Samarpan Jain vs. State of U.P. and 2 Others

Whether an Advocate who files a statutory GST appeal on behalf of his client and makes pre-deposit of 10% of disputed tax from the client's Electronic Credit Ledger by utilizing Input Tax Credit — in accordance with his professional understanding of the

Date of Order: May 21, 2026
Case Law No: GIB-AHC-2026-70-DB
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

BACKGROUND

The petitioner is an Advocate enrolled with the Bar Council of U.P., specializing in indirect taxes, direct taxes and corporate laws. His client, a proprietor of a trading firm, was subjected to substantial GST assessments under Section 74 of the SGST Act for financial years 2022-23 and 2023-24 by the Deputy Commissioner, GST, Sector-1, Rampur. The petitioner filed two online statutory appeals on behalf of his client on 15.08.2025 before the Appellate Authority under Section 107 of the GST Act. The pre-deposit of 10% of the disputed tax was made from the client's Electronic Credit Ledger by utilizing Input Tax Credit, relying upon CBIC Circular dated 06.07.2022 and the Gujarat High Court's Division Bench decision in M/s Yasho Industries Ltd., which had also been upheld by the Supreme Court. The Appellate Authority dismissed the appeals holding that payment of pre-deposit from the Electronic Credit Ledger by utilizing ITC was not an acceptable valid tender.

FACTS

Instead of proceeding to recover the assessed tax, interest and penalty from the client through lawful means, the Deputy Commissioner of GST lodged an FIR on 04.10.2025 naming not only the client but also the petitioner-Advocate for the professional act of filing the appeal and making pre-deposit from the Electronic Credit Ledger, alleging GST evasion in conspiracy between the Advocate and his client. The Advocate's act of making pre-deposit was the very act forming the basis of the criminal conspiracy charge. The GST Officer, when summoned in-person and confronted by the Court on the question of why he nominated the Advocate in the FIR for his professional act, had no answer to offer. After notice was issued by the High Court in the writ petition, the police, in a swift and suspicious manner, filed the charge-sheet and the Magistrate passed a cognizance order — all on the same day, i.e., 14.05.2026. This compelled the petitioner to amend the writ petition to also challenge the charge-sheet and the cognizance order.

COURT OBSERVATIONS (Verbatim)

"*what we find is that the impugned F.I.R., lodged in this case, which has led to the police report and the order of cognizance violate all known principles of criminal liability. An Advocate, by his profession, is authorized to represent his client, who may have a case of any kind to be suited in a Court or defended. An Advocate, by his profession, is authorized to defend men charged with murders, rape, terror offences and it is his/her duty to defend them. If, for doing a professional act, like preferring an appeal, an Advocate is to be held in conspiracy with his client, it would be the end of the very existence of the Bar and the right of an Advocate to practice under the Advocates Act. It would, indirectly also, deprive the citizens of their right to the much valued right to legal assistance, because a person, who practices the profession of law before defending his client, would be thinking about his own defence and, this he would be thinking about, before he files a vakalatnama and takes steps on behalf of his client. This kind of a situation, which hits as the roots of the principles enshrined under Articles 14 and 21 of the Constitution, cannot be permitted to happen. An Advocate has to work fearlessly and discharge his professional duties, just as an officer of the State is entitled to discharge his duties.*"

"*Here, even if the Deputy Commissioner of the GST thinks that pre-deposit of the disputed tax could not be debited to the Electronic Ledger out of the Input Tax Credit, the professional decision of the learned Advocate, to do so, does not, in any way, make him a conspirator with the assessee. It is purely a professional act and not at all something to do with his client's business. It was done in the course of filing an appeal and nothing more. It was based on a particular view of the law, whether right, wrong or utterly wrong.*"

FINAL VERDICT

The Writ Petition was **allowed**. The FIR dated 04.10.2025, Charge-sheet No. 30 of 2026 dated 04.04.2026, and the cognizance order dated 14.05.2026 passed by the Additional Chief Judicial Magistrate, Rampur were all **quashed** insofar as they related to the petitioner-Advocate. The Court directed the Chief Judicial Magistrate, Rampur to make an entry in red ink in the General Diary of the concerned Police Station recording the quashing of proceedings against the petitioner.

CASES REFERRED BY THE COURT #	Case Name	Citation
1	Yasho Industries Ltd. vs. Union of India and another	Gujarat High Court — Division Bench (Exact citation not specified in judgment)
2	Union of India and another vs. Yasho Industries Ltd.	2025 SCC OnLine SC 1526 (Supreme Court)