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## Direction Of 7 Days Prior Notice Before Coercive Action Under the CGST Act Does Not Amount To Blanket Anticipatory Bail Protection

The Hon'ble Delhi High Court in *Directorate General of GST Intelligence v. Girish Sachdeva [CRL.M.C. 2300/2021 dated June 05, 2026]* dismissed the petitions filed by the Department challenging the Order passed by the learned Additional Sessions Judge (“ASJ”), which, while dismissing the Anticipatory Bail Applications of the Respondents, had directed the Department to give seven days’ prior notice before taking any coercive action, and held that such direction does not amount to a blanket order of protection against all future offences and is in consonance with the principles of natural justice, particularly when the Respondents had simultaneously been directed to join the investigation as and when required.

### **Facts:**

The Directorate General of GST Intelligence (“DGGI”/“the Department”) on December 13, 2018 initiated an inquiry against M/s Daak International Pvt. Ltd. (“the Company”) based on intelligence inputs indicating that the Company was issuing E-way Bills of substantial value without filing its GST returns. On visiting the registered address of the Company at Naurang House, K.G. Marg, New Delhi, the Department found that the entity was non-existent and the premises were owned by another company which was merely providing virtual office space.

Investigations revealed that Mr. Girish Sachdeva, Mr. Harish Sachdeva and Mr. Abhinav Bardhan (“the Respondents”) were the Directors of the Company. The Company was incorporated in March, 2018, remained operational only till December, 2018, and ceased filing GST returns from March, 2019 onwards. During the brief period of approximately ten months of operation, the Company was alleged to have evaded tax of more than Rs. 8 crores by availing ineligible Input Tax Credit (“ITC”) and passing on the same to its recipients through *circular trading*.

Despite repeated Summons issued under Sections 70 and 174 of the Central Goods and Services Tax Act, 2017 (“the CGST Act”), the Respondents failed to appear before the Department. Instead, the Respondents filed Anticipatory Bail Applications under Section 438 of the Code of Criminal Procedure, 1973 (“the CrPC”) before the learned ASJ. The learned ASJ, *vide* Order dated July 08, 2021 (qua Girish Sachdeva and Harish Sachdeva) and Order dated April 13, 2022 (qua Abhinav Bardhan), dismissed the Anticipatory Bail Applications, but

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directed the Department to give seven days' prior notice before taking any coercive action against the Respondents.

Aggrieved by the said direction, the Department filed the present petitions under Section 482 of the CrPC before the Hon'ble Delhi High Court.

## **Contentions of the Department:**

- The direction of seven days' prior notice is contrary to the law laid down by the Hon'ble Supreme Court in ***Union of India v. Padam Narain Aggarwal [(2008) 13 SCC 305]*** and ***Sushila Aggarwal v. State (NCT of Delhi) [(2020) 5 SCC 1]***, wherein it was held that blanket orders of anticipatory bail amount to a passport to commit offences and cannot be passed.
- Economic offences involving deep-rooted conspiracies and causing huge loss to the public exchequer must be viewed seriously, as held in ***Nimmagadda Prasad v. CBI [(2013) 7 SCC 466]***.
- Arrest under the CGST Act requires prior written approval of the Commissioner, CGST, and no such proposal had been placed before the Commissioner. Therefore, there was no apprehension of arrest justifying any pre-arrest protection.
- The Respondents had failed to join the investigation under Section 70 of the CGST Act despite repeated Summons, and the investigation was at a crucial stage involving substantial revenue.

## **Contentions of the Respondents:**

- The Respondents had appeared before the Authority, recorded their statements and produced all relevant documents.
- The Respondents had undertaken to appear before the Department and join the investigation.

## **Issue:**

Whether the direction issued by the learned ASJ to the Department to give seven days' prior notice before taking any coercive action against the Respondents, while dismissing their

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Anticipatory Bail Applications, amounts to a blanket order of pre-arrest protection contrary to the law laid down by the Hon'ble Supreme Court?

**Held:**

The Hon'ble Delhi High Court in ***CRL.M.C. 2300/2021 & connected matters*** held as under:

- **Observed that** the gravity of economic offences impacting the financial health of the country can never be underestimated, as has been consistently emphasized by the Hon'ble Supreme Court in ***Nimmagadda Prasad (supra), Parvinderjit Singh v. State [(2008) 13 SCC 431] and Gurbaksh Singh Sibbia v. State of Punjab [(1980) 2 SCC 565]***.
- **Noted that** whenever the Department has reason to believe that any fraud is being committed by a company, it has a statutory right to conduct investigation and proceed against the persons responsible in accordance with law.
- **Noted that** though, as per the Department's own submission, only Summons had been issued and no proposal for arrest had been placed before the Commissioner, CGST, however, since the investigation was ongoing, it could not be said with certainty that there was no likelihood of the Respondents' arrest in future.
- **Held that** no blanket protection had been granted to the Respondents, nor had any condition been imposed on the Department's right to conduct the investigation. Rather, the Respondents had been specifically directed to join the investigation as and when required by the Department.
- **Held that** the direction to give seven days' prior notice before any coercive action is in consonance with the principles of natural justice and merely affords the Respondents an opportunity to avail their legal remedies in accordance with law, in the event of any apprehension of arrest.
- **Directed that** in the event the Respondents failed to comply with the Summons or join the investigation, the Department is well within its rights to proceed in accordance with law. Such pre-arrest notice directions have been upheld in ***Rajeev Jhawar v. CBI [Bail Appl. 1683/2022 dated June 02, 2022], Siddharth Chattopadhyaya v. State of Punjab [dated October 09, 2023] and Ram Chandra Panda v. State of West Bengal [2023 SCC OnLine Cal 55]***.

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- Hence, the petitions filed by the Department, along with the pending applications, were **dismissed**.

## Our Comments:

Section 69 of the CGST Act empowers the Commissioner to authorize, by an order in writing, any officer of central tax to arrest a person where the Commissioner has “reasons to believe” that the person has committed any offence specified in clauses (a) to (d) of Section 132(1) of the CGST Act – which *inter alia* cover offences relating to fraudulent avilment and utilization of ITC, supply of goods/services without invoices, and issuance of invoices without supply of goods/services – and which is punishable under clause (i) or (ii) of Section 132(1) of the CGST Act. Section 70 of the CGST Act, on the other hand, vests power in the proper officer to summon any person whose attendance is considered necessary either to give evidence or to produce a document in any inquiry.

Importantly, the legal landscape governing arrests under the CGST Act has been comprehensively re-examined by the Hon’ble Supreme Court in ***Radhika Agarwal v. Union of India [2025 INSC 272 dated February 27, 2025]***. A three-Judge Bench, while upholding the constitutional validity of Sections 69 and 70 of the CGST Act, has held that the procedural safeguards under the CrPC (and now the Bharatiya Nagarik Suraksha Sanhita, 2023) are *equally applicable* to arrests made under the CGST Act and the Customs Act, 1962. The Hon’ble Court has held that the arresting officer must possess concrete material supporting the “reasons to believe” that the person sought to be arrested is guilty of the offence, must record such reasons in writing, and must communicate the written grounds of arrest to the arrestee, thereby enabling him to seek legal recourse including bail. Mere suspicion is insufficient and arrest under Section 69 cannot be used as a tool for pre-adjudicatory coercive tax recovery.

The present judgment of the Hon’ble Delhi High Court strikes a fine balance – it neither dilutes the Department’s statutory right to investigate alleged GST frauds, nor does it grant the assessee a *carte blanche* immunity. By limiting the protection to a procedural seven days’ notice before arrest, the Court has reinforced the principle of natural justice while preserving the investigative machinery. The Respondents, on their part, stand bound by the obligation to join the investigation; non-compliance shall entitle the Department to proceed in accordance with law.

This position is consistent with the view taken by the Hon’ble Punjab & Haryana High Court in *Siddharth Chattopadhyaya* (supra) and the Hon’ble Calcutta High Court in *Ram Chandra Panda*

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(supra), wherein similar pre-arrest notice directions issued in lieu of anticipatory bail were upheld.

However, taxpayers must remain mindful of the *contrary* position emerging from *Padam Narain Aggarwal* (supra) and *Sushila Aggarwal* (supra), wherein the Hon'ble Supreme Court has repeatedly cautioned against the grant of blanket pre-arrest protection in respect of unspecified future offences. The present direction has survived judicial scrutiny only because it is confined to the ongoing investigation in respect of the specific alleged ITC fraud, and does not operate as a roving shield against any and every future accusation.

The judgment, therefore, is a welcome reaffirmation that summons issued under Section 70 of the CGST Act must be honoured by the taxpayer, and that recourse to anticipatory bail is justified only where there is *tangible material* demonstrating a real apprehension of arrest. Equally, it underscores that the Department's power to arrest under Section 69, though potent, is not unfettered and must be exercised in conformity with the procedural safeguards enshrined under the CrPC/BNSS, as reaffirmed in *Radhika Agarwal* (supra).

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