Abdul Majid & Ors. v. Assistant Commissioner of Commercial Taxes & Anr.

Anticipatory Bail in Proceedings under Section 70 CGST Act — Arrest and Custodial Interrogation under Sections 69 & 132

Date of Order: September 5, 2026
Case Law No: GIB-KHC-2026-112
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

Background

The petitioners were proprietors of registered firms dealing in steel and scrap materials. They had purchased aluminium scrap from certain supplier firms. The authorities subsequently conducted raids at the premises of the suppliers and arrested their proprietors. Thereafter, summons were issued to the petitioners under **Section 70 of the CGST Act**, requiring them to appear and produce supporting documents concerning the purchases. The petitioners apprehended arrest and approached the Court after their applications for anticipatory bail before the Sessions Court were dismissed.

The prosecution alleged that the suppliers had issued concocted invoices without actual supply of goods and that the petitioners had availed ITC on the basis of such invoices, with the tax amounts allegedly being encashed through hawala transactions. The petitioners, on the other hand, maintained that they had paid the invoice value and GST through banking transactions, had periodically filed their returns and were willing to produce documents such as e-way bills, transport records, weighbridge receipts and stock/sale records to establish actual receipt of goods.

Court Observation

The Court observed that **ITC cannot ordinarily be denied to a purchaser merely because the supplier's registration is subsequently cancelled or the supplier ceases to exist after the transaction**. Where the supplier was registered and active at the time of the transaction, the purchaser had paid the invoice value and GST through banking channels and had filed returns, recovery would ordinarily be against the defaulting supplier **unless fraud and collusion are proved or exceptional circumstances exist**.

The Court further held that actual receipt of goods can be established through documentary evidence such as **e-way bills, transport vehicle receipts, weighbridge receipts and stock and sale records**. In a genuine transaction, where the purchaser has paid the invoice value and GST and regularly filed returns, custodial interrogation would normally not be necessary merely to verify receipt of goods, unless there is **prima facie material showing collusion with the supplier**.

The Court emphasised that arrest under **Section 69 read with Section 132** cannot be based merely on suspicion. The Commissioner must have a belief supported by material and evidence satisfying the statutory conditions. The Court also noted that, for the purpose of Section 132, the supplier is the principal offender in the circumstances considered in the case.

The Court also considered the petitioners' cooperation, absence of similar antecedents, payment through banking channels and undertaking to produce documents. It relied upon the principle that where an accused has joined investigation, is cooperating and is not likely to abscond, **custodial interrogation should be avoided**.

Final Verdict

The High Court **allowed all three petitions and granted anticipatory bail**. The respondents/authorities were directed to release the petitioners in the event of their arrest in connection with the proceedings under **Section 132(1) of the CGST Act**, subject to specified conditions.

The petitioners were directed to appear before the authorities on **10.08.2026** and could be taken into custody for interrogation if necessary, but were to be released on the same day after interrogation, subject to execution of a **₹5 lakh personal bond with two sureties of the like amount**. They were also required to cooperate with the investigation, avoid influencing witnesses, keep their mobile numbers operational, provide their location through Google Maps, surrender their passports and not leave India without permission.

Cases Referred by the Court

Case	Court
Radhika Agarwal v. Union of India	Supreme Court of India
Akram Pasha v. Senior Intelligence Officer, DGGI	High Court of Karnataka
Tarun Jain v. Directorate General of GST Intelligence (DGGI)	High Court of Delhi
Siddharam Satlingappa Mhetre v. State of Maharashtra & Ors.	Supreme Court of India
Shailesh Rajpal v. Commissioner	High Court of Madhya Pradesh
GST Intelligence Directorate v. Chaman Goel	High Court of Delhi

The Court distinguished **Shailesh Rajpal** and **Chaman Goel** because those cases involved different factual circumstances concerning the suppliers and tax/ITC allegations, whereas the present case concerned purchasers who claimed payment of invoice value and GST through banking channels and were willing to establish actual receipt of goods.

The Court particularly relied upon **Radhika Agarwal**, **Akram Pasha**, **Tarun Jain** and **Siddharam Satlingappa Mhetre** while assessing the legality and necessity of arrest/custodial interrogation.