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2024:DHC:9752

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Reserved on : 5th December 2024***

Pronounced on: 16th December 2024

\+ **W.P.(CRL) 3770/2024**

KSHITIJ GHILDIYAL .....Petitioner

Through: Mr. Maninder Singh, Sr. Adv. with Mr. Bobby C., Mr. Pulkit Verma, Mr. Akhil Gupta, Ms. Sanjana Nair, Mr. Gurjass Singh Puri, Mr. Rohit Kheriwal and Mr. Nishant Nain, Advs.

versus

DIRECTOR GENERAL OF GST

INTELLIGENCE, DELHI .....Respondents

Through: Mr. Anurag Ojha, SSC with Mr. Dipak Raj, Mr. Vipul Kumar, Mr. Karan Aggarwal, Mr. Shubham Kumar and Mr. Deepak Somani, Advs.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT

ANISH DAYAL, J.

1. This petition has been filed for declaring arrest of the petitioner on 30th November 2024, his subsequent remand to respondent's custody, and incarceration in relation to FNO. DGGI/INV/GST/2974/2024-Gr.F,

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illegal, void, and arbitrary. Challenge is *inter alia* on the basis of it being violative of Article 22 of the Constitution of India.

Factual Background

2. Petitioner is currently a Director of M/s Wee-Pro Resource Recovery Solutions Private Limited ("***the Company***"), bearing GSTIN 09AACCW7418B1ZE. It is a registered company under the Central Goods and Services Tax Act, 2017 ("***CGST Act***") carrying the business of e-waste management.

3. On 28th November 2024, respondent authorities carried out a search under Section 67, CGST Act at the Company's principal place of business at Gautam Buddha Nagar and UPSIDC Industrial Area, Gopalpur, Sikandrabad, District Bulandshahr, Uttar Pradesh. Allegedly, unaccounted stock was seized.

4. As per Senior Counsel for petitioner, pursuant to the search, petitioner was taken taken in his own car from premises of the Company, accompanied by the officers of the respondent, to the respondent's office located at Dwarka at around 1600 hours and was illegally detained there, without reason or information. His mobility was restricted, and he was not allowed to leave the premises of the respondent; his phone was also cloned at respondent's premises without his consent.

5. On the intervening night of 29th and 30th November 2024, petitioner was arrested. Allegations pertained to availing Input Tax Credit ("***ITC***") amounting to Rs. 10,76,99,292/- by procuring fake invoices without actual supply of goods through the firms operated by co-accused Shri Ayyub Malik in contravention of Section 132(1)(c), CGST Act.

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6. On 30th November 2024, at 1245 hours, petitioner was produced before the Chief Judicial Magistrate (Special Court), Patiala House Court, New Delhi ("***CJM***") along with a remand application seeking 14 days' judicial custody.

7. Petitioner contested the remand application vehemently before the CJM making various submissions; however, the CJM disposed of the remand application granting 13 days' judicial custody.

Submissions on behalf of Petitioner

8. Senior Counsel for petitioner challenged the arrest, remand, and incarceration on various grounds as set forth below:

9. ***Belated Summons***

9.1 While the petitioner was in respondent's custody, two summons dated 28th November 2024 under Section 70, CGST Act were issued to the petitioner. Details of the summons are replicated as under for easy reference:

Particulars	**Summon 1**	**Summon 2**
CBIC DIN	202411DNN0000049584D	202411DNN0000000CC31
CBIN DIN Generation Time	28-Nov-24 | 21:55:20	28-Nov-24 | 21:58:35
Appearance sought at	28-Nov-24 | 5:30 PM	29-Nov-24 | 07:00 AM
Printed/ Seal date	28-Nov-24	28-Nov-24
Handwritten Date of Investigating Officer 'IO' Signature	27-Nov-24	27-Nov-24

9.2 It was contended that the summons were generated belatedly by putting back-dated signatures of the IO. The first summons was generated at 21:55 hours on 28th November 2024, as evident from the Document Identification Number ("***DIN***") which shows document generation time as subsequent to when petitioner was directed to appear.

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However, the time of appearance was at 17:30 hours on the same day, much prior to the generation of summons. Also, the signatures of the officer were of 27th November 2024. It shows that the summons were never served but generated later. Further, the second summons, as per the DIN were generated only 3 minutes later, which shows that respondent was trying to camouflage the illegality of the initial arrest/detention. Even this second summons was signed by the officer as of 27th November 20204. It was submitted that clearly the paperwork was done later and the petitioner was detained without due process.

9.3 Reference was made to para 2 of the Central Board of Indirect Taxes and Customs ("***CBIC***") Circular 122/41/2019-GST dated 05th November 2019 which directed that all summons, authorization, Arrest Memo shall contain a DIN. Same is extracted below for ease of reference:

> 2. The Board in exercise of its power under section 168(1) of the CGST Act, 2017/ Section 37B of the Central Excise Act, 1944 directs that no search authorization, summons, arrest memo, inspection notices and letters issued in the course of any enquiry shall be issued by any officer under the Board to a taxpayer or any other person, on or after the 8th day of November, 2019 without a computer-generated Document Identification Number (DIN) being duly quoted prominently in the body of such communication. The digital platform for generation of DIN is hosted on the Directorate of Data Management (DDM)'s online portal "cbicddm.gov.in"

10. ***Discrepancies in Arrest Memo***

10.1 Arrest Memo along with *Jamatalashi* (*also with a DIN*) was generated on 30th November 2024 declaring petitioner's arrest at 0100 hours by stating that "*grounds of arrest have been informed to the petitioner and the intimation of the arrest has been given to the Father Shri B.P. Suman at his Mobile No. 995844590*". The Arrest Memo and *Jamatalashi* are reproduced as under for ease of reference:

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AADHAAR- 661893001919 **CBIC-DIN**-202411DNN0000000D036

File No- DGGI/INV/GST/2974-2024-Gr.F

ARREST MEMO

(To be prepared in duplicate)

[under Section 69 of the Central Goods and Services Tax Act, 2017]

Whereas, the principal Commissioner/Commissioner, **Dinesh Kumar Gupta** has reasons to believe that you, **Kshitij Ghildiyal**, **Director of M/s Weee Pro Resource Recovery Solutions Pvt. Ltd.** , age about **35** years, son/ daughter of Shri **B. P. Suman** , and address **Flat No. 702, Tower 6, Unitech Horizon, Plot No. 6, Sector pi-2, Greater Noida, Kasana, Gautam Buddha Nagar, UP - 201310**

have commited an offence specified in clause (a) or clause (b) or clause (c) or clause (d) of sub section (1) of section 132 of the Central Goods and Service Tax, 2017 which is punishable under clause (i) or (ii) of sub-section (1) or sub-section (2) of the said section.

2. **I, Shubham Yadav** , **Intelligence Officer** Office of the Principal Commissioner/ Commissioner, CGST **Directorate General of Goods and Services Tax Intelligence, Delhi Zonal Unit** , being duly authorized, hereby arrest you today at **01:00:AM** on **2024-11-30 00:00:00.0** at **Dwarka, New Delhi** under Section 69 of the said Act.

3. **Accordingly,** Shri **Kshitij Ghildiyal** son / daughter of **B. P. Suman** has been placed under arrest and he has been explained the grounds of his arrest. He was also informed about his right to have someone informed about his arrest and Sh./Ms **B. P. Suman (father)** has been informed about his arrest.

Signature : Shubham 30/11/2024

Name : **Shubham Yadav**

Designation : **Intelligence Officer**

4. I have been explained the grounds of my arrest. The fact of my arrest has been witnessed by Shri **Arun** , . , son/daughter of **Shri Naresh** , resident of **D-1113, Dr. Ambedkar Basti, Sector 1, RK Puram, New Delhi - 110022**

RECEIVED COPY

Received copy of arrest Memo KGyal 30/11/24

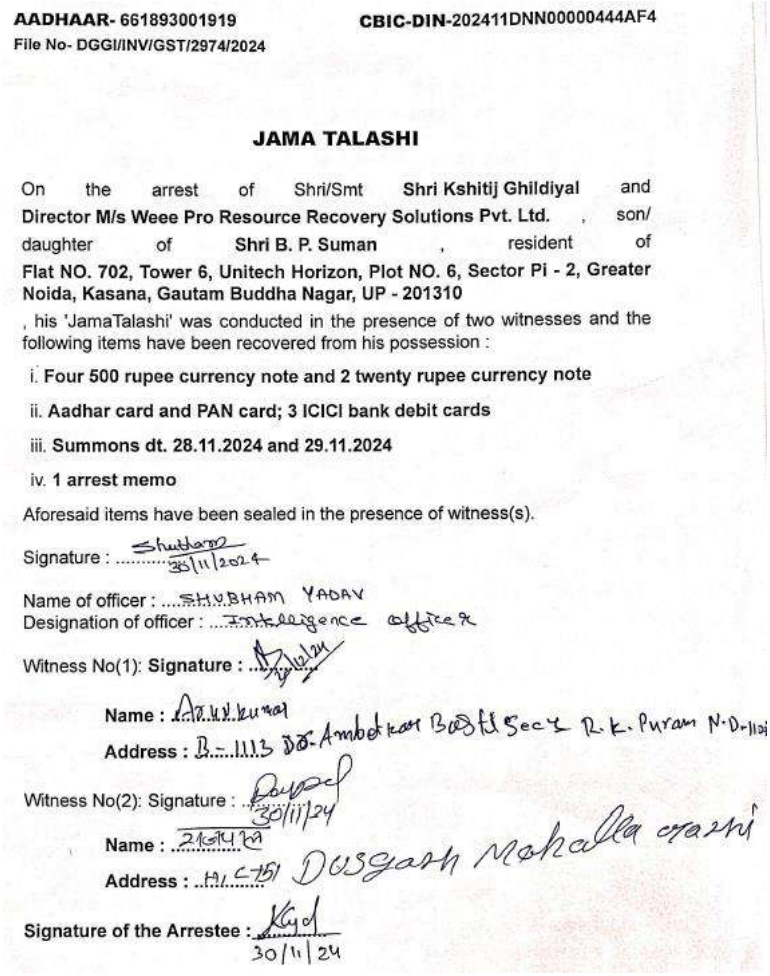
Signature of the Arrestee KGyal 30/11/24

Counter Signature of Witness 30/12/24

THE GROUNDS OF MY ARREST HAS BEEN EXPLAINED TO ME AND INTIMATION OF MY ARREST HAS BEEN GIVEN TO MY FATHER SHRI B P SUMAN AT HIS MOBILE NUMBER 9958445960

KGyal 30/11/24

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AADHAAR- 661893001919 CBIC-DIN-202411DNN00000444AF4
File No- DGGI/INV/GST/2974/2024

JAMA TALASHI

On the arrest of Shri/Smt **Shri Kshitij Ghildiyal** and **Director M/s Weee Pro Resource Recovery Solutions Pvt. Ltd.** , son/ daughter of **Shri B. P. Suman** , resident of **Flat NO. 702, Tower 6, Unitech Horizon, Plot NO. 6, Sector Pi - 2, Greater Noida, Kasana, Gautam Buddha Nagar, UP - 201310** , his 'JamaTalashi' was conducted in the presence of two witnesses and the following items have been recovered from his possession :

i. **Four 500 rupee currency note and 2 twenty rupee currency note**

ii. **Aadhar card and PAN card; 3 ICICI bank debit cards**

iii. **Summons dt. 28.11.2024 and 29.11.2024**

iv. **1 arrest memo**

Aforesaid items have been sealed in the presence of witness(s).

Signature : 30/11/2024

Name of officer : ....SHUBHAM YADAV
Designation of officer : ...Intelligence officer

Witness No(1): **Signature :** ...

Name : Arun Kumar
Address : B-1113 Dr. Ambedkar Basti Sec 4 R.K. Puram N.Delhi

Witness No(2): Signature : ... 30/11/24

Name : Rajesh
Address : H.No C-151 Durgesh Mohalla Gaziabad

Signature of the Arrestee : ... 30/11/24

10.2 It was submitted that the Arrest Memo itself shows that it was made at 0100 hours and verified by a witness with signature dated '*30th December 2024*'. Same is in contravention to the respondent's statement before the CJM that the arrest was made at 0030 hours on 30th November 2024.

11. ***Non-supply of Grounds of Arrest***

11.1 Under Section 69(1), CGST Act, '*reasons to believe*' are required and once those are formed, condition under Section 69(2) is triggered which has two prerequisites:

a. the officer authorized to arrest the person shall inform such person of the grounds of arrest, and

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b. produce him before a Magistrate within 24 hours.

11.2 It was contended that the term '*and*' stipulated that the grounds of arrest must be communicated in writing to the arrested person at the time of arrest and only then he shall be produced before the Magistrate within 24 hours.

11.3 Parallels were drawn with Section 19, Prevention of Money Laundering Act, 2002 ("***PMLA***") and Section 43B of the Unlawful Activities Prevention Act ("***UAPA***").

11.4 It was further contended that Article 22(1) of the Constitution provides that no arrestee can be detained in custody without being informed of the grounds for such arrest and the mode of conveying information of the grounds of arrest must necessarily be '*meaningful*' so as to serve the intended purpose.

11.5 As the respondent failed to supply the grounds of arrest in writing to the petitioner, same is in contravention of the law as crystallized by the Apex Court in ***Pankaj Bansal v. Union of India***, (2024) 7 SCC 576, particularly paragraphs 35-45.

11.6 The Supreme Court in ***Prabir Purkayastha v. State, NCT Delhi***, 2024 INSC 414 laid down that any arrested person, for allegation of offences under UAPA, *or for any other offence*, has a fundamental and statutory right to be informed about the grounds of arrest in writing, without exception, and at the earliest. Accordingly, this position regarding grounds of arrest also extends to the CGST Act.

11.7 Reliance was also placed on a decision of a coordinate Bench of this Court in ***Pranav Kuckreja (In Police Custody) v. State (NCT of***

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Delhi) in WP (Crl.) 3476 of 2024 order dated 18th November 2024. This Court interpreted Section 50, Code of Criminal Procedure, 1973 ("***CrPC***"), which is in *pari materia* to Section 47, Bharatiya Nagarik Suraksha Sanhita, 2023 ("***BNSS***") and held that grounds of arrest are mandatory and without exception since they serve as the fundamental basis for the arrestee to seek legal remedy and/or challenge the remand.

12. ***Non-production before a Magistrate within 24 hours***

12.1 Petitioner was taken into custody on 28th November 2024 at 1600 hours by the respondent restricting petitioner's mobility. Petitioner was produced before the Magistrate on 30th November 2024 at 1245 hours. Same was in gross violation of Section 58 of the BNSS read with Article 22(2) of the Constitution.

12.2 In this regard, reliance was placed on Bombay High Court's decision in ***Ashak Hussain Allah Detha v. Assistant Collector of Customs (P) Bombay & Anr.*** 1990 SCC OnLine Bom wherein it was held that arrest of a person commences from the time restraint is placed on the arrestee's liberty, and not from the time of arrest officially recorded by the police. Thus, it was argued that the consequential custody of the petitioner herein is illegal.

12.3 Reference was also made to the guidelines formulated by the Supreme Court in the landmark judgement of ***D.K. Basu v. State of West. Bengal*** 1997 (1) SCC 416.

13. ***Insufficient compliance of Section 69(2), CGST Act***

13.1 Respondent's argument of the remand application subsuming grounds of arrest was vehemently contested by Senior Counsel for

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petitioner. It was contended that Section 69(1), CGST Act deals with the '*reasons to believe*' formed by the Commissioner before the arrest of the accused/taxpayer. However, Section 69(2), CGST Act categorically deals with arrest compliances involving two prerequisites as noted in paragraph 11.1 above. Difference between '*reasons to believe*' and '*grounds of arrest*' as propounded by the Supreme Court in ***Prabir Purkayastha*** (*supra*) were adverted to.

13.2 Even if the argument of grounds of arrest being subsumed in the remand application is accepted, Senior Counsel for petitioner contended that the same was never supplied to the petitioner either at the time of arrest or thereafter. The remand application was supplied to the petitioner at the time he was presented before the Magistrate i.e. at 1245 hours on 30th November 2024.

13.3 No grounds of arrest were explicitly mentioned in the remand application as provided to the petitioner during his production before the CJM.

13.4 It was argued that the legislature has placed a higher threshold under Section 69(2), CGST Act (*post arrest*) as the arresting authority must provide all the facts necessitating a person's arrest, in comparison to Section 69(1), CGST Act wherein the Commissioner merely draws subjective satisfaction as to whether it appears that the offence under Section 132(l)(a) to (d), CGST Act is committed by the accused person.

14. ***No Need and Necessity to Arrest***

14.1 Reliance was placed on ***Siddharth v. State of Uttar Pradesh*** (2022) 1 SCC 676, which held that held that personal liberty is an

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important aspect of constitutional mandate. It is only when custodial investigation is necessary or crime is heinous crime or where there is possibility of influencing witnesses or accused may abscond, that arrest is warranted and merely because power exists for arresting a person, does not mean that the arrest must be made in routine, as this can cause incalculable harm to reputation and self-esteem of a person.

14.2 It was argued that the only allegation against the petitioner is of availing benefit of ITC of about Rs. 10,79,99,292/- based on GST returns filed. All documents pertaining to the same are digital in nature, petitioner has cooperated with the respondent, and there is no possibility of tampering. Thus, the arrest ought not to have occurred in the first place.

Submissions on behalf of Respondent

15. Senior Standing Counsel ("***SSC***") for respondent submitted that all actions taken by the respondent agency were in strict compliance of the statutory framework under the CGST Act, and other applicable legal norms. The following points were addressed to refute the contentions raised by Senior Counsel for petitioner and to clarify the procedural correctness of the actions undertaken by respondent:

16. ***Detention of the Petitioner Beyond 24 Hours Misconceived***

16.1 It was submitted that the grounds of arrest were duly provided through the remand application, which was supplied on the 30th November 2024, when the petitioner was produced before the CJM. Remand application explicitly outlined the reasons for arrest, fulfilling the procedural requirements. The grounds of arrest were effectively communicated to petitioner at the time of arrest, though the records of

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the communication were not preserved. Arrest Memo was duly prepared and signed at 0010 hours, ensuring compliance with procedural mandates. Petitioner was produced before the CJM at 1245 hours, and the remand application was supplied outside the court.

16.2 Remand proceedings inherently subsumed the arrest process, reflecting procedural adherence. Call records substantiate that the petitioner was in contact with his family members during the relevant period, indicating transparency in the arrest procedure. The petitioner was allowed to leave on the night of 28th November 2024 and voluntarily returned on 29th November 2024, whereupon he was formally arrested at 0100 hours on 30th November 2024. Therefore, during this process, there was no arbitrary deprivation of the petitioner's personal liberty.

16.3 SSC for respondent submitted that petitioner's claim of being detained beyond 24 hours is devoid of merit. Reliance placed on Section 58, BNSS is misplaced, as the provision mandates a police officer to produce an arrested individual before a Magistrate within 24 hours. It is submitted that the officers of the respondent department are not police officers within the meaning of law, a distinction firmly established through multiple authoritative pronouncements by the Supreme Court. Reliance was placed on the judgment in ***Commissioner of Customs (Imports), Mumbai v. Ganpati Overseas*** (2023) 10 SCC 484, wherein the Supreme Court clarified that officers under the Customs Act are not police officers.

16.4 As consistently held in a series of judgments, summons issued under statutes such as the CGST Act or the Customs Act, 1962, which are *pari materia*, are not issued to accused persons but to individuals

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believed to possess information or documents relevant to an inquiry. Statements are recorded under the authority of the statute, and only upon a finding of reasonable belief regarding the commission of a cognizable and non-bailable offence can coercive measures such as arrest under Section 69, CGST Act be undertaken. It is only after the issuance of the Arrest Memo that personal liberty is restricted, thereby triggering the obligation to produce the individual before a Magistrate within 24 hours.

16.5 Furthermore, in the present case, after the petitioner's arrest, all statutory procedures were meticulously adhered to. Petitioner was produced before the CJM on 30th November 2024 within the prescribed time frame. Respondent agency ensured strict compliance with due process, and there was no violation of legal provisions.

17. *Assertion Regarding Non-Furnishing of Grounds of Arrest to the Petitioner Without Merit*

17.1 SSC for respondent stated that the essential ingredients of the offence under Section 132, CGST Act were fulfilled. The omission of specific phrases does not nullify the substance of the grounds of arrest. Compliance with Section 69(2), CGST Act was ensured, as the Arrest Memo bore the petitioner's signature, and the endorsement was done before the remand hearing. The statutory requirement to "*inform*" was effectively fulfilled. The remand order reflected the CJM's satisfaction regarding the necessity of the remand, after hearing both sides. The procedural requirements for judicial endorsement were duly met, as recognized in ***Vijay Madanlal Choudhary and Ors v. Union of India and Ors.*** 2022 SCC OnLine SC 929. The arrest was effected within a reasonable time frame, adhering to the 24-hour timeline mandated under

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law, as interpreted in ***Ram Kishor Arora v. Enforcement Directorate***, (2024) 7 SCC 599**.** The procedural standards under GST laws were met, and any typographical errors in documentation were incidental and did not undermine the validity of the arrest or remand proceedings.

17.2 SSC for respondent further contended that the remand application provided specific grounds for arrest, including violations under penal statutes and the involvement of individuals in the infractions. Paragraphs of the remand application outlined crucial details: paragraph 1 referenced three GST registration numbers; paragraph 2 highlighted searches conducted at multiple locations; paragraph 2.6 detailed evidence gathered during inspections; paragraph 3 reported findings of non-functioning suppliers; paragraph 5.5 recorded statements on 29th November 2024; paragraph 6 explained the *modus operandi*; paragraph 9 noted financial discrepancies amounting to availment of over Rs. 10 crores fraudulent ITC; and paragraph 12 specified the grounds of arrest clearly enough for understanding by a person of average intelligence.

17.3 Counsel of respondent submitted that petitioner's assertion regarding the non-furnishing of grounds of arrest is wholly misplaced. Reliance placed by the petitioner on the judgment of the Supreme Court in ***Pankaj Bansal*** (*supra*) is untenable in the present context. It was contended that:

17.3.1 The judgment in ***Pankaj Bansal*** (*supra*) arose under the PMLA, particularly Section 19, PMLA, materially different from Section 69, CGST Act, which governs the powers of arrest under the GST regime. Further, the said decision was passed keeping in mind the stringent conditions for bail under the PMLA.

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17.3.2 Unlike Section 19 of the PMLA, which explicitly requires reasons to believe to be recorded in writing and shared with the arrestee, Section 69, CGST Act only necessitates that the competent authority forms '*reasons to believe*' before effecting an arrest. This crucial distinction, it was argued, renders the petitioner's reliance on ***Pankaj Bansal*** (*supra*) inapplicable.

17.3.3 The factual matrix in ***Pankaj Bansal*** (*supra*) is also distinguishable, as there was uncertainty regarding whether the grounds of arrest were communicated, in the absence of acknowledgment by the arrestee. Conversely, in the present case, the petitioner has acknowledged receipt of the grounds of arrest on the Arrest Memo, as corroborated by documentary evidence. To further buttress the distinction, reliance was placed on the judgment of the Telangana High Court in ***P. V. Ramana Reddy v. Union of India***, 2019 SCC OnLine TS 3332, which clarified that Section 69 of the CGST Act does not require reasons to be recorded in the arrest order itself, as long as they are documented in the case file. This judgment, subsequently affirmed by the Supreme Court, holds that procedural compliance under Section 69 does not mirror the requirements of the CrPC or PMLA.

17.4 Counsel also emphasized that the respondent strictly adhered to procedural safeguards outlined by the CBIC in its Instruction No. 2/2022-23 dated 17th August 2022, which was followed during the petitioner's arrest. In any event, it was argued by counsel for respondent that, as per clauses 4 and 5 of the CBIC circular dated 5th November 2019, which are extracted as under, any omission in generating DIN could be regularised subsequently.

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4. The Board also directs that any specified communication which does not bear the electronically generated DIN and is not covered by the exceptions mentioned in para 3 above, shall be treated as invalid and shall be deemed to have never been issued.

5. Any communication issued without an electronically generated DIN in the exigencies mentioned in para 3 above shall be regularized within 15 working days of its issuance, by:

(i) obtaining the post facto approval of the immediate superior officer as regards the justification of issuing the communication without the electronically generated DIN;
(ii) mandatorily electronically generating the DIN after post facto approval; and
(iii) printing the electronically generated pro-forma bearing the DIN and filing it in the concerned file.

17.5 Lastly, petitioner's claim that the grounds of arrest were not furnished is baseless, as evidenced by the petitioner's acknowledgment on the Arrest Memo. Moreover, CJM's remand order dated 30th November 2024, corroborates compliance with procedural requirements, stating:

> "*In the present case, allegations are that accused Ayyub Malik availed fraudulent ITC of Rs.12,69,93,694/- and accused Kshitij Ghildiyal availed and utilized fraudulent ITC of Rs.10,76,99,292/-. Reasons to believe recorded by the Commissioner are in the file of the IO. Grounds of arrest explained to the accused persons. MLC perused. No injury is reflected in the MLC. No custodial torture alleged by the accused. Information regarding arrest has been provided to the authorized/nominated persons of the accused persons. IO has completed codal requirements and shown justifiable grounds of arrest.*"
>
> (emphasis added)

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17.6 Counsel for respondent respectfully submitted that the distinction between judicial review and a review on merits constitutes a fundamental principle under the rule of law, particularly in the context of exercising discretion under Article 226 of the Constitution. It was contended that the present petition, in essence, seeks to challenge the merits of the investigation, which falls outside the permissible scope of judicial review.

18. ***Reasons to Believe were Formed and Duly Recorded***

18.1 Counsel for respondent submitted that the Additional Director General (ADG), DZU, Directorate General of GST Intelligence ("**DGGI**"), authorized the arrest of petitioner only after duly forming and recording sufficient '*reasons to believe*' that he had committed an offense punishable under Section 132(1), CGST Act. These reasons were meticulously documented and placed on the official record, ensuring strict compliance with the requirements of Section 69(1), CGST Act.

18.2 Further, it was contended that the CGST Act does not mandate that the '*reasons to believe*' be communicated to the arrestee at the time of arrest. Section 69(1), CGST Act requires the Commissioner or the authorized officer to form reasons based on material available on record, but it does not obligate the provision of such reasons to the arrestee. The assertion that the application lacks specific references to '*reasons to believe*' is devoid of merit, as the application comprehensively reflects the evidence substantiating a *prima facie* case against the petitioner.

18.3 It was argued that the petitioner's reliance on cases such as ***Arvind Kejriwal v. Directorate of Enforcement***, 2024 INSC 512 and ***V. Senthil Balaji v. State***, 2023 SCC OnLine SC 934 is misplaced. While these

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decisions underscore the necessity of '*reasons to believe*' being based on material evidence, they do not stipulate that such reasons must be disclosed to the arrestee. The statutory framework of the CGST Act is distinct from other fiscal statutes and does not necessitate disclosure to the accused. Judicial review is permissible to ascertain the existence of reasons, and due procedural compliance has been demonstrated in the present case.

18.4 Counsel contended that the authorization for arrest under Section 69(1), CGST Act was not mechanical but was predicated on substantial evidence, including:

a. Documentary material collected during the investigation;

b. Statements of co-accused and suppliers; and

c. Correlation of evidence indicating the petitioner's involvement in offenses under Section 132(1), CGST Act.

These factors collectively establish that the Commissioner exercised due diligence and objective satisfaction before granting approval.

18.5 Petitioner's contention that the reasons were pre-emptive or baseless was refuted. It was submitted that the arrest was sanctioned only after a thorough evaluation of evidence. The remand application underscores the seriousness of the process, and the corroboration of transactions with non-existent firms and statements of co-accused with independent evidence fulfils the statutory threshold of '*reasons to believe*.'

18.6 Respondents have contended that the arrest of the petitioner was neither arbitrary nor illegal. On the contrary, the invocation of Section 132(1), CGST Act is justified on the following grounds:

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a. Petitioner availed ITC on invoices unsupported by actual supplies.

b. Petitioner actively orchestrated fraudulent transactions to cause the offence.

c. Petitioner retained financial benefits by offsetting GST liabilities with ineligible ITC, thereby avoiding cash outflow.

d. The remand application substantiates these allegations with material evidence, including invoices, transaction patterns, and corroborative statements.

18.7 Respondents maintain that the petitioner's arrest under Section 132(1)(c) is lawful and backed by substantial evidence. The proceedings, it is argued, are not void but are well-founded and supported by material evidence. The allegations by petitioner are characterized as baseless and an attempt to mislead the judicial process. Reliance was placed on the recent decision of this Court in ***Arvind Dham v. Union of India & Ors***. 2024:DHC:9349, wherein the parameters for judicial review of arrests, particularly under statutes such as PMLA, were delineated. The Court, citing observations of the Supreme Court, emphasized the limited scope of judicial review in matters concerning legality of arrest, which does not extend to a review on merits. It was furthermore noted that such arguments are better addressed during bail proceedings, where the Court's jurisdiction is wider.

18.8 Counsel for respondents concluded that GST law does not impose '*twin conditions*' as under UAPA or PMLA; instead, it necessitates the officer's subjective and objective satisfaction with the reasons for arrest. The distinction between '*reasons*' and '*grounds*' is well-recognised in tax jurisprudence, and the procedural compliance in this case aligns with

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the statutory framework under the CGST Act. The submissions categorically establish the petitioner's culpability and the fulfilment of statutory requirements under Section 132(1), CGST Act. The allegations challenging the legality of the proceedings are, therefore, devoid of merit.

Analysis

19. The petitioner essentially challenges petitioner's detention through 28th and 29th November 2024 and arrest at 0100 hours on 30th November 2024 by the respondent agency, who is responsible for prosecuting offences under the CGST Act.

20. The offences alleged to have been committed by the petitioner under Section 132(1)(c), CGST Act are punishable under Section 132(2)(i) or (ii), CGST Act. The arrest was made under Section 69, CGST Act.

21. For ease of reference, the relevant provisions are extracted as under:

> "***Section 69. Power to arrest***
> *(1) Where the Commissioner has reasons to believe that a person has committed any offence specified in clause (a) or clause (b) or clause (c) or clause (d) of sub-section (1) of section 132 which is punishable under clause (i) or (ii) of sub-section (1), or sub-section (2) of the said section, he may, by order, authorise any officer of central tax to arrest such person.*
>
> *(2) Where a person is arrested under sub-section (1) for an offence specified under sub-section (5) of section 132, the officer authorised to arrest the person shall inform such person of the grounds of*

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arrest and produce him before a Magistrate within twenty-four hours.

(3) Subject to the provisions of the Code of Criminal Procedure, 1973(2 of 1974),

(a) where a person is arrested under sub-section (1) for any offence specified under sub-section (4) of section 132, he shall be admitted to bail or in default of bail, forwarded to the custody of the Magistrate;

(b) in the case of a non-cognizable and bailable offence, the Deputy Commissioner or the Assistant Commissioner shall, for the purpose of releasing an arrested person on bail or otherwise, have the same powers and be subject to the same provisions as an officer-in-charge of a police station.

…

Section 132. Punishment for certain offences

(1) Whoever commits any of the following offences, namely:---

(a) supplies any goods or services or both without issue of any invoice, in violation of the provisions of this Act or the rules made thereunder, with the intention to evade tax;

(b) issues any invoice or bill without supply of goods or services or both in violation of the provisions of this Act, or the rules made thereunder leading to wrongful availment or utilisation of input tax credit or refund of tax;

(c) avails input tax credit using such invoice or bill referred to in clause (b);

(d) collects any amount as tax but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due;

(e) evades tax, fraudulently avails input tax credit or fraudulently obtains refund and where such offence is not covered under clauses (a) to (d);

(f) falsifies or substitutes financial records or produces fake accounts or documents or furnishes

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any false information with an intention to evade payment of tax due under this Act;

(g) obstructs or prevents any officer in the discharge of his duties under this Act;

(h) acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with, any goods which he knows or has reasons to believe are liable to confiscation under this Act or the rules made thereunder;

(i) receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reasons to believe are in contravention of any provisions of this Act or the rules made thereunder;

(j) tampers with or destroys any material evidence or documents;

(k) fails to supply any information which he is required to supply under this Act or the rules made thereunder or (unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true) supplies false information; or

(l) attempts to commit, or abets the commission of any of the offences mentioned in clauses (a) to (k) of this section,

shall be punishable

(i) in cases where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds five hundred lakh rupees, with imprisonment for a term which may extend to five years and with fine;

(ii) in cases where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds two hundred lakh rupees but does not exceed five hundred lakh rupees, with imprisonment for a term which may extend to three years and with fine;

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> *(iii) in the case of any other offence where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds one hundred lakh rupees but does not exceed two hundred lakh rupees, with imprisonment for a term which may extend to one year and with fine;*
> *(iv) in cases where he commits or abets the commission of an offence specified in clause (f) or clause (g) or clause (j), he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both……*"
>
> (emphasis added)

22. While it is not disputed that an Arrest Memo was furnished to the petitioner at the time of arrest, the issue is regarding furnishing of grounds of arrest '*in writing*' to the petitioner. While the Arrest Memo has an acknowledgement signed by petitioner stating that the grounds of arrest had been explained to him, it is asserted that no *grounds of arrest* were furnished to the petitioner in writing. This forms the nub of the dispute and the basis for challenging the legality of arrest.

23. At the outset, it must be stated that the Court did ask the respondent agency to show the written *grounds of arrest*. However, none was forthcoming, even from the case files. Therefore, the conclusion that can be safely reached is that no written grounds of arrest were available either prior to or even after the arrest. If that be so, there cannot be any argument or dispute that the written grounds for arrest had not been given to petitioner at the time of arrest.

24. Respondent agency claims that their obligation was only to '*inform*' petitioner about the grounds of arrest, which they did, as is

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evident from the acknowledgment on the Arrest Memo. Further, they contend that the grounds of arrest form part of the remand application even though they were not captioned as "*Grounds of Arrest*". Essentially, they claim that the remand application had enough narration, as part of *reasons to believe*, that would effectively subsume the grounds for arrest. Not providing a specific caption would not be fatal to the arrest itself. On a query by the Court as to when the remand application was supplied to the accused, the response from the Agency was that it was handed over just before the remand hearing which was scheduled on 30th November 2024 before the Magistrate.

25. What can, therefore, be gleaned from the above is that ***firstly***, petitioner was orally *informed* about the grounds of arrest at the time of serving him the Arrest Memo; ***secondly***, the nature, scope, and expanse of that *information* is not documented in any form or manner; ***thirdly***, no written *grounds of arrest* were given at the stage of the arrest nor prior to the remand; and ***fourthly***, the remand application was handed over just prior to the Court hearing, which did not have specifically stated '*grounds of arrest*'.

26. These facts and circumstances, therefore, have to be tested in the crucible of principles enunciated by the Supreme Court and other Courts in relation to legality of arrest.

27. The jurisprudence relating to legality of arrest has developed, largely within the contours of PMLA and UAPA. Both these statutes have stringent bail requirements, essentially what is termed as the "*twin conditions*". Using the constitutional peg under Article 22(1) which mandates that no person shall be detained without being informed "*as*

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soon as may be" of the grounds for such arrest, the jurisprudence on '*grounds of arrest*' has slowly evolved into a significant area of law. The most relevant decisions of the Supreme Court, in this jurisprudential journey, of more recent vintage, are *inter alia* ***Vijay Madanlal Choudhary*** (*supra*) – 2023, ***V. Senthil Balaji*** (*supra*) – 2023, ***Pankaj Bansal*** (*supra*) 2023, ***Ram Kishor Arora*** (*supra*) – 2023, ***Prabir Purkayastha*** (*supra*) – 2024, and finally ***Arvind Kejriwal*** (*supra*) – 2024.

28. In the July 2024 decision of ***Arvind Kejriwal*** (*supra*), all the prior decisions have been adverted to and principles were culled out. It may not be necessary for the purposes of this adjudication to advert to all such principles.

29. What is in focus here, is the legality of arrest tested on proper and meaningful service of *grounds of arrest* to the arrestee. In this regard, two decisions are of paramount relevance.

30. In ***Pankaj Bansal*** (*supra*), while interpreting Section 19 of PMLA with reference to Article 22(1) of the Constitution of India, it was stated as under:

> "***38****. In this regard, we may note that Article 22(1) of the Constitution provides, inter alia, that no person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest. This being the fundamental right guaranteed to the arrested person, the mode of conveying information of the grounds of arrest must necessarily be meaningful so as to serve the intended purpose. It may be noted that Section 45 PMLA enables the person arrested under Section 19 thereof to seek release on bail but it postulates that unless the twin*

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conditions prescribed thereunder are satisfied, such a person would not be entitled to grant of bail. The twin conditions set out in the provision are that, firstly, the court must be satisfied, after giving an opportunity to the Public Prosecutor to oppose the application for release, that there are reasonable grounds to believe that the arrested person is not guilty of the offence and, secondly, that he is not likely to commit any offence while on bail. To meet this requirement, it would be essential for the arrested person to be aware of the grounds on which the authorised officer arrested him/her under Section 19 and the basis for the officer's "reason to believe" that he/she is guilty of an offence punishable under the 2002 Act. It is only if the arrested person has knowledge of these facts that he/she would be in a position to plead and prove before the Special Court that there are grounds to believe that he/she is not guilty of such offence, so as to avail the relief of bail. Therefore, communication of the grounds of arrest, as mandated by Article 22(1) of the Constitution and Section 19 PMLA, is meant to serve this higher purpose and must be given due importance.

...

***42**. That being so, there is no valid reason as to why a copy of such written grounds of arrest should not be furnished to the arrested person as a matter of course and without exception. There are two primary reasons as to why this would be the advisable course of action to be followed as a matter of principle. Firstly, in the event such grounds of arrest are orally read out to the arrested person or read by such person with nothing further and this fact is disputed in a given case, it may boil down to the word of the arrested person against the word of the authorised officer as to whether or not there is due and proper compliance in this regard. In the case on hand, that is the situation insofar as Basant Bansal is*

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concerned. Though ED claims that witnesses were present and certified that the grounds of arrest were read out and explained to him in Hindi, that is neither here nor there as he did not sign the document. Non-compliance in this regard would entail release of the arrested person straightaway, as held in V. Senthil Balaji [V. Senthil Balaji v. State, (2024) 3 SCC 51 : (2024) 2 SCC (Cri) 1] . Such a precarious situation is easily avoided and the consequence thereof can be obviated very simply by furnishing the written grounds of arrest, as recorded by the authorised officer in terms of Section 19(1) PMLA, to the arrested person under due acknowledgment, instead of leaving it to the debatable ipse dixit of the authorised officer.

43. *The second reason as to why this would be the proper course to adopt is the constitutional objective underlying such information being given to the arrested person. Conveyance of this information is not only to apprise the arrested person of why he/she is being arrested but also to enable such person to seek legal counsel and, thereafter, present a case before the court under Section 45 to seek release on bail, if he/she so chooses. In this regard, the grounds of arrest in V. Senthil Balaji [V. Senthil Balaji v. State, (2024) 3 SCC 51 : (2024) 2 SCC (Cri) 1] are placed on record and we find that the same run into as many as six pages. The grounds of arrest recorded in the case on hand in relation to Pankaj Bansal and Basant Bansal have not been produced before this Court, but it was contended that they were produced at the time of remand. However, as already noted earlier, this did not serve the intended purpose. Further, in the event their grounds of arrest were equally voluminous, it would be well-nigh impossible for either Pankaj Bansal or Basant Bansal to record and remember all that they had read or heard being read out for future recall so as to avail legal remedies. More*

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so, as a person who has just been arrested would not be in a calm and collected frame of mind and may be utterly incapable of remembering the contents of the grounds of arrest read by or read out to him/her. The very purpose of this constitutional and statutory protection would be rendered nugatory by permitting the authorities concerned to merely read out or permit reading of the grounds of arrest, irrespective of their length and detail, and claim due compliance with the constitutional requirement under Article 22(1) and the statutory mandate under Section 19(1) PMLA.

45. *On the above analysis, to give true meaning and purpose to the constitutional and the statutory mandate of Section 19(1) PMLA of informing the arrested person of the grounds of arrest, we hold that it would be necessary, henceforth, that a copy of such written grounds of arrest is furnished to the arrested person as a matter of course and without exception. The decisions of the Delhi High Court in Moin Akhtar Qureshi [Moin Akhtar Qureshi v. Union of India, 2017 SCC OnLine Del 12108] and the Bombay High Court in Chhagan Chandrakant Bhujbal [Chhagan Chandrakant Bhujbal v. Union of India, 2016 SCC OnLine Bom 9938 : (2017) 1 AIR Bom R (Cri) 929] , which hold to the contrary, do not lay down the correct law. In the case on hand, the admitted position is that ED's investigating officer merely read out or permitted reading of the grounds of arrest of the appellants and left it at that, which is also disputed by the appellants. As this form of communication is not found to be adequate to fulfil compliance with the mandate of Article 22(1) of the Constitution and Section 19(1) PMLA, we have no hesitation in holding that their arrest was not in keeping with the provisions of Section 19(1) PMLA. Further, as already noted supra, the clandestine conduct of ED in proceeding against the appellants, by recording*

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> *the second ECIR immediately after they secured interim protection in relation to the first ECIR, does not commend acceptance as it reeks of arbitrary exercise of power. In effect, the arrest of the appellants and, in consequence, their remand to the custody of ED and, thereafter, to judicial custody, cannot be sustained.*"
>
> (emphasis added)

31. In ***Prabir Purkayastha*** (*supra*), the Supreme Court reiterated the principles expounded in ***Pankaj Bansal*** (supra) and stated as under:

> "***19.*** *We may note that the modified application of Section 167 CrPC is also common to both the statutes. Thus, we have no hesitation in holding that the interpretation of statutory mandate laid down by this Court in the case of Pankaj Bansal(supra) on the aspect of informing the arrested person the grounds of arrest in writing has to be applied pari passu to a person arrested in a case registered under the provisions of the UAPA.*
>
> ***20.*** *Resultantly, there is no doubt in the mind of the Court that any person arrested for allegation of commission of offences under the provisions of UAPA* ***or for that matter any other offence(s)*** *has a fundamental and a statutory right to be informed about the grounds of arrest in writing and a copy of such written grounds of arrest have to be furnished to the arrested person as a matter of course and without exception at the earliest. The purpose of informing to the arrested person the grounds of arrest is salutary and sacrosanct inasmuch as, this information would be the only effective means for the arrested person to consult his Advocate; oppose the police custody remand and to seek bail. Any other interpretation would tantamount to diluting the sanctity of the fundamental right guaranteed under Article 22(1) of the Constitution of India.*
>
> …

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22. *The right to be informed about the grounds of arrest flows from Article 22(1) of the Constitution of India and any infringement of this fundamental right would vitiate the process of arrest and remand. Mere fact that a charge sheet has been filed in the matter, would not validate the illegality and the unconstitutionality committed at the time of arresting the accused and the grant of initial police custody remand to the accused.*

…

29. *The language used in Article 22(1) and Article 22(5) of the Constitution of India regarding the communication of the grounds is exactly the identical. Neither of the constitutional provisions require that the 'grounds' of "arrest" or "detention", as the case may be, must be communicated in writing. Thus, interpretation to this important facet of the fundamental right as made by the Constitution Bench while examining the scope of Article 22(5) of the Constitution of India would ipso facto apply to Article 22(1) of the Constitution of India insofar the requirement to communicate the grounds of arrest is concerned.*

30. *Hence, we have no hesitation in reiterating that the requirement to communicate the grounds of arrest or the grounds of detention in writing to a person arrested in connection with an offence or a person placed under preventive detention as provided under Articles 22(1) and 22(5) of the Constitution of India is sacrosanct and cannot be breached under any situation. Non compliance of this constitutional requirement and statutory mandate would lead to the custody or the detention being rendered illegal, as the case may be.*

31. *Furthermore, the provisions of Article 22(1) have already been interpreted by this Court in Pankaj Bansal(supra) laying down beyond the pale of doubt that the grounds of arrest must be communicated in writing to the person arrested of*

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> *an offence at the earliest. Hence, the fervent plea of learned ASG that there was no requirement under law to communicate the grounds of arrest in writing to the accused appellant is noted to be rejected.*"
>
> (emphasis added)

32. The Supreme Court, in ***Arvind Kejriwal*** (*supra*), agreed with these enunciations in ***Pankaj Bansal*** (*supra*) and ***Prabir Purkayastha*** (*supra*) and stated as under:

> "***18.*** *……We respectfully agree with the ratio of the decisions in Pankaj Bansal (supra) and Prabir Purkayastha (supra), which enrich and strengthen the view taken in Vijay Madanlal Choudhary (supra), on the interpretation of Section 19 of the PML Act. Power to arrest a person without a warrant from the court and without instituting a criminal case is a drastic and extreme power. Therefore, the legislature has prescribed safeguards in the form of exacting conditions as to how and when the power is exercisable. The conditions are salutary and serve as a check against the exercise of an otherwise harsh and pernicious power.*"
>
> (emphasis added)

33. It is evident from the principles as enunciated by the Supreme Court that the requirement to communicate the grounds of arrest in writing is sacrosanct. It was further stated that a copy of such written grounds was to be furnished to the arrestee as a matter of course, without exception, and at the earliest.

34. This principle enunciated by the Supreme Court gets buttressed by the statutory provision under Section 69(2), CGST Act as extracted above in paragraph 21. It mandates that the officer authorised to arrest the said person '*shall*' inform such a person of the grounds of arrest and

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produce him before a Magistrate within 24 hours. Information, as held by the Supreme Court in ***Pankaj Bansal*** (*supra*) and subsequently affirmed in ***Prabir Purkayastha*** (*supra*) and ***Arvind Kejriwal*** (*supra*), must be meaningful and in writing.

35. Applying these to the facts of the case, it is quite clear, as noted above, that grounds of arrest were not available in writing, were not furnished at the time of arrest to the arrestee, nor at the stage of furnishing the remand application.

36. The argument offered by respondent agency, that remand application itself subsumed the grounds of arrest, is only a *post-facto* interpretation/explanation, and in the opinion of the Court, is unmerited.

37. The communication to the arrestee, as per the Supreme Court, must be clear, categorical, and meaningful, and there is no reason as to why written grounds of arrest could not be given, particularly since, as per the prosecution, petitioner had been interrogated for two days prior to the arrest on the intervening night of 29th November 2024 and 30th November 2024.

38. Despite such categorical enunciations by the Supreme Court, there is no explanation offered by the respondent agency as to why they chose to omit compliance of this essential requirement. To contend that arrestee had been "*effectively*" informed about the grounds of arrest, which would be enough for the arrestee to formulate their arguments during the remand, is a specious argument.

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39. When liberty of a person is at stake, investigation/arresting agency must lean on the side of overcaution, exactitude, and punctiliousness, rather than otherwise.

40. A constitutional mandate must be understood and implemented in its right and rational perspective, and not cursorily and casually. Even if assuming, in favour of the prosecution, that the narrative in the remand application amounted to *grounds of arrest*, furnishing the said application just before the remand hearing would effectively negate and nullify the duty to inform *meaningfully* and at the earliest.

41. The arrest was at 0100 hours on 30th November 2024 till 1245 hours when the remand hearing took place. A time of about 11 hours would have been adequate for the arrestee to seek legal counsel and to prepare his defence based upon a crystallised set of '*grounds of arrest*'. The Supreme Court has frowned upon '*general*' grounds of arrest, stating that they had to be *highly specific* in nature. No such effort was made at the stage of arrest or immediately thereafter, and therefore, would vitiate the arrest itself, amounting to an infraction of the petitioner's right.

42. A perusal of the remand order would also show that an argument was taken before the Remand Court relating to non-supply of the written grounds of arrest; however, this was not appreciated and addressed in any amount of detail. The Magistrate effectively noted that "*grounds of arrest explained to the accused persons*" and that "*IO has completed codal requirements and shown justifiable grounds of arrest*". This was clearly not sufficient and amounted to a mechanical order without application of mind to the issue which was raised.

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43. Notwithstanding the above, the other aspect which has been strongly asserted by the senior counsel for petitioner is the issue of illegal detention beyond 24 hours. While petitioner contends that he was called for interrogation on 28th November 2024 at 1600 hours to the office of the agency at Dwarka and was kept there all through till 29th November 2024 night when he was arrested, the agency contended that he was free to leave post the interrogation on 28th November 2024 and came back again for further interrogation on 29th November 2024.

44. Aside from the respective contentions regarding detention for the two days, what is very significant, and disturbing is the charade that seems to have been carried out in issuance of summons to petitioner. The first summons issued under Section 70 of the CGST Act, which this Court has perused, is signed by the Superintendent/Appraiser/Senior Intelligence Officer on 27th November, 2024. It demands the appearance of the petitioner on 28th October 2024 at 1730 hours at DGGI, DZU, Dwarka Office. However, the DIN generation time, as per the online system, shows the generation at 21:55:20 hours on 28th November 2024, i.e. about 5 hours after the petitioner was expected to have appeared before the agency. CBIC circular dated 05th November 2019 directed that no search authorization, summons or Arrest Memo shall be communicated/issued to a taxpayer or any other person without a computer-generated DIN, which would be quoted prominently in the body of communication, hosted on an online portal *cbicddm.gov.in*. Having used the DIN on the first summons to elicit the generation time, petitioner contends that the summons never existed at the time they were served or at the time which was scheduled for petitioner's appearance. This, it is argued, would bear out that petitioner was detained illegally at

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the respondent's office without summons, and the summons were generated subsequently.

45. Strangely enough, at 21:58:35, three minutes after the first summons, the second DIN was generated, and a second summons was generated for summoning on 29th November 2024 at 0700 hours. A perusal of the said second summons would also show that it was signed on 27th November 2024, whereas the printed date on the summons is 28th November 2024. Therefore, while the second summons was generated at 21:58:35 hours on 28th November 2024 evening, the summons itself strangely shows the signatures of the officer as of 27th November 2024. This attempt, as per petitioner, of having detained petitioner without any paperwork, and then creating the paperwork subsequently to cover up the tracks.

46. Reliance by counsel for respondent on clause 4 and 5 of CBIC's circular dated 5th November 2019 with respect to regularisation of omission is unmerited since nothing was produced to show that the DIN was generated subsequently, and that the communication was given without the DIN previously; and even if it was generated later, whether the process of clause 5 was adhered to.

47. The discrepancy in these summons does point to the respondent's mismanagement of the arrest process. It also throws a serious doubt on the aspect of detention of the petitioner through 28th November 2024 and 29th November 2024, that too, without proper paperwork.

48. It does indicate that the respondent agency was amiss in not punctiliously following the arrest procedure, as mandated by law, meant to safeguard the rights of the arrestee.

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49. The Supreme Court in ***Arvind Kejriwal*** (*supra*) has categorically stated that these pre-conditions act as stringent safeguards to protect the life and liberty of individuals. It was stated that "*the conditions are salutary and serve as a check against the exercise of an otherwise harsh and pernicious power*."

Conclusion

50. In light of the above discussion, this petition is allowed. The arrest of the petitioner on 30th November 2024 is held illegal and the remand order dated 30th November 2024 is set aside.

51. The petitioner is directed to be released from judicial custody forthwith, if not required in any other matter.

52. Copy of the order be sent to the concerned Jail Superintendent for information and necessary compliance.

53. Needless to state, this Court has undertaken a judicial review of the arrest and not a merits review. Nothing stated above is an opinion on the merits of the respondent agency's case against the petitioner.

54. Judgement be uploaded on the website of this Court.

(ANISH DAYAL)
JUDGE

DECEMBER 16, 2024/MK/tk/sc