

**Naveen & Anr. vs Directorate General of Goods and Services Tax Intelligence**

**Naveen & Anr. vs Directorate General of Goods and Services Tax Intelligence**

**SooperKanoon Citation :** [sooperkanoon.com/1267651](https://sooperkanoon.com/1267651)

**Court :** Delhi

**Decided On :** Jan-30-2026

**Judge :** Hon'Ble Ms. Justice Neena Bansal Krishna

**Appeal No. :** W.P.(CRL)/1872/2024

**Appellant :** Naveen & Anr.

**Respondent :** Directorate General of Goods and Services Tax Intelligence

**Advocate for Pet/Ap. :** Ms. Hitanshi, Mr. Yash Tewari, Mr. Anurag Ojha, Mr. Dipak Raj, Mr. Vipul Kumar

**Judgement :**

\* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Reserved on: 15th December, 2025 Pronounced on:30th January, 2026 +  
W.P.(CRL) 1872/2024, CRL.M.A. 18198/2024

1. NAVEEN S/o Sh. Shiv Lal Proprietor M/s Aarti Traders, Tej Colony, Tehsil Camp, Panipat, Haryana-132103.

2. SURAJ KUMAR S/o Sh. Shiv Lal Tej Colony, Tehsil Camp, Panipat, Haryana-132103. ....Petitioners Through: Ms. Hitanshi and Mr. Yash Tewari, Advocates.

**versus**

DIRECTORATE GENERAL OF GOODS AND SERVICES TAX INTELLIGENCE  
Through its Superintendent/Senior Intelligence Officer, Delhi Zonal Unit, DGGI,  
MTNL Building, Near Manipal Hospital Sector-6, Dwarka, Delhi-110075.  
.....Respondent Through: Mr. Anurag Ojha, Senior Advocate with Mr. Dipak Raj  
and Mr. Vipul Kumar, Advocates.

**CORAM:**

**HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA**

**J U D G M E N T**

**NEENA BANSAL KRISHNA, J.**

Signed By:VIKAS W.P.(CRL) 1872/2024 Page 1 of 21

1. Petition under Article 226/227 Constitution of India has been filed for setting aside of the Summons dated 20.05.2024 against the Petitioner No.1 and for release of the papers/documents/goods seized by them on 23.03.2024 and to restrain the Respondent DGGI, not to illegally detain the Petitioner in odd hours.
2. Briefly stated, the Petitioner No.1, Naveen, and Petitioner No.2, Suraj are real brothers. The business is carried out by Petitioner No.1 who is a disabled person, duly assisted by Petitioner No.2 who looks after marketing of the business. The GST Registration number of the Petitioner No.1 is 06AJDPN0801E1ZV, and he has been regularly filing GST returns.
3. The father of the Petitioners was engaged in a small-scale business in

the trading of bidi in some parts of Delhi since 2015 by the brand name Udaan. It is submitted that all the transactions carried out by the Petitioners, are duly backed by relevant tax Invoices for which payments were made through banking channels only.

4. The Petitioner had not received any Show Cause Notice or Notice with respect to recovery from the Respondent-DGGI, in the last five years.

5. The Respondent initiated a search and survey from 10:55AM

22.03.2024, which was concluded at 2:30AM on 23.03.2024. A Panchnama dated 23.03.2024 was prepared, as per which the search had been carried out on 22.11.2024 (future-dated). The Petitioner asserts that the said error is a colourable exercise being conducted without any control or check. Furthermore, the Panchnama does not contain the signatures of the officers present, nor has any seal been affixed on the same. Despite various officers having visited the premises, only one officer and two witnesses, had signed the Panchnama, which was contrary to the Guidelines framed by the

Signed By:VIKAS W.P.(CRL) 1872/2024 Page 2 of 21

Respondent. The seized documents were not properly listed. Even the purpose of calling the Income Tax team was not defined. The Petitioners claim that they had fully cooperated during the course of the search and survey, as per the Panchnama. Thus, it is evident that the mala fide objective of the Respondent was not served. It is submitted that there is no provision in the GST Act which permits the Respondent officials to contact the Income Tax Department.

6. Petitioner No.1 was issued Summons dated 06.05.2024 with a

direction to appear on 03.05.2024. The Petitioner No.1 had provided all the documents which were sought by the Respondent, on 06.05.2024. The Summons

dated 06.05.2024 were issued in a mechanical manner, since the direction was to appear on 03.05.2024, despite carrying the DIN as per the

**Guidelines issued by the office of the CGST Act, 2017. It is stated that the**

entire process is bogus and the erring officials have failed to adhere to the said Guidelines.

7. Another Summons dated 20.05.2024 was issued seeking the presence

of the Petitioner No.1 on 24.05.2024. Summons dated 28.05.2024 was issued seeking the presence of Petitioner No.2 on 03.06.2024. Petitioner No.2 had in compliance of Summons dated 28.05.2024, appeared before the Respondent at about 11AM and was detained till 10:30PM in the night. Furthermore, Petitioner No.2 was made to sign on dotted lines and was told to confess the crime, failing which the officials of the Respondent would arrest Petitioner No.1.

8. Petitioner No.2 was arrested by the officials of the Respondent on 04.04.2024. He was released on bail vide Order dated 27.05.2024 passed by the Ld. ASJ, PHC, New Delhi. Signed By:VIKAS W.P.(CRL) 1872/2024 Page 3 of 21

9. The Petitioners claim that the aforesaid Summons dated 06.05.2024

followed by Summons dated 20.05.2024 and 28.05.2024 are in clear violations of Circular bearing No. 128/47/2019-GST dated 23.12.2019 issued by the Ministry of Finance, Department of Revenue, CBDT, GST- Investigation Wing, laying the standard format while issuing search

**summon, arrest, inspection Notice, etc. It is evident as per the Guidelines**

that any document issued without a DIN number, shall be treated as invalid, and deemed to have never been issued. The Summons are also violative of Circular

No. 122/41/2019-GST dated 05.11.2019. It is submitted that the Summons were prepared in a mechanical manner with a prejudiced mind.

10. It is further submitted that this Court in W.P. (Crl.) 1710 of 2024,

granted interim protection to an identically placed Trader of biri against the Summoning Order by the Respondent, with a direction to appear before the concerned officer. Further, this Court had during the summer vacations vide Interim Order dated 03.06.2024 in W.P. (Crl.) 1861 of 2024 granted interim protection to another identically placed Manufacturer who sells the biri across the country.

11. During the last few years, it has been noticed by various Courts that

the Officials of the Respondent have been misusing their powers under Section 69 CGST Act and have resorted to practices which are normally known as tax terrorism. The Full Bench of the Apex Court in Writ Petition (Crl.) No.336/2018 titled as Radhika Agarwal vs. Union of India, is seized of a matter examining the powers of the GST Officers with respect to the Arrest, which is pending adjudication. An interim Order dated 17.05.2024 has been passed in the matter, whereby it has been observed that an arrest under the Act cannot be on mere suspicion but after proper inquiry and

Signed By:VIKAS W.P.(CRL) 1872/2024 Page 4 of 21 adherence to the procedure laid down under the law, and should be based on verifiable material.

12. As per Section 132(5) of CGST Act, 2017, the offences relating to

taxable goods and/ or services, where the amount of tax evaded or the amount of input tax credit wrongly availed or the amount of refund wrongly taken, exceeds Rs.5 crore, shall be cognizable and non-bailable. Other offences under the Act, are non-cognizable and bailable as provided in Section 132(4) of the Act.

13. Furthermore, in the pre-GST regime, no arrest can happen without

enquiry/assessment/adjudication, as has been held in the cases of Make My Trip vs. Union of India, (2016) 44 STR 481 (Del.) and Cleartrip Pvt. Ltd & Others vs. Union of India, (2016) 42 STR (Bom.).

14. Even in GST regime, it has been similarly held that no arrest can

happen without enquiry/ assessment/ adjudication, for which reference may be made to Akhil Krishnan Maggu vs. DGGI, (2020) 32 GSTL 516 (P&H) and Jaychandran Alloys P. Ltd. vs. Superintendent of GT Salem, (2019) 25 GSTL 321(Mad.).

15. In C. Pradeep Kumar vs. Commissioner of GST and Central Excise,

Salem, the Apex Court had granted Anticipatory Bail to the Petitioner therein, on deposit of 10% of the disputed liability in the case. Likewise, in Orion Security Solutions & Anr. vs. Commissioner of CGST, Delhi East, this Court also granted Anticipatory Bail to the Petitioner therein, on partial deposit of money out of total liability.

16. It is further asserted that no Show-Cause Notice has ever been given by the Respondent/s DGGI, Delhi to the Petitioners, for recovery towards GST dues/over-dues. In the absence of such Notice, issuing summons under Signed By:VIKAS W.P.(CRL) 1872/2024 Page 5 of 21 Section 70 CGST Act, 2017 and that too in a vague and mechanical manner, is only with the ulterior motive.

17. The Anticipatory Bail Application No.634/2024 preferred by another Applicant under Section 438 Cr.P.C., was dismissed by learned ASJ vide

**Order dated 15.05.2024 in an identical case on the ground of**

maintainability.

18. The Petitioners have challenged the Summons on the ground that the

Honble Court had, in an identical case, granted interim protection to other identically placed Petitioners in W.P.(Crl.) 1710 of 2024 vide Order dated

28.05.2024 and W.P.. (Crl.) 1861 of 2024 vide Order dated 03.06.2024.

19. Reliance has also been placed on Ashwani Oberoi vs. State of

Haryana, SLP (Crl.) 8695 of 2021 wherein the Apex Court had granted bail vide Order dated 02.03.2022. Reliance is further placed on Suraj Vijay Agarwal vs. State of Maharashtra, SLP (Crl.) 8432 of 2023 decided on 21.08.2023, and Arun Yadav vs. The State of Uttar Pradesh, SLP (Crl.) No. 1649 of 2024 decided on 1.03.2024, wherein the Apex Court granted bail on the ground of parity.

20. As per the Panchnama dated 22.03.2024 and 15.05.2024 respectively,

full cooperation had been extended by the Petitioners in the first place. Further, it has not been signed by the concerned officers who had carried out the search and is in gross violation of the Guidelines issued by the Respondent from time to time.

21. Reliance has further been placed on Order dated 19.01.2024 passed in Directorate General of GST Intelligence vs. Jitender Kumar, Crl. M.C. of GST Intelligence vs. Chaman Goel, Crl. M.C. 2791/2023 by this Court. Signed By:VIKAS W.P.(CRL) 1872/2024 Page 6 of 21

Further reliance has been placed on Neha Agrawal and Anr. vs. The Commissioner of CGST and Central Excise Mumbai Central and Ors., in Anticipatory Bail Application bearing no. 3625/2021 in which the court finds merit in the submission that the Anticipatory bail is maintainable and the same can be accepted or rejected on merits.

22. Further, the Summons dated 06.05.2024, 20.05.2024 and 28.05.2024 are in clear violation of the guidelines issued by the Respondent from time to time.

23. Petitioner No.2 had complied with the summons dated 28.05.2024, and appeared before the Respondent. However, he was illegally detained till 10:30PM.

24. Reliance has been placed on the Interim Order dated 14.12.2023 of

the Apex Court in Ram Ramaswamy and Ors. vs. Union of India and Ors., Writ Petition (Crl.) No. 138 of 2021. It is submitted that the CBI Manual is applicable and the action of the Respondent is also in gross violation of the CBI Manual; hence there is an apprehension of arrest in compliance of the Summons despite cooperation extended by the Petitioner.

25. Further, since the Petitioner has fully cooperated with the Respondent,

there is not even a remote possibility of the Petitioner to run away or tamper with any evidence or influence any witnesses in the instant case. It is submitted that even for the triple test for an anticipatory bail or bail would be considered, the balance of convenience lies in favour of the Petitioner.

26. Therefore, it is prayed that the Summons dated 20.05.2024 against the Petitioner No.1 be set aside, appropriate Writ, Order or Direction be issued to the Respondent to release the seized papers/documents/goods seized by Signed By:VIKAS W.P.(CRL) 1872/2024 Page 7 of 21 them on 23.03.2024, and to restrain the Respondent DGGI not to illegally detain the Petitioner in odd hours.

27. A Counter Affidavit has been filed on behalf of the Respondent

denying the allegations, averments and submissions in the Writ Petition. It is submitted that the Respondent under the Ministry of Finance, Government of India, is the Apex intelligence and investigation agency engaged in collection, collation, dissemination of intelligence; unearthing and investigating cases and modus operandi relating to evasion of GST.

28. It is further submitted that the Petitioner No.1 is the proprietor of M/s

Aarti Traders, and he along with his brother Suraj, was engaged in trading of Udaan brand biri being procured from M/s Nila Biri Factory, Dohabari, Uttar Dinajpur, West Bengal.

29. The investigation was initiated against M/s Aarti Traders, on the basis

of information received and cultivated by officers of the Delhi Zonal Unit of the Respondent on 22.03.2024, and thereafter the supplier, i.e. M/s Nila Biri Factory on 15.05.2024. The search was conducted under Section 67(2) CGST Act at their related premises, including premises of some Delhi-based transporters and the Parcel Office of Old Delhi Railway Station. During the search on 22.03.2024, initiated at various premises as stated above, incriminating details/ documents/ mobiles etc. were recovered, and further undeclared/ non-duty paid goods, i.e. biri of Udaan brand were seized at the registered premises of the Petitioner and at the premise of the respective Transporter in Delhi and Panipat.

30. The Petitioner and his brother, were engaged in clandestine trading, without issuing tax invoice and without payment of GST, of Udaan brand biri being manufactured by M/s Nila Biri Factory. Signed By:VIKAS W.P.(CRL) 1872/2024  
Page 8 of 21

31. During the investigation, the modus operandi of the Petitioners as

identified by the Respondent as that Udaan brand biri was manufactured and supplied by M/s Nila Biri Factory based in Dohabari, West Bengal, and thereafter transported by road and railways to Delhi. The biri transported through the Indian Railway, was transported clandestinely and by way of misdeclaration with an intention to evade the tax. Once the biri was received at the Old Delhi Railway Station, the same was transported to its recipients, including M/s Aarti Traders by Delhi-based transporters such as M/s New India Transport Co.

32. The Search was also conducted simultaneously at the premises of M/s

New India Transport Co., who was engaged in the transport of Udaan biri, and incriminating details of the clandestine supply of biri, were seized by the Respondent.

33. At the premises of M/s Aarti Traders, of which the Petitioner No.1 is

the proprietor, incriminating details, kacchi-parchi, and mobile phones were recovered and examined during investigation. During the search, voluntary statement under Section 70 CGST Act of Sh. Suraj, the elder brother of the Petitioner No.1, was recorded. He inter-alia admitted that they were engaged in clandestine procurement of Udaan biri from its manufacturer M/s Nila Biri Factory. The non-duty paid biri was being transported from West Bengal to Delhi clandestinely, and information of receiving of Udaan biri at the Old Delhi Station was shared to him through WhatsApp in his seized mobile, by another key person who works as labour/ agent at Parcel Office of Old Delhi Station.

34. A similar statement under Section 70 CGST Act was tendered by Petitioner No.1 during search dated 22.03.2024. Signed By:VIKAS W.P.(CRL) 1872/2024  
Page 9 of 21

35. On the basis of the evidence gathered from the premises of M/s Aarti

Traders, the key person was arrested on the ground that they were engaged in clandestine trading of biri which was procured without cover of Tax Invoices from its manufacturer. It was revealed that the Petitioner was a part of a well-established modus of evasion of GST of more than Rs.39.2 crores, applicable on the supply of the Udaan biri, during the period 2020-21 to 2023-24.

36. Further searches were conducted on 15/16.05.2024 which details are under examination.

37. In its preliminary submissions, the Respondent has stated that the

Petitioner is engaged in clandestine trading of goods, which case requires further investigation, including the confrontation of evidence recovered during searches conducted at the related premise of the Petitioners. The Petitioners apprehension of arrest is absolutely unfounded and the invocation of extraordinary jurisdiction of this Court is

only a calculated move to derail the investigation and avoid the GST liability.

38. Reliance is placed on Jatin Gupta vs. Directorate General of GST

Intelligence Unit, Delhi, 2023:DHC:6165, wherein the Court declining to grant protection at the stage of investigation, by observing that there are inherent safeguards in Section 69 prior to the affecting arrest of the accused persons.

39. Reliance is also placed on Prakash Kumar Rameshbhai Patel vs. State

of Maharashtra and Ors., 2024:BHC-AS:17051-DB, wherein the High Court of Bombay, noting the non-cooperation of the Petitioner with the Investigating Authorities, declined to grant protection to the Petitioner. Signed By:VIKAS W.P.(CRL) 1872/2024 Page 10 of 21

40. It is claimed that the fraud committed in this case, is of an

extraordinary nature, characterized by a persistent and ongoing practice of fraudulent evasion of Goods and Services Tax. This type of fraud transcends ordinary offenses and poses a significant threat to the integrity of the GST system. Furthermore, the Petitioner is derailing the investigation by not cooperating with the investigating authorities. Therefore, the recourse to present Writ Petition is improper, as the Petitioner has not approached the Court with clean hands.

41. Reliance also placed on The State of Gujarat vs. Choodamani

Parmeshwaran Iyer, 2023 INSC 972, wherein it was held that a prayer of Anticipatory Bail is improper at the stage of summons. In Tarun Kumar vs. Assistant Director Directorate of Enforcement, 2023 INSC 1006, the Apex Court was of the view that economic offences stand at a different pedestal.

42. In response to the allegations of the Petitioners in regard to

Panchnama, the Respondent has stated that the authorised offices had properly signed the Panchnama, as well as by Petitioner No.1, in the presence of two independent Panchas.

43. It is explained that the date of appearance was inadvertently

mentioned as 03.05.2024 in the Summons dated 06.05.2024, and thus a fresh Summons dated 20.05.2024 had been issued to him. Further, the Petitioner did not comply with the said summons; instead issued an email dated 24.05.2024, attaching some Tax Invoices issued for a different month.

44. It is stated that the Petitioner No.2 was never detained by the

Respondent officials, but was allowed to leave at his own request, whenever the statement was recorded. Summons dated 28.05.2024 was issued to him for recording his statement and for confronting the evidences recovered Signed By:VIKAS W.P.(CRL) 1872/2024 Page 11 of 21 during the search on 22.03.2024 and his earlier statement dated 22.03.2024. However, he too remained non-cooperative and denied to answer any question, and his previous statement.

45. It is stated that the evidences recovered against the Petitioners indicate

that the transactions of unaccounted for goods were being done through Hawala Channels, while the Petitioner has filed GST returns and routing transactions through banking channels.

46. It is further stated that there is no mention of search being carried out on 22.11.2024.

47. It is submitted that the Petitioner has resorted to suggestio falsi, by making reference to Radhika Agarwal vs. Union of India (supra). The other judgments relied by the Petitioners, are also irrelevant to the present matter.

48. It is stated that the Summons dated 06.05.2024, 20.05.2024 and

28.05.2024 were properly issued to the Petitioners, and were in compliance with Circular bearing No. 128/47/2019-GST dated 23.12.2019 and Circular No.

122/41/2019-GST dated 05.11.2019. Further, Instructions bearing No,03/2022-23 dated 17.08.2022, were also followed.

49. It is stated that the Petitioners remained uncooperative and later even

denied their own statements, and the evidence collected during the investigation. Further, the Petitioner vide DRC-03 dated 27.06.2024, has paid the GST alongwith penalty and interest, on the basis of his own calculations, which is an admission that they were engaged in clandestine trading of Udaan biri. Submissions heard and record perused.

50. The present Writ Petition has been filed by the Petitioners for the setting aside of Summons dated 20.05.2024 against the Petitioner No.1, and Signed By:VIKAS W.P.(CRL) 1872/2024 Page 12 of 21

appropriate Writ, Order or Direction be issued to the Respondent to release the papers/documents/goods seized by them on 23.03.2024, and to restrain the Respondent DGGI not to illegally detain the Petitioner in odd hours.

51. The Petitioners have challenged the summons on the grounds that

they are in clear violation of the guidelines issued by the Respondent from time to time, and have even been issued without having the seal of the office of the Respondent, which is in gross violation of the guidelines.

52. The nature of Summons issued under Section 70 CGST Act, is with

respect to the production of a document, or any other thing, in an inquiry. Section 70 CGST Act is reproduced as follows: 70. Power to summon persons to give evidence and produce documents.- (1) The proper officer under this Act shall have power to summon any person whose attendance he considers necessary either to give evidence or to produce a document or any other thing in any inquiry in the same manner, as provided in the case of a civil court under the provisions of the Code of

Civil Procedure, 1908 (5 of 1908). 1[(1-A) All persons summoned under sub-section (1) shall be bound to attend, either in person or by an authorised representative, as such officer may direct, and the person so appearing shall state the truth during examination or make statements or produce such documents and other things as may be required.]

(2) Every such inquiry referred to in sub-section (1) shall

be deemed to be a judicial proceedings within the Signed By:VIKAS W.P.(CRL) 1872/2024 Page 13 of 21 meaning of Section 193 and Section 228 (45 of 1860) of the Indian Penal Code. [Emphasis supplied]

53. The nature of a summons essentially, cannot be considered to be the

initiation of proceedings against the Petitioners. Even as per the Oxford Dictionary of Law (2003), the terms summons has been defined as a Court Order to an individual to appear in Court, at a specific place and time.

54. In Armour Security India Limited vs. Commissioner CGST Delhi East

Commissionerate, 2025 SCC OnLine Del 5786, the petitioner had sought relief on the ground that it was impermissible for the CGST authorities to commence any proceedings under Section 6(2)(b) of the CGST Act. It was observed by the Division Bench of this Court: 7. We bear in mind the fact that an investigation or any summons issued pursuant to a search would only be a precursor to proceedings that the Central GST authorities may initiate. We also cannot possibly lose sight of the fact that a search case would stand clearly distinct and separate from proceedings which authorities, be it Central or State, may propose to undertake by virtue of powers conferred by Sections 73 or 74 of the Act.

9. However and notwithstanding the above, a summons issued pursuant to a search would have to be distinguished from an actual assessment that an authority may choose to undertake. This since such a Signed By:VIKAS W.P.(CRL) 1872/2024 Page 14 of 21

summons is principally intended to elicit information in respect of material that may have been gathered or comes to light in the course thereof. A search may lead to the discovery of material and information which may not have been even available at the stage of the original assessment proceedings. However, if the contention of the petitioner were to be accepted, authorities would stand injuncted and barred from either examining the implication of the evidence so collated or consider justifiable inferences that could be drawn. A search could, hypothetically speaking, also lead to the recovery of material that never formed part of the original assessment and was unknown to the assessing authority. It could, theoretically speaking, also have a bearing on the truthfulness of the disclosures made in the course of the original proceedings. The submissions addressed by learned senior counsel, in our considered opinion, clearly fails to factor these aspects into consideration.

10. We are thus unconvinced that Section 6(2)(b) seeks to

interdict a summon that may be issued pursuant to a search. As noticed hereinabove, at that stage the authority is merely seeking to gather information and a response from the assessee in respect of material unearthed and information gathered. We would at that stage also be unaware of what action the authority proposes to take. We would thus be left to hypothesize

Signed By:VIKAS W.P.(CRL) 1872/2024 Page 15 of 21 whether the authority seeks to invoke Section 73 or Section 74 of the Act. If the authority were to invoke Section 74 in case of an assessment already made, it would still have to establish that the thresholds created by that section are satisfied. [Emphasis supplied]

55. The order of the Division Bench of this Court was upheld in Special

Leave Petition (Civil) No. 6092, titled M/s Armour Security (India) Ltd. vs. Commissioner, CGST, Delhi East Commissionerate &Anr., 2025 SCC

OnLine SC 1700 It was observed as follows: 57. A summons is not the culmination of an investigation, but merely a step in its course. It is in this context that the legislature has used the term inquiry in Section 70, as at the stage of issuing a summons, the Department is primarily engaged in gathering information regarding a possible contravention of law, which may subsequently form the basis for proceedings against an assessee. Since the objective is to collect information, the Department has, in certain instances, advised resorting to a letter of requisition in place of a formal summons.

58. At the stage of issuing a summons, the Department

is yet to determine whether proceedings should be initiated against the assessee. Such evidence-gathering and inquiry do not constitute proceedings within the meaning of Section 6(2)(b) of the CGST Act. The mere Signed By:VIKAS W.P.(CRL) 1872/2024 Page 16 of 21

issuance of a summons cannot be equated with proceedings barred under the Act, as the subject matter cannot be ascertained solely through summons. That said, summons should not be issued in routine matters or for documents readily available on the GST portal. They ought to be issued after much thought and consideration as to the exact information required. We acknowledge that the issuance of multiple, cyclostyled summons may indicate a roving inquiry.

59. We affirm and appreciate the view taken by the High

Court of Allahabad in G.K. Trading (supra) and the High Court of Kerala in K.T. Saidalavi (supra) respectively. The High Court of Allahabad rightly held that the issuance of summons cannot be conflated with a statutory step taken upon conclusion of an inquiry. Similarly, the High Court of Kerala was correct in holding that initiation of inquiry or the issuance of summons does not amount to the initiation of any proceedings. The phrase initiation of any proceedings refers specifically to the issuance of

a notice under the relevant provisions of the GST enactment.

74. In the facts of the present case, the mere issuance of

summons does not imply that the Department has decided to proceed against the taxpayer for recovery of liability. Therefore, issuance of summons, by no stretch, can be Signed By:VIKAS W.P.(CRL) 1872/2024 Page 17 of 21

considered as the initiation of proceedings, since at that stage, the Department still retains the discretion not to initiate any proceedings. A mere contemplation or possibility of initiating action cannot be equated with proceedings, as doing so would undermine the framework of cross-empowerment under the Act. Even when a discovery is made during the search proceedings under Section 67 of the CGST Act, the Department is required to bring such proceedings to a definitive conclusion, either by issuing a show cause notice under Section 74 or by dropping the matter altogether. [Emphasis supplied]

56. Thus, the Summons under Section 70 CGST Act pertains to an

inquiry and not the initiation of proceedings. Furthermore, with respect to the term inquiry as used in Section 70 CGST Act, the Division Bench of the Allahabad in G. K. Trading Company vs. Union of India and Ors., 2020 SCC OnLine All 1907, had observed that: 10. The words "subject-matter", "proceedings" and "inquiry" have not been defined either under the State GST Act or the Union Territory GST Act or the CGST Act. Therefore, these words have to be interpreted in the context of the aforesaid Acts. The word "inquiry" in section 70 has a special connotation and a specific purpose to summon any person whose attendance may be considered necessary by the proper officer either to give evidence or to produce a document or any other

Signed By:VIKAS W.P.(CRL) 1872/2024 Page 18 of 21

thing. It cannot be intermixed with some statutory steps which may precede or may ensue upon the making of the inquiry or conclusion of inquiry. The process of inquiry under section 70 is specific and unified by the very purpose for which provisions of Chapter XIV of the Act confers power upon the proper officer to hold inquiry. The word "inquiry" in section 70 is not synonymous with the word "proceedings", in section 6(2)(b) of the UPGST Act/CGST Act. [Emphasis supplied]

57. There may still arise a possibility of arrest in the future, as was the

case of the brother of the Petitioner No.1 in the present case. However, Section 69 CGST Act contains sufficient inherent safeguards, whereby the power of arrest has been delineated under the CGST Act. In *Jatin Gupta (supra)* it was held that: The legislature in its wisdom has made it mandatory that before affecting the arrest of the accused, the commissioner should have reasons to believe that a person has committed an offence under Section 132 of the CGST, it further provides that the officer authorized to arrest the person shall inform such person the ground of arrest.

58. Furthermore, in *Radhika Agarwal vs. Union of India (supra)*, a matter

examining the powers of the GST Officers with respect to the Arrest, which has been decided finally by the Honble Supreme Court of India on 27.02.2025, it has been held that: 70. We also wish to clarify that the power to grant anticipatory bail arises when there is apprehension of arrest. This power, vested in the courts under the Code, affirms the right to life and liberty under Article 21 of the Constitution to protect persons from being arrested. Thus, in *Gurbaksh Singh Sibbia (supra)*, this Court had

**held that when a person complains of apprehension of**

arrest and approaches for an order of protection, such application when based upon facts which are not vague or general allegations, should be considered by the court to evaluate the threat of apprehension and its gravity or seriousness. In appropriate cases, application for anticipatory bail can be allowed, which may also be conditional. It is not essential that the application for anticipatory bail should be moved only after an FIR is filed, as long as facts are clear and there is a reasonable basis for apprehending arrest. This principle was confirmed recently by a Constitution Bench of Five Judges of this Court in *Sushila Aggarwal and others v. State (NCT of Delhi) and Another*. Some decisions of this Court in the context of GST Acts which are contrary to the aforesaid ratio should not be treated as binding. [Emphasis supplied]

59. Therefore, sufficient safeguards are in place under both Section 69 CGST Act, as well as in the judgment of Radhika Agarwal (*supra*).

60. In any case, the Summons dated 06.05.2024, 20.05.2024 and 28.05.2024 have all been issued for taking the statement of the Petitioners, Signed By:VIKAS W.P.(CRL) 1872/2024 Page 20 of 21

and seeking the production of documents/ invoices against the goods seized during the search procedure conducted. There is no illegality in the said Summons to this extent, and the Respondent has acted well within its powers.

61. Further, the Petitioner No.2 has been released on bail vide Order dated

27.05.2024. Seeking setting aside of Summons, is essentially seeking interim protection or an anticipatory bail, during an inquiry stage, i.e. essentially at a stage when the Respondent is collecting information and evidence based on suspicion and cannot be equated with the initiation of proceedings, as discussed above.

62. In view of the same, the present Writ Petition, is premature and liable to be dismissed. However, the Petitioners would be at liberty to approach the

appropriate forum at the appropriate stage.

63. In light of the law discussed above, this Court finds no merit in the Writ Petition which is dismissed in the aforesaid terms.

64. Pending Applications, if any, also stand disposed of. (NEENA BANSAL KRISHNA) JUDGE JANUARY 30, 2026/R Signed By:VIKAS W.P.(CRL) 1872/2024 Page 21 of 21

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**