IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1195 of 2022

Muffazal Hakim Penwala .. Applicant

Versus

Superintendent, Office of Commissioner, CGST and C.Ex.and ors .. Respondents

…

Mr. Pankaj D. Jain with Tejashree R. Kamble i/b P.D. Jain & Co. for the applicant.
Mr.Jitendra B. Mishra, SPP i/b Sangeeta Yadav for respondent no.1.
Mrs.Rutuja Ambekar, APP for the State.

CORAM: BHARATI DANGRE, J.
DATED : 6th SEPTEMBER, 2022

P.C:-

1 As per the earlier directions, the respondent has placed on record an affidavit sworn by the Superintendent, CGST and Central Excise, Belapur and has produced on record DJARM mandates.

In the said affidavit, the ITC accrued has been shown in three tables and the table no.3 which give the comparative class of ITC Vs. E-Way bills for the financial year 2017-18, 2021-22, on the basis of the invoices as reflected in GSTR-2A, is recorded to be 6,32,97,614/-.

Considering that an amount of Rs.1,35,91,078/- deserve to be deducted from the total value of ITC, since for these transactions, E-way bill was not required for transactions below One lakh, which were in the nature Intra State transaction and below Rs.50,000/- in case of Inter State transaction, the sum has been deducted.

From the said chart, it is apparent that the E-way bills are alleged to be not generated to the tune of Rs.4,78,79,797/-

2 The learned counsel for the respondent Mr.Mishra clearly make a statement that since the e-way bills were required to be generated for invoices involving ITC of 4.97 crores and E-way bills of 0.18 were only generated, considering that the amount below Rs.5 crores, which in terms of Section 132 of the CGST Act, make the offence bailable, the present application deserve to be disposed off as the applicant is entitled for being released on bail, considering the amount involved below Rs.Five lakhs.

The learned counsel, however, state that this shall not preclude the respondents from initiating any further action, in case any further involvement in evading the E-way bills, noticed by the Department.

In the wake of the aforesaid statement, the application is disposed off.

(SMT. BHARATI DANGRE, J.)

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