Govind Enterprises v. State of U.P.

Whether an FIR under the Indian Penal Code can stand for bogus-firm and e-way bill fraud when the GST Act also provides offences.

Date of Order: May 30, 2019
Case Law No: GIB-AHC-2019-05
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

Background

An FIR dated 30.11.2018 was lodged by the Assistant Commissioner (Commercial Tax), Mathura under Sections 420, 467, 468, 471, 34 and 120-B IPC. It alleged that a bogus firm was registered on a false address, inward e-way bills for about Rs 35 crore were generated with no outward supply, and cash was deposited in an undisclosed account. The petitioners sought quashing, arguing that the GST Act is a special law and its offences are non-cognizable.

Final Verdict

The Court held that the bar of cognizance in Section 132(4) of the State GST Act applies only to offences under that Act and does not protect against offences under the Indian Penal Code. **The IPC offences of cheating and forgery are distinct from GST offences, and the presumption of culpable mental state in Section 135 does not apply to them.** Section 26 of the General Clauses Act, which allows an act punishable under two laws to be prosecuted under either, was applied.

The FIR was not quashed and no protection from arrest was given in a case of economic fraud. The writ petition was dismissed.

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