

## **If assessment was completed by AO, provisional attachment u/s 281B cannot continue.**

**Summary – The High Court of Delhi in a recent case of Dabur Invest Corp., (the Assessee) held that if assessment was completed by AO, provisional attachment u/s 281B cannot continue**

### **Facts**

- The assessee-petitioner filed writ petition challenging the provisional attachment order which continued notwithstanding the completion of the assessment proceedings.
- The petitioner also contended that the attachment of all of its assets during the pendency of the assessment proceedings and its continuation even after the completion of assessment, was totally illegal and contrary to section 281B and the power had been exercised unreasonably.

### **Held**

- The HC stated that one of the essential conditions stipulated in section 281B (1) is that the Assessing Officer should form the opinion that the provisional attachment is necessary to protect the interest of the revenue. From the impugned order it does not seem that the Assessing Officer formed an opinion about the reasonable likelihood of the recovery becoming difficult due to inadequacy of the assets of the petitioner.
- The assessee has already deposited substantial demand and in the circumstances, there is no reason to continue the attachment order under section 281B. Likewise, the attachment of the two bank accounts of the petitioner under section 226(3) also does not appear to be justified.
- Accordingly, the impugned order passed under section 281B is set aside.