLine Bom 793:(2024) 134 GSTR 494** wherein it has been held that power of provisional attachment under Section 110(5) of the Customs Act is draconian and coercive in nature and must strictly conform to the both substantive and procedural requirements of the statute. Paragraph '36', '40' and '42' of the judgment in the case of **Chokshi Arvind Jewellers** (supra) have been relied upon.

13. Learned counsel has further relied upon another judgment of the Hon'ble Bombay High Court in the case of **Boxster Impex Pvt. Ltd. and Ors. vs. Union of India and Ors.** reported in **(2020) 83 GSTR 433 : 2020 SCC OnLine Bom 978** wherein the Hon'ble High Court directed the respondents to unfreeze the bank accounts of the petitioner. It was held that an order in writing for provisional attachment of a bank account is a must before such an account can be attached. Paragraph '31', '32' and '33' of the judgment in the case of **Boxster Impex Pvt. Ltd.** (supra) have been relied upon.

14. Learned counsel submits that the Central Board of Indirect Taxes and Customs (in short 'CBIC') instructions are also in consonance with the judicial pronouncements on the subject. Assailing the impugned orders of provisional attachment, learned counsel submits that the impugned orders do not contain any reasons and the orders do not show that the proper officer had formed an 'opinion' that it is necessary to attach the account. It is submitted that for passing an order of provisional attachment, the approval of the Principal Commissioner or Commissioner was required and the order in writing was to be passed for any such attachment but neither respondent no. 2 furnished any specific reasons nor disclosed any tangible material linking the petitioner to the alleged fraudulent export activities. There is nothing to show that why attachment of the petitioner's bank accounts was necessary.

15. Learned counsel has relied upon the judgment of the Hon'ble Bombay High Court in the case of **Commissioner of Customs (Import) vs. Gem Nuts and Produce Exports Co. P. Ltd.** reported in **(2010) 3 GSTR 618 : 2009 SCC OnLine Bom 1629** to submit that even though the expression "any person" under Section 142 of the Customs Act may appear wide, attachment or recovery from a non-defaulter recipient in impermissible unless it is established that such person had knowledge of the fraud or was holding the moneys on behalf of the defaulter. Reliance has been placed on paragraph '19' and '20' of the judgment in the case of **Commissioner of Customs (Import) vs. Gem Nuts and Produce Exports Co. P. Ltd.** (supra).

16. Learned counsel for the petitioner submits that the petitioner had been summoned in connection with the inquiry being conducted against M/s Kumar Enterprises and Kentil Technosoft Private Limited, who are said to be the alleged exporters, who had been involved in fraudulent exports. The petitioner has been asked to furnish the details of transactions undertaken by the petitioner with these two entities. In paragraph '49' of the writ petition, the petitioner has made a submission that it is not engaged in the business of exports nor does it undertake any export-related activities. In his submissions, no proceeding is pending against the petitioner.

17. It is further submitted that in the case of **Mundhra Exim Pvt. Ltd. and Ors. vs. Additional Director General, DRI** reported in **(2025) 152 GSTR 27 : 2025 SCC OnLine MP 7256** it has been held that a provisional attachment under Section 110(5) can be made only during the pendency of the proceedings under the Customs Act. It is submitted that a "proceeding" necessarily presupposes issuance of a notice under Section 28 of the Customs Act and that the power under Section 110(5) of the Customs Act cannot be exercised during preliminary investigation. In **Radha Krishan Industries vs. State of Himachal Pradesh and Ors.** reported in **(2021) 6 SCC 771**, the Hon'ble Supreme Court has held that there must be a pendency of proceedings under the relevant provisions before an order of provisional attachment is to be issued.

Stand of the Respondents

18. A counter affidavit has been filed on behalf of respondent nos. 1 and 2. It is stated that in the guise of providing digital marketing services and issuance of prepaid/gift cards, the petitioner received substantial funds originating from the fraudulent exporters through intermediaries such as Shri Vipul Agrawal and thereafter converted such funds into prepaid instruments, thereby facilitating dissipation and concealment of illicit proceeds. The statements recorded under Section 108 of the Customs Act from the Director and Officials of the petitioner's company clearly establishes that amounts were received from entities like M/s Venus Exports and utilised for issuance of prepaid cards against commission.

19. It is stated that in view of the established money trail and to safeguard government revenue, the competent authority invoked powers under Section 110(5) of the Customs Act, 1962 and provisionally attached the bank accounts of the petitioner. The respondents have given details of the adjudication proceedings which were initiated and penalties were imposed against the petitioner under Section 114AA of the Customs Act. It is stated that pursuant to the said adjudication orders and in continuation of protective measures, directions were issued to various banks to transfer the attached amounts. As regards those adjudication orders, the appeals are pending before the Commissioner (Appeals), Patna.

20. It is stated that during the course of further independent investigation involving twelve other exporters, fresh evidence and financial trails emerged, once again linking the petitioner as a beneficiary of the proceeds of fraudulent exports. In the case of M/s Kumar Enterprises, it was found that an amount of Rs. 46,52,000/- was transferred to the petitioner. Based on the information received, necessary action was taken by issuing directions to the concerned bank, namely, Kotak Mahindra Bank, for fresh provisional attachment of bank accounts of the petitioner and for obtaining KYC documents and bank statements for further scrutiny.

21. It is stated that in the case of M/s Kentil Technosoft Private Limited, the investigation revealed a money trail exceeding Rs. 3 crore flowing into the accounts of the petitioner, thereby establishing a substantial and independent nexus of the petitioner with yet another set of fraudulent export transactions. In view of these materials, the evidences emerging from separate investigation, the competent authority again exercised powers under Section 110(5) of the Customs Act, 1962 and directed further provisional attachment of the petitioner’s bank accounts. It is stated that the subsequent/further attachments of the bank accounts were not a continuation of earlier action but were necessitated by new investigations involving different exporters and fresh money trails wherein the petitioner again surfaced as a beneficiary.

22. Learned ASG representing the respondents submits that the details of the provisional attachment orders issued under Section 110(5) of the Customs Act has already been communicated to the petitioner. It is submitted that the orders for provisional attachment of bank accounts have been passed in accordance with law to safeguard the government exchequer, defrauded by the fraudulent exporters, transferring the illicit money into the bank accounts maintained by the petitioner with respondent nos. 3 to 8. The debit freeze order was issued in order to protect the siphoning of the money lying in the account of the petitioner.

Consideration

23. When this writ application was taken up for consideration on 02.07.2026, after hearing learned counsel for the petitioner and learned ASG for the State, this Court passed the following order:-

> "Heard learned counsel for the petitioner and learned A.S.G. for the Department of Customs.
> 2. Petitioner is aggrieved by and dissatisfied with the freezing of his seven bank accounts.
> 3. Learned counsel for the petitioner does not dispute the power of respondent no. 2 to freeze bank accounts by passing a provisional order of attachment initially for a period of six months and

then the same may be extended for a further period of six months but his submissions are as under :-

(i) The power conferred under sub-Section (5) of Section 110 of the Customs Act, 1962 is a drastic power which may have an effect of causing civil death to an ongoing business concern. It is for this reason, the proper Officer has to form an opinion and only when he finds that for purposes of protecting the interest of the revenue on preventing smuggling, it is necessary to attach any bank account, he has to pass an order in writing. The order in writing itself pre-supposes that it must contain reasons.

(ii) The power to extend the provisional order of attachment not exceeding six months is to be exercised only after giving an opportunity of hearing to the party likely to be affected by such extension, hence the extension order must record reasons for doing so.

4. Learned counsel has relied upon the Instruction No. 19/2024-Customs dated 22nd July, 2024 issued by the Govt. of India in Ministry of Finance, Department of Revenue, Central Board of Indirect Taxes and Customs (Investigation-Customs). Paragraph '8' thereof has been referred to.

5. It is submitted that in this case not only the order of provisional attachment has been issued at a belated stage, i.e., much after freezing the bank accounts/attaching the bank accounts of the petitioner, the provisional order of attachment are bereft of any reasons and further the extension of the same has been given without providing any opportunity of hearing.

6. We have called upon learned A.S.G., who is representing the Department of Customs, to answer the aforesaid issues.

7. As prayed, let this matter be listed on 9th of July, 2026 under the same heading maintaining its position.

8. In case any affidavit is required to be filed by the Department, the same must be filed well before the next date of listing with prior service of copy on learned counsel for the petitioner."

24. After the matter was adjourned for 9th July 2026, in the interregnum period, the respondent no. 2 issued a show cause notice to the petitioner on 3rd July, 2026 calling upon him to appear on 06.07.2026 in order to give him an opportunity of hearing. On 06.07.2026, the petitioner appeared and was heard. The respondent passed a fresh order on 06.07.2026 which was brought on record with the supplementary counter affidavit.

25. This Court has expressed its reservations and unhappiness with the manner in which the respondent no. 2 took fresh steps during pendency of the writ application which amounted to interfering with the course of justice. The learned ASG having understood that the action of the respondents during pendency of the writ application is not justified, submitted that the order dated 06.07.2026 passed by the authority would not be pressed before this Court. The order dated 10.07.2026 passed by this Court is being reproduced hereunder:-

> "Heard learned counsel for the petitioner and learned ASG for the Department of Customs.
> 2. This matter was heard at length on 02.07.2026. The issues raised by learned counsel for the petitioner were taken note of in its order by this Court. The matter was, however, adjourned on the request of learned ASG in order to enable him to answer the issues recorded by this Court. The case was fixed for 9th of July, 2026.
> 3. At this stage, a supplementary counter affidavit has been filed on behalf of respondent nos. 1 and 2. It appears that during the interregnum period, the respondent authority has attempted to tweak the

order impugned in the present writ application. Without seeking permission of this Court, the department went on issuing a notice to the petitioner on 3rd of July, 2026 calling upon him to appear on 06.07.2026. The formality of giving hearing was done on 6th of July, 2026 which according to the department was the last date on which the limitation for passing an order of extension of the provisional order was going to expire. The respondent passed a fresh order dated 06.07.2026 which has been brought on record with the supplementary counter affidavit.

4. It is crystal clear that attempt has been made to render the writ application infructuous. Taking advantage of the adjournment of the case to answer the issue, the respondent authority could not have tweaked the impugned order. This is not a fair play in action. This is also in breach of judicial discipline. The respondent authority exercising power of a statutory authority is acting as a quasi-judicial authority. Needless to say that the distinction between a judicial order and a quasi-judicial order is very thin and sometimes that distinction is also obliterating, therefore, the principles which are followed by the courts of law are equally binding upon the officers exercising quasi-judicial powers. This Court is not happy with the manner in which the authority has acted during pendency of the writ application.

5. We are not going into this issue further as learned ASG has immediately realized the situation. It is submitted by learned ASG that having understood the fact that this action could not have been taken during pendency of the writ application, he would not press the order dated 06.07.2026 passed by the authority.

6. Learned ASG submits at this stage that on going through Annexure 'A' to Annexure 'RA-2', attached with the supplementary counter affidavit, he has found that there are some provisional attachment orders which were issued without approval of the Commissioner. The provisional attachment orders issued on 23.10.2025 and 10.10.2025 have been referred to. Similarly, the extension order dated 16.04.2026 (related to those

> two attachment orders shown in the Annexure 'A') is not in accordance with law. So far as other orders are concerned, learned ASG submits that he would explain that those orders need no interference.
> 7. It is submitted at this stage that the provisional attachment order dated 23.10.2025 and 10.10.2025 as also the extension order dated 16.04.2026 may be set aside with regard to those two bank accounts, however, learned ASG submits that liberty be granted to the department to issue fresh notices and to pass an appropriate order after giving opportunity of hearing to the petitioner.
> 8. Due to paucity of time, the hearing remained unconcluded today.
> 9. As prayed by learned ASG, list this matter on Wednesday i.e. 15.07.2026 under the same heading maintaining its position when he will place on record the chart showing the various cases and the orders passed at different stages."

26. In course of hearing of the matter, learned ASG has drawn the attention of this Court towards Annexure 'A' attached to Annexure 'RA-2', with the supplementary counter affidavit filed on behalf of respondent no.2. From the chart (Annexure 'A'), it is shown that except the provisional attachment order dated 23.10.2025 in case of Kumar Enterprises and the provisional attachment order dated 10.10.2025 in case of Kentil Technosoft Private Limited, all other provisional attachment orders have been issued after obtaining due approval from the Commissioner.

27. In the supplementary counter affidavit, while responding to the statements made in paragraph '5' of the rejoinder, the respondents have stated that the petitioner has deliberately misconstrued the fact of debit freeze and provisional attachments. The relevant part of paragraph '8' of the supplementary counter affidavit are as under:-

> "8.… The petitioner deliberately misconstrued the fact of debit freeze and provisional attachments. In provisional attachment, withdrawal of amounts by the account holder is restricted for the period specified in the detachment order itself. Further, it is clarified that the orders issued in the month of October, 2025 and Order issued on 07.01.2026, both are Provisional Attachment Orders operating on different Bank Accounts of the Petitioner and were issued in continuation of the ongoing investigation after satisfaction under Section 110(5). The chronology relied upon by the petitioner does not invalidate the statutory attachment".

28. Since Annexure 'A' to Annexure 'RA-2' provides the detail of the bank account, date of approval of the provisional attachment order by the Commissioner, the date of issue, the date of approval of the extension and date of extension, it would be apt to reproduce Annexure 'A' hereunder for a ready reference:-

NAME OF THE BENEFICIARY ENTITY:- M/S NXTIFY TECHNOLOGIES (P) LTD.

Name of the Fraudulent exporter	Beneficiary Entity Bank A/c No.	Date of approval of PAO by the Commissioner	Date of issue of PAO	Date of communication of PAO to M/s Nxtify Technologies	Date of approval of the extension of PAO by the Commissioner	Date of extension of PAO	Date of communication of PAO extension order	Balance lying in Bank A/c of M/s Nxtify as on 01.04.2026(Rs.)	Remarks
Kumar Enterprises	4780063350136434 – Kotak Mahindra Bank	02.11.2025	23.10.2025	09.12.2025	18.02.2026	16.04.2026	16.04.2026	Not provided as on date mentioned above	As per records total amount of Appx. Rs. 3.53 Cr. Has been transferred from two fraudulent exporters bank accounts to M/s Nxtify bank
	259901328805 if Induslnd Bank	07.01.2026	07.01.2026	08.01.2026	18.02.2026	30.04.2026	30.04.2026	1,86,765	
	166905000336 of ICICI Bank	07.01.2026	07.01.2026	08.01.2026	18.02.2026	30.04.2026	30.04.2026	7,804	
	10110595384 of IDFC Bank	07.01.2026	07.01.2026	08.01.2026	18.02.2026	30.04.2026	30.04.2026	1,50,35,148	

	409000538 920 of RBL Bank	07.01.2026	07.01.2026	08.01.2026	18.02.2026	30.04.2026	30.04.2026	0	accounts
	002224000 000121 of Yes Bank	07.01.2026	07.01.2026	08.01.2026	18.02.2026	30.04.2026	30.04.2026	2,60,553	
Kentil Technosoft (P) Ltd.	166905000 167 of ICICI Bank	19.11.2025	10.10.2025	09.12.2025	18.02.2026	16.04.2026	16.04.2026	7,175	
		19.11.2025	20.11.2025	09.12.2025	18.02.2026	30.04.2026	30.04.2026		
							Total	1,54,97,445	

29. On facts, it is now crystal clear that during investigation of the matter in relation to M/s Kumar Enterprises and M/s. Kentil Technosoft Private Limited, the respondent authorities issued “debit freeze” order to the banks on various dates in the month of October 2025. Details in this regard may be found from Annexure ‘P/6’ series to the writ application. The communications received from the bank have been placed before this Court. The specific statements in this regard made in paragraph ‘10(g)’ of the writ application have been answered by the respondents in paragraph ‘40’ of their counter affidavit. The stand of the respondents is that the “debit freeze” of accounts were done afresh in course of investigation of fraudulent exports done by different exporters wherein again the petitioner was found involved in money trail and further, the attachment of bank accounts were done as per the instructions of Section 110(5) of the Customs Act, 1962 and not arbitrary.

30. In paragraph ‘41’ of the counter affidavit, the respondents have taken stand that on the representation submitted by the petitioner, the petitioner was provided the reasons of such provisional attachments of bank accounts vide the office letter dated 17.11.2025. The office letter dated 17.11.2025 has been brought on record as Annexure 'R1-2'. We have perused Annexure 'R1-2'. On a bare reading of the Annexure 'R1-2', it appears that in this letter, an impression has been given that the direction to attach the bank accounts of the beneficiary i.e. the petitioner, is in terms of Section 110(5) of the Customs Act by the competent authority.

31. The respondents have themselves enclosed Annexure 'A', which we have extracted hereinabove. It is evident that the provisional attachment order dated 10.10.2025 in the matter of M/s Kentil Technosoft Private Limited and the order dated 23.10.2025 in the matter of M/s Kumar Enterprises were issued without approval of the competent authority i.e. the Commissioner. The respondents have admitted it. If it is so, the provisional attachment orders and the subsequent order of extension of these provisional attachment orders would also be rendered illegal, being in violation of the statutory scheme of Section 110(5) of the Customs Act.

32. Although, learned counsel for the petitioner has relied on a number of decisions to strengthen his submissions, this

Court would refer the judgment of the Hon’ble Supreme Court in the case of **Radha Krishan Industries** (supra). In this case, the Hon’ble Supreme Court was considering a challenge to the orders of provisional attachment issued by the respondents against the appellant under Section 83 of the Himachal Pradesh Goods and Services Tax Act (in short ‘HPGST Act’). The Hon’ble Supreme Court embarked on an interpretative journey of unravelling the substantive and procedural content of the power. The preliminary issue was whether the High Court was right in concluding that the provisional attachment could not be challenged in a petition under Article 226. Section 83 of the HPGST Act permits provisional attachment once during the pendency of the proceeding under Section 62, 63, 64, 67, 73 or 74 of the HPGST Act. Section 83 of the HPGST Act and Section 110(5) of the Customs Act are in *pari materia*, therefore, we reproduce both the provisions hereunder:-

“**Section 83 of the HPGST Act**

“**83.** ***Provisional attachment to protect revenue in certain cases***.—(1) Where during the pendency of any proceedings under Section 62 or Section 63 or Section 64 or Section 67 or Section 73 or Section 74, 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 in such manner as may be prescribed.

(2) Every such provisional attachment shall cease to have effect after the expiry of a period of one year from the date of the order made under sub-section (1)."

<u>Section 110(5) of the Customs Act</u>

"110. Seizure of goods, documents and things.

(1) ...

(2) ...

(3) …

(4) …

[3][(5) Where the proper officer, during any proceedings under the Act, is of the opinion that for the purposes of protecting the interest of revenue or preventing smuggling, it is necessary so to do, he may, with the approval of the Principal Commissioner of Customs or Commissioner of Customs, by order in writing, provisionally attach any bank account for a period not exceeding six months:

Provided that the Principal Commissioner of Customs or Commissioner of Customs may, for reasons to be recorded in writing, extend such period to a further period not exceeding six months and inform such extension of time to the person whose bank account is provisionally attached, before the expiry of the period so specified."

33. The Hon'ble Supreme Court has noticed the judgment of the Hon'ble Delhi High Court in the case of **Proex Fashion (P) Ltd. vs. Union of India** reported in **2021 SCC OnLine Del 2082** wherein the Hon'ble Delhi High Court has outlined the statutories stipulated conditions for the invocation of

3. Inserted by Act 29 of 2019, S. 74(ii).

Section 83 of the SGST Act. Paragraph ‘10’ of the judgment has been briefly taken note of in paragraph ‘35’ of the judgment in case of **Radha Krishan Industries** (supra). It has been ultimately held that the power under Article 226 of the Constitution to issue writs can be exercised not only for the enforcement of fundamental rights, but for any other purpose as well. An alternative remedy by itself does not divest the High Court of its powers under Article 226 of the Constitution in an appropriate case though ordinarily, a writ petition should not be entertained when an efficacious alternate remedy is provided by law. In cases where there are disputed questions of fact, the High Court may decide to decline jurisdiction in a writ petition. However, if the High Court is objectively of the view that the nature of the controversy requires the exercise of its writ jurisdiction, such a view would not readily be interfered with.

34. Dealing with the issue of provisional attachment, the Hon’ble Supreme Court has noticed the parliamentary intent behind Section 83. It is to protect revenue in certain cases. In this regard, the views expressed by the Hon’ble Supreme Court in the case of **Radha Krishan Industries** (supra) may be found in paragraph ‘41’ and its subparagraphs, ‘42’, ‘49’ and ‘50’ of the judgment, which are as under:-

"**41.** Sub-section (1) of Section 83 can be bifurcated into several parts. The first part provides an insight on *when* in point of time or at *which* stage the power can be exercised. The second part specifies the *authority* to whom the power to order a provisional attachment is entrusted. The third part defines the *conditions* which must be fulfilled to validate the power or ordering a provisional attachment. The fourth part indicates the *manner* in which an attachment is to be levelled. The final and the fifth part defines the *nature*of the property which can be attached. Each of these special divisions which have been explained above is for convenience of exposition. While they are not watertight compartments, ultimately and together they aid in validating an understanding of the statute. Each of the above five parts is now interpreted and explained below:

41.1. The power to order a provisional attachment is entrusted during the pendency of proceedings under any one of six specified provisions : Sections 62, 63, 64, 67, 73 or 74. In other words, it is when a proceeding under any of these provisions is pending that a provisional attachment can be ordered.

41.2. The power to order a provisional attachment has been vested by the legislature in the Commissioner.

41.3. Before exercising the power, the Commissioner must be "of the opinion that for the purpose of protecting the interest of the government revenue, it is necessary so to do".

41.4. The order for attachment must be in writing.

41.5. The provisional attachment which is contemplated is of any property including a bank account belonging to the taxable person.

41.6. The manner in which a provisional attachment is levied must be specified in the rules made pursuant to the provisions of the statute.

42. Under sub-section (2) of Section 83, a provisional attachment ceases to have effect upon the expiry of a period of one year of the order being passed under sub-section (1). The power to levy a provisional attachment has been entrusted to the Commissioner during the pendency of proceedings under Sections 62, 63, 64, 67, 73 or as the case may be, Section 74. Section 62 contains provisions for assessment for non-filing of returns. Section 63 provides for assessment of unregistered persons. Section 64 contains provisions for summary assessment. Section 67 elucidates provisions for inspection, search and seizure.

49. Now in this backdrop, it becomes necessary to emphasise that before the Commissioner can levy a provisional attachment, there must be a formation of "the opinion" and that it is necessary "so to do" for the purpose of protecting the interest of the government revenue. The power to levy a provisional attachment is draconian in nature. By the exercise of the power, a property belonging to the taxable person may be attached, including a bank account. The attachment is provisional and the statute has contemplated an attachment during the pendency of the proceedings under the stipulated statutory provisions noticed earlier. An attachment which is contemplated in Section 83 is, in other words, at a stage which is anterior to the finalisation of an assessment or the raising of a demand. Conscious as the legislature was of the draconian nature of the power and the serious consequences which emanate from the attachment of any property including a bank account of the taxable person, it conditioned the exercise of the power by employing specific statutory language which conditions the exercise of the power. The language of the statute indicates first, the necessity of the formation of opinion by the Commissioner; second, the formation of opinion before ordering a provisional attachment; third the existence of opinion that it is necessary so to do for the purpose of protecting the interest of the government revenue; fourth, the issuance of an order in writing for the attachment of any property of the taxable person; and fifth, the observance by the Commissioner of the provisions contained in the rules in regard to the manner of attachment. Each of these components of the statute are integral to a valid exercise of power. In other words, when the exercise of the power is challenged, the validity of its exercise will depend on a strict and punctilious observance of the statutory preconditions by the Commissioner. While conditioning the exercise of the power on the formation of an opinion by the Commissioner that "for the purpose of protecting the interest of the government revenue, it is necessary so to do", it is evident that the statute has not left the formation of opinion to an unguided subjective discretion of the Commissioner. The formation of the opinion must bear a proximate and live nexus to the purpose of protecting the interest of the government revenue.

50. By utilising the expression "it is necessary so to do" the legislature has evinced an intent that an attachment is authorised not merely because it is expedient to do so (or profitable or practicable for the Revenue to do so) but because it is *necessary* to do so in order to protect interest of the government revenue. Necessity postulates that the interest of the

> Revenue can be protected *only* by a provisional attachment without which the interest of the Revenue would stand defeated. Necessity in other words postulates a more stringent requirement than a mere expediency. A provisional attachment under Section 83 is contemplated during the pendency of certain proceedings, meaning thereby that a final demand or liability is yet to be crystallised. An anticipatory attachment of this nature must strictly conform to the requirements, both substantive and procedural, embodied in the statute and the rules. The exercise of unguided discretion cannot be permissible because it will leave citizens and their legitimate business activities to the peril of arbitrary power. Each of these ingredients must be strictly applied before a provisional attachment on the property of an assessee can be levied. The Commissioner must be alive to the fact that such provisions are not intended to authorise Commissioners to make pre-emptive strikes on the property of the assessee, merely because property is available for being attached. There must be a valid formation of the opinion that a provisional attachment is necessary for the purpose of protecting the interest of the government revenue."

35. In the case of **Boxster Impex Pvt. Ltd.** (supra), the Hon'ble Bombay High Court was dealing with a writ petition in which the grievance of the petitioner was over a letter dated March 1, 2019, issued by office of the Principal Commissioner of Customs (P) to the Branch Manager, IDFC First Bank, Mumbai. Paragraph '27' of the judgment contains the facts, which are as under:-

> "**27.** We take up the first grievance for consideration at the outset. Ex. A to the writ petition is a letter dated March 1, 2019 issued from the office of the Principal Commissioner of Customs (P) to the Branch Manager, IDFC Bank, Mumbai, stating that office of the Principal Commissioner of Customs was investigating a case of misuse of export documents to claim inadmissible dues, drawback and IGST refund by M/s. Dunox Trading and Export Private Limited. Reference was made to the current account of the petitioner in the said bank. While the branch manager was called upon to provide certain details of the bank account he was also requested not to allow any withdrawal from the said account and operation of locker without prior permission. This is the only document on record on the basis of which the bank account of the petitioner has been effectively frozen. In the affidavit-in-reply filed on behalf of respondent No. 1 the only statement made in respect of freezing of the bank account is in paragraph 26 wherein it is stated that unfreezing the frozen bank account would cause huge loss to the Department."

36. The Hon'ble Bombay High Court found that sub-section (5) was inserted in Section 110 by the Finance (No.2) Act No. 2019 with effect from August 1, 2019. Thus, the respondent authority could not have invoked sub-section (5) of Section 110 while issuing the letter in question on March 1, 2019 for freezing of the bank account of the petitioner. In paragraph '31' and '32' of the judgment in the case of **Boxster Impex Pvt. Ltd.** (supra), the Hon'ble Bombay High Court has held as under:-

> "**31.** Even otherwise, we find that the above provision can only be invoked in the manner provided therein which can be culled out as under :
> (i) The order of attaching the bank account provisionally shall be passed in writing by a proper officer ;
> (ii) Such an order can be passed during any proceedings under the Customs Act ;
> (iii) Before passing such an order the proper officer must form an opinion that such attachment of bank account is necessary for the purposes of protecting the interest of revenue or for preventing smuggling ;
> (iv) Before passing such an order the proper officer must obtain prior approval of the Principal Commissioner of Customs or of Commissioner of Customs ; and
> (v) Such provisional attachment shall be for a period not exceeding six months.
> **32.** As per the proviso the Principal Commissioner of Customs or Commissioner of Customs can extend such provisional attachment for a further period not exceeding six months ; but he must record reasons for such extension and such extension of period has to be informed to the person whose bank account is provisionally attached before expiry of the period so specified."

37. In case of **Chokshi Arvind Jewellers** (supra), the Hon'ble Bombay High Court has discussed sub-section (5) of Section 110 of the Customs Act in paragraph '36' to '42' as under:-

> "**36.** On a bare perusal of the provisions of section 110(5) of the Act, it can be seen that a bank account

can be provisionally attached if the proper officer forms an opinion that, for the purpose of protecting the interest of revenue or preventing smuggling, it is necessary so to do. Further, an order directing provisional attachment of the bank account has to be in writing. It is thus, clear that the proper officer has to form to an opinion that it is necessary to provisionally attach the bank accounts for the purpose of protecting the interest of revenue or preventing smuggling. The key word in the sub-section is “necessary”.The proper officer must form an opinion that it is necessary to provisionally attach the bank account for the aforesaid reasons and not only expedient to do so. Moreover, the necessity has to be for the purpose of protecting the interest of revenue or preventing smuggling and not for any other purpose.

37. Further, this opinion has to be formed based on tangible material available with the proper officer.

38. Further, the order in writing directing provisional attachment of the bank accounts must reflect as to why the proper officer is of the opinion that it is necessary to provisionally attach the bank account for the purpose of protecting the interest of revenue or preventing smuggling. These reasons must be set out in the order in writing. Further, the said order in writing must also disclose the tangible material on the basis of which the proper officer has formed such an opinion.

39. The power exercised by the proper officer in directing provisional attachment of the bank account of a person is quite drastic or coercive in nature resulting in attracting civil consequences. If a bank account of a person is attached, it would certainly cause severe prejudice to that person. The

Legislature, whilst enacting the provisions of section 110(5) of the Act was conscious of the severity of such power and the serious consequences which would emanate from the provisional attachment of any property, including a bank account, of a taxable person, and, therefore, it conditioned the exercise of the power by employing specific statutory language of an approval to be sought by the proper officer from the Principal Commissioner or Commissioner, who is a high ranking officer. Thus, such power is not left to the ipse dixit of the proper officer and any such decision is required to undergo a rigorous scrutiny of the Principal Commissioner or the Commissioner. Each of these components of section 110(5) are integral to a valid exercise of power. In other words, when the exercise of power is challenged, the validity of its exercise will depend on a strict and punctilious observance of the statutory pre-conditions by the Principal Commissioner of the Commissioner. While conditioning the exercise of power on the formation of an opinion of the Principal Commissioner/Commissioner that, “for the purpose of protecting the interest of revenue or preventing smuggling it is necessary so to do”,it is evident that the statute has not left formation of the opinion to an unguided subjective discretion of the proper officer or for that matter the Principal Commissioner/Commissioner. The formation of the opinion must bear a proximate and live nexus to the purpose of protecting the interest of Government Revenue and/or preventing smuggling.

40. Further, such provisional attachment is contemplated during the pendency of certain proceedings, meaning thereby that a final demand or liability is yet to be crystallised. Therefore, an anticipatory attachment of this nature must strictly conform to the requirements, both substantive and procedural, embodied in the statute. The exercise of unguided discretion would not be permissible because it would leave persons and their legitimate business activities to the peril of arbitrary power.

41. Each of the ingredients of section 110(5) must be strictly complied with before the provisional attachment on the property of an assessee can be levied. The proper officer must be alive to the fact that such provisions are not intended to make preemptive strikes on the property of the assessee, merely because such property is available for being attached.

42. Further, considering the drastic nature of this power, in our view, such an order in writing directing provisional attachment should be served not only on the bank but also on the bank account holder, as, in the absence of such an order in writing being served on the bank account holder, it will be at a great disadvantage if he deems fit to challenge such a provisional attachment."

38. From the above-mentioned judgments, it is evident that the provisional attachment orders may be issued only if the conditions mentioned under sub-section (5) of Section 110 of the Customs Act are fully complied with. In this case, the respondents are on record saying that the orders issued in the month of October 2025 and the order issued on 07.01.2026, both are provisional attachment orders operating on different bank accounts of the petitioner and both were issued in continuation of the ongoing investigation after satisfaction under Section 110(5) of the Customs Act. So far as the provisional attachment orders dated 07.01.2026 are concerned, those have been issued after obtaining approval of the Commissioner but the petitioner has shown from the pleadings that the orders issued to the respondent banks to put a freeze on the account of the petitioners maintained with (i) ICICI Bank Account No. 16690500167, (ii) ICICI Bank Account No. 166905000336), (iii) RBL Bank Account No. 409000538920, (iv) IDFC First Bank Account No. 10110595384 and (v) Kotak Mahindra Bank Account No. 2912039178 were put on "debit freeze" in the month of October 2025 itself. As regards two accounts i.e. (i) ICICI Bank Account No. 16690500167 and (ii) Kotak Mahindra Bank Account No. 4780063350136434, the learned ASG has admitted that even the provisional attachment orders were issued without approval of the same by the Commissioner. Thus, this Court would, therefore quash and cancel the provisional attachment orders which were issued without obtaining approval of the Commissioner and the subsequent extension of those orders. Those are hereby quashed.

39. As regards the (i) ICICI Bank Account No. 16690500336, (ii) RBL Bank Account No. 409000538920 and

(iii) IDFC First Bank Account No. 10110595384, it is stated that these accounts were put on debit freeze in October, 2025. The respondents have not denied this fact but they have stated in the supplementary counter affidavit that the petitioner has deliberately misconstrued the fact of debit freeze and provisional attachments. It is the respondents' clarification that the orders issued in the month of October 2025 and the order issued on 07.01.2026 both are provisional attachment orders. If it is so, it was incumbent upon the respondents to place on record to say in positive words that the orders issued in the month of October 2025 had the approval of the Commissioner. No such statement has been made by the respondents. Save and except to say that the order issued in the month of October 2025 and the order issued on 07.01.2026, both are provisional attachment orders, the respondents have not stated a single word that the orders issued in the month of October 2025 were in writing, containing the reasons and had the approval of the competent authority. This Court is, therefore, of the considered opinion that the direction of the respondent to the bank to put debit freeze on these accounts in the month of October 2025 were not in accordance with sub-section (5) of Section 110 of the Customs Act, 1962.

40. Having said so, a question would arise for consideration as to whether the order of provisional attachment issued on 07.01.2026 would be liable to be quashed and cancelled on this ground alone. We have perused the provisional attachment order dated 07.01.2026 and 20.11.2025. The orders of provisional attachment passed on 07.01.2026 reads as under:-

(Since all other provisional attachment orders are identical, therefore, we are not reproducing all the provisional attachment orders.)

“ भारत सरकार
सीमा शुल्क (निवारण) आयुक्तालय
पंचम मंजिल, केन्द्रीयराजस्वभवन, वीरचंदपटेलपथ, पटना–800001
दूरभाष–सह–दुरचित्रक0612-2504998:; email-cuspatna@nic.in, cushqrprev-patna@gov.in

07-01-2026

To
The Branch Manager,
ICIC Bank,
Patna Branch, Patna.

Sub: - Provisional attachment of the Bank accounts of entities.

Sir/Madam,

1. This office is investigating case of the fraudulent export from various Land Customs Station (LCS) under this jurisdiction of this Customs Commissionerate. Prima facie the investigation has shown that these fraudulent exporters have got refund amount in their bank account on the basis of fraudulent export. Hence in the interest of revenue these bank accounts need to be provisionally attached as per section 110 of the Customs Act, 1962, as follows.

Section 110. **Seizure of goods, documents and things**

(5) Where the proper officer, during any proceedings under the Act, is of the opinion that for the purposes of protecting the interest of revenue or preventing smuggling, it is necessary so to do, he may, with the approval of the Principal Commissioner of Customs or Commissioner of Customs, by order in writing, provisionally attach any bank account for a period not exceeding six months:

PROVIDED that the Principal Commissioner of Customs or Commissioner of Customs may, for reasons to be recorded in writing, extend such period to a further period not exceeding six months and inform such extension of time to the person whose bank account is provisionally attached, before the expiry of the period so specified.

2. I, therefore, being the proper officer under the powers bestowed upon me by the Commissioner of Customs, **order for provisional attachment of below mentioned account with immediate effect and till further orders.**

3. Further, you are hereby requested **to furnish the bank Statement of the accounts listed below for the period 01.04.2022 to till date, in both the excel & pdf format,** as it is desired from you under Section 108A of Customs Act 1962 within a week. The provision is hereby reproduced below.

[**Section 108A.** Obligation **to furnish information.**

(1) Any person, being-

(d) a Banking company within the meaning of clause (a) of section 45A of the Reserve Bank of India Act, 1934; or

Who is responsible for maintaining record of registration or statement of accounts or holding any other information under any of the Acts specified above or under any other law for the time being in force, which is considered relevant for the purposes of this Act, shall furnish such information to the proper officer in such manner as may be prescribed by rules made under this Act.

Failing which provisions of Section 108B will be invoked which relates to penalty for failure to furnish information return.

4. It is further requested, **to provide the KYC Documents/Details of the Account/ Account Holder and introducer of the Account alongwith bank statement of the accounts listed below for the period 01.04.2022 to till date.**

5. The Bank Account No. & IFSC details are mentioned below:-

Name	**Bank Account No.**
M/s Nxtify Technologies Pvt. Ltd.	166905000336

6. This is issued to local branch of the bank with request to co-ordinate with concerned branch where the above account pertains and take suitable measures urgently.

7. Immediate action in the matter will be highly appreciated.

Digitally signed by
Arun Prasad
Date: 07.01.2026
15:40:13
ASSISTANT COMMISSIONER
Customs (P) Hqrs., Patna"

41. On perusal of the provisional attachment order (Annexure 'P/1'), this Court finds that it has been passed in a proceeding initiated against M/s Kumar Enterprises and M/s

Kentil Technosoft Private Limited. The provisional attachment order is in writing and it contains the reasons by virtue of which the proper officer has formed its opinion to order for provisional attachments of the accounts. These provisional attachment orders as contained in Annexure 'P/1' series do not require any interference.

42. This would take us to the submission of learned counsel for the petitioner that on the expiry of six months' period from the date of issuance of the provisional attachment order, the attachment order shall lose its sanctity unless it is extended before the expiry of the period of six months, in accordance with law. One of the extension order placed on the record is being reproduced hereunder:-

"

भारत सरकार
सीमा शुल्क (निवारण) आयुक्तालय
पंचम मंजिल, केन्द्रीयराजस्वभवन, वीरचंदपटेलपथ, पटना–800001
दूरभाष–सह–दुरचित्रक0612-2504998:; email-cuspatna@nic.in, cushqrprev-patna@gov.in

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30-04-2026

To,
The Branch Manager,
ICIC Bank,
Patna Branch

Subject:- Extension of the period of Provisional attachment of the Bank accounts of fraudulent exporters- reg.

Please refer to this office letter F. No. CUS/SIIB/MISC/720/2025-Preventive Section-O/o Commissioner-Customs-Preventive-Patna I/3549116/2025 dated 20.11.2025 wherein the Provisional attachment of the Bank accounts of fraudulent exporters mentioned below was ordered.

Now, therefore, in exercise of the power conferred to the under section 110(5) of Customs ACT 1962. Which states and I quote,

Section 110. **<u>Seizure of goods, documents and things</u>**

(5)where the proper officer, during any proceedings under the Act, is of the opinion that for the purposes of protecting the interest of revenue or preventing smuggling, it is necessary so to do, he may, with the approval of the Principal Commissioner of Customs or Commissioner of Customs, by order in writing, provisionally attach any bank account for a period not exceeding six months: PROVIDED that the Principal Commissioner of Customs or Commissioner of Customs may, for reasons to be recorded in writing, extend such period to a further period not exceeding six months and inform such extension of time to the person whose bank account is provisionally attached, before the expiry of the period so specified.

I, being the proper officer under the powers bestowed upon me by the Commissioner of Customs, **order for further extension of provisional attachment of below mentioned account after expiry of existing attachment period for next six months.** The bank details of the exporter are mentioned below:-

Name	Bank Account No.	IFSC
Shagun Enterprise	122605001678	ICIC0001226
Nxtify Technologies Pvt Ltd	166905000167	ICIC0001669
MOBASSURE TECHNO SERVICES PVT LTD	103105001513	ICIC0001031

This is for immediate necessary action please.

ASSISTANT COMMISSIONER
Customs (Prev.) Commissionerate,
Patna

Copy to: M/s Shagun Enterprise / M/s Nxtify Technologies pvt Ltd (Email: info@nxtify.com / M/s MOBASSURE TECHNO SERVICES PVT LTD (Email: finance@dealsnprice.com) for information and needful."

43. It is evident on going through the extension order that prior to passing of the same, the competent authority has not given any opportunity of hearing to the petitioner. No notice to show cause was issued and in fact, in the extension order, no reason has been shown by the competent authority. It is because of this, during pendency of the writ application, the competent authority issued notice to the petitioner to attend a personal hearing in virtual mode and hurriedly passed an order on 6th July, 2026, which has not been pressed by learned ASG.

44. This Court agrees with the submissions of learned counsel for the petitioner that Section 110(5) of the Customs Act talks about pre-decisional hearing and not post-decisional hearing. We have, therefore, no doubt that the extension orders are bad in law and those are liable to be set aside. Accordingly, we set aside the same.

45. We would hasten to add that setting aside of the extension order(s) covered under paragraph '38' of this judgment would not come in the way of the department in proceeding with the pending adjudication and the respondents may, if so advised, proceed to take steps as may be available to them under the statute to pass fresh provisional attachment orders and the extension orders where provisional attachment orders were issued in accordance with law.

46. This writ application is allowed to the extent indicated hereinabove.

(Rajeev Ranjan Prasad, J)

(Sunil Dutta Mishra, J)

Rishi/-

AFR/NAFR	
CAV DATE	15.07.2026
Uploading Date	11.09.2026
Transmission Date	