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## Arrest Memo Sans Specific Grounds of Arrest and CBIC-DIN Renders Detention Illegal Under GST

The Hon'ble Allahabad High Court in *Ashish Tyagi v. Director General of GST Intelligence & Ors. [Habeas Corpus Writ Petition No. 509 of 2026 dated May 29, 2026]* allowed the habeas corpus petition and declared the arrest and consequent detention of the assessee under Section 132 of the Central Goods and Services Tax Act, 2017 (“the CGST Act”) as illegal, on the ground that the arrest memo neither contained the specific grounds of arrest nor disclosed the place of arrest, and the grounds of arrest did not bear the mandatory CBIC-Document Identification Number (“DIN”), thereby violating the mandate of law and the safeguards laid down by the Hon'ble Supreme Court in *D.K. Basu v. State of West Bengal [1997 SCC (Cri) 92]*. Accordingly, the Court directed the immediate release of the assessee, while granting liberty to the Revenue to proceed afresh strictly in accordance with law.

### Facts:

- Mr. Ashish Tyagi (“**the Petitioner**”) was arrested by the officers of the Directorate General of GST Intelligence, Ghaziabad (“**the Respondent**”) for alleged offences under Section 132(1)(a), Section 132(1)(f) and Section 132(1)(i) of the CGST Act. The grounds of arrest were dated December 10, 2025.
- The Petitioner was thereafter remanded to judicial custody by the Special Chief Judicial Magistrate, Meerut *vide* order dated February 18, 2026 passed in Case No. 2122 of 2025 (*Union of India v. Ashish Tyagi*).
- The Petitioner contended that neither were the grounds of arrest mentioned in the arrest memo nor were they supplied as an annexure thereto, in clear violation of Circular No. 02/2022-23 issued by the CGST Department, which mandates communication of the grounds of arrest.

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- It was further contended that the arrest memo merely recorded that the grounds of arrest were “explained” to the arrestee, without any recital indicating that the grounds were actually supplied to the Petitioner. Moreover, columns (i) to (iv) of the *jama talashi* (personal search memo) were left blank and the Petitioner’s signatures were obtained thereon mechanically.
- The Petitioner also urged that the arrest memo did not disclose the place of arrest and that the Remand Magistrate failed to consider these discrepancies while granting remand, rendering the arrest, detention and remand illegal.
- The Respondent filed a counter affidavit; however, it could not rebut the submissions of the Petitioner by placing any material or document on record.
- Aggrieved by the illegal arrest and detention, the Petitioner filed a habeas corpus writ petition before the Hon’ble Allahabad High Court seeking a declaration that the arrest, detention and subsequent remand were unconstitutional, illegal and arbitrary, and praying for release forthwith.

## **Issue:**

Whether the arrest and consequent detention of the Petitioner under Section 132 of the CGST Act can be sustained when the arrest memo neither contains the specific grounds of arrest nor discloses the place of arrest, and the grounds of arrest do not bear the mandatory CBIC-DIN?

## **Held:**

The Hon’ble Allahabad High Court in ***Writ Petition No. 509 of 2026*** held as under:

- Observed that, the arrest memo did not disclose the place of arrest of the Petitioner, which is in violation of the law laid down by the Hon’ble Supreme Court in ***D.K. Basu v. State of West Bengal [1997 SCC (Cri) 92]***.

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- Noted that, the grounds of arrest dated December 10, 2025 did not bear any CBIC-DIN, and the Petitioner was merely made to endorse on the arrest memo that he had received the arrest memo along with the grounds of arrest and that he had informed his friend about his arrest through a mobile phone call.
- Noted that, the submission of the Petitioner that, in terms of Circular No. 02/2022-23 issued by the CGST Department, every document is required to bear a CBIC-DIN, remained uncontroverted by the Respondent, who failed to place any material on record to rebut the allegations.
- Held that, the Petitioner has been illegally detained in violation of the mandate of law, and accordingly, the arrest and detention of the Petitioner are declared illegal and the Petitioner is directed to be released forthwith.
- Directed that, it shall, however, remain open to the Respondent to proceed against the Petitioner afresh, strictly in accordance with law.

## Our Comments:

The power of arrest under GST flows from Section 69 of the CGST Act, which empowers the Commissioner to authorise the arrest of a person where he has “reasons to believe” that such person has committed specified offences under Section 132 of the CGST Act. Section 69(2) of the CGST Act, read with Article 22(1) of the Constitution of India, casts a mandatory obligation on the arresting officer to inform the arrested person of the grounds of arrest and to produce him before a Magistrate within twenty-four hours. These safeguards are not empty formalities but constitutional imperatives, as repeatedly emphasised by the Hon’ble Supreme Court since ***D.K. Basu v. State of West Bengal [1997 SCC (Cri) 92]***, which prescribed, inter alia, the preparation of a proper arrest memo recording the time and place of arrest, duly attested and countersigned.

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Insofar as the DIN requirement is concerned, the CBIC, *vide* Circular No. 122/41/2019-GST dated November 05, 2019, read with Circular No. 128/47/2019-GST dated December 23, 2019, mandated electronic generation and quoting of a DIN on all communications, including those issued during investigation such as search authorisations, summons, arrest memos and inspection notices. Significantly, the said Circular categorically provides that any specified communication which does not bear a DIN shall be treated as invalid and shall be deemed to have never been issued. The Hon'ble Supreme Court in ***Pradeep Goyal v. Union of India [W.P. (C) No. 320 of 2022 dated July 18, 2022]*** also underscored the importance of the DIN mechanism as a measure to ensure transparency and accountability in tax administration. The present ruling applies this discipline to arrest documentation as well, holding that grounds of arrest not bearing a CBIC-DIN cannot satisfy the mandate of law.

Further, the CBIC, *vide* Instruction No. 02/2022-23 [GST-Investigation] dated August 17, 2022, laid down detailed guidelines for arrest and bail in relation to offences under the CGST Act, requiring that the grounds of arrest be explained to the arrested person and recorded in the arrest memo. Subsequently, pursuant to the judgment of the Hon'ble Supreme Court in ***Radhika Agarwal v. Union of India [W.P. (Crl.) No. 336 of 2018 dated February 27, 2025]***, the CBIC issued Instruction No. 01/2025-GST (Inv.) dated January 13, 2025, mandating that the grounds of arrest must be furnished to the arrested person in writing, as an annexure to the arrest memo, and an acknowledgement thereof obtained. In *Radhika Agarwal (supra)*, the Hon'ble Supreme Court held that the ratio of ***Pankaj Bansal v. Union of India [2023 SCC OnLine SC 1244]*** and ***Prabir Purkayastha v. State (NCT of Delhi) [2024 SCC OnLine SC 934]***, requiring written communication of the grounds of arrest, applies with equal force to arrests under the Customs and GST laws, failing which the arrest itself stands vitiated.

On a pari materia footing, the Hon'ble Delhi High Court in ***Kshitij Ghildiyal v. Director General of GST Intelligence, Delhi [W.P. (Crl.) No. 3770 of 2024 dated December 16, 2024]*** declared an arrest by DGGI officers illegal where the grounds of arrest were not communicated to the arrestee in writing, and directed his release. The present decision of the Hon'ble Allahabad

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High Court adds a significant dimension to this line of authority by holding that even where an endorsement of receipt of the grounds of arrest is obtained, the absence of a CBIC-DIN on such grounds, coupled with blank columns in the search memo and non-disclosure of the place of arrest, vitiates the arrest in its entirety.

The takeaway for the Department is that procedural safeguards surrounding arrest under GST, viz. furnishing of written grounds of arrest bearing a valid DIN, complete and contemporaneous arrest documentation, and adherence to the *D.K. Basu* guidelines, are mandatory and non-negotiable, and any breach thereof would render the arrest and consequent remand illegal, notwithstanding the gravity of the alleged offence. For taxpayers and arrestees, the ruling reaffirms that habeas corpus remains an efficacious remedy where curable procedural lapses cross the threshold into violations of constitutional safeguards, although the Revenue retains liberty to proceed afresh in accordance with law.

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