IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL NO.4308 OF 2020

Rahul Agarwal .... ***Petitioner***
Mr.S. Satpathy, Advocate

-versus-

State of Odisha .... ***Opposite Party***
Mr.Sunil Mishra, ASC (OGST),

CORAM:
MR. JUSTICE D.DASH

ORDER
29.03.2022

Order No.

04. 1. This matter is taken up through hybrid arrangement (virtual/physical) mode.

2. Heard Mr. S. Satpathy, learned Counsel for the Petitioner and Mr. Sunil Mishra, learned Additional Standing Counsel (OGST).

3. Keeping in view the submissions made; I have gone through the averments taken in the application with the annexures as well as other documents placed.

4. The Petitioner being the Director of M/s. New Laxmi Steel and Power Private Limited engaged in manufacturing of Sponge Iron and TMT Bar and sale thereof in two of its units has filed this application under section-438 of the Code of Civil Procedure, in view of the summon No.346/CG&GST (Annexure-5) dated 20.02.2020 issued to the Production Manager, M/s. New Laxmi Steel and Power Private Limited by the Enforcement Range, Cuttack under Section-70 of the Odisha Goods and Services Tax Act, 2017. Pursuant to the Authorization of Inspection/Search of the offices of the Company as well as the manufacturing units by the CT & GST

Officials and the consequential seizure of documents etc; the summon has been issued as required under section-70 of the OGST Act in connection with the investigation on the allegation of violation of the provision of OGST Acts and Rules made thereunder with regard to wrong availment of Input Tax Credit and Non-Payment of Goods and Service Act on the taxable supplies made by the M/s. New Laxmi Steel and Power Private Limited.

The allegations as to availment of ITC on the basis of fake GST invoices without actual purchase and sale of goods or hiring or rendering services are very serious in nature. The fraudulent ITC claims create huge liability upon the Government. The acts complained of against the persons concerned constitute threat to the very implementation of the law which has been enacted to speed up the economic growth of the country so as to make it stand as among the first few developed nations of the world. In such cases, for proper and effective investigation in finding out the truth, interrogation of persons connected thereto with reference to documents as to the details of the transactions stands as the absolute need and for that reason, mandatory provisions have been made. In that exercise, interrogation under a protection to the person concerned from any coercive action by the order of the Court is likely to lead said exercise in futility. Moreover, in the present case, the apprehension of the Petitioner of being arrested is not well founded.

In view of all these above, the move of the Petitioner, at this premature stage, does not merit acceptance.

5. The ABLAPL is accordingly dismissed.

Interim order passed on 01.05.2020 does no more survive.

The Petitioner is now directed to appear before the Investigating officer, CG & GST (Enforcement Range), Bhubaneswar on receipt of fresh summon, if any.

Issue urgent certified copy as per rules.

(D. Dash),
Judge.

Narayan