IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.3194 OF 2025

Ashok Kumar Vishwakarma,]
Proprietor of M/s. Vishwakarma Enterprises,]
Bhiwandi, Dist. Thane] .. Petitioner

Versus

1. The Union of India,]
   Through the Revenue Secretary,]
   Finance Ministry, New Delhi]
2. The Commissioner, CGST & Central Excise,]
   Bhiwandi Commissionerate, Parel, Mumbai]
3. The Inspector, Anti Evasion,]
   CGST & Central Excise, Bhiwandi] .. Respondents

Mr. Nirmal Pagaria, Advocate for the Petitioner.
Mr. Deepak Jitendra Singh with Ms. Sangeeta Yadav, Advocates for Respondent Nos.1 and 2.
Mrs. G.P. Mulekar, Additional Government Pleader for the Respondent-State of Maharashtra.

CORAM : SHREE CHANDRASHEKHAR, CJ. &
GAUTAM A. ANKHAD, J.

DATE : 25TH SEPTEMBER 2025.

P.C. :

The petitioner seeks to invoke the jurisdiction of this Court under Article 226 of the Constitution of India in connection to the arrest memo prepared by the Inspector, Anti Evasion, CGST & Central Excise, Bhiwandi and the subsequent order passed by him releasing the petitioner on furnishing surety in the sum of Rs.1,00,000/- in the form of fixed bank deposit.

2. The petitioner states that he is the proprietor of M/s. Vishwakarma Enterprises and engaged in the trading of non-ferrous metal scrap. He has been issued GST registration for running his business from Bhiwandi warehouse. On 2nd December

2021, he received a summon under section 70 of the Central Goods and Service Tax Act, 2017 from the CGST and Central Excise Department under the signature of the Superintendent purportedly for making an enquiry in connection to M/s. CJ Enterprise. According to the petitioner, he received a second summon on 7th December 2021 in connection with the same entity and co-operated with the enquiry and submitted relevant documents but a third summon was issued to him on 31st January 2022 making further enquiries. It appears that a show cause notice dated 13th April 2022 was issued to the petitioner for cancellation of GST registration and the same was cancelled vide order dated 4th May 2022. The order of GST registration cancellation was challenged in Writ Petition No.4541 of 2023 and this Court by an order dated 7th August 2023 quashed the said decision with a liberty to the Department to issue a fresh show cause notice and to take appropriate steps in accordance with law. The petitioner further states that he received several summons and appeared before the concerned Authority and lastly on 18th August 2022, he appeared before the Inspector, Anti-Evasion, CGST & Central Excise, Bhiwandi.

3. The learned counsel for the petitioner submits that there are serious discrepancies in the arrest memo prepared on 18th August 2022 which does not specify the provision in law under which the petitioner was arrested. However, we find that the arrest memo specifically records that the petitioner has committed the offence under clauses (b), (c), (f) and (l) of sub-section (1) of section 132 of the Central Goods and Service Tax Act, 2017 which is punishable under the said Act. The another grievance raised on behalf of the petitioner is that the guidelines issued by the GST – Investigation Wing through Instruction No.02/2022-23 dated 17th August 2022

were not followed and the arresting authority acted in the matter in a mechanical manner. Just to indicate, that the guidelines issued vide Instruction No.02/2022-23 do not have a statutory force and violation of such guidelines shall not render the arrest illegal. The fact remains that the petitioner was released on the same day on furnishing a surety in the sum of Rs.1,00,000/- in the form of a fixed bank deposit and the petitioner has filed this Writ Petition about three years thereafter raising a grievance against the arrest so made. It seems that the whole effort of the petitioner is to take back the surety amount and for that purpose he seeks to challenge the bail order dated 18th August 2022.

4. In that view of the matter, we are not inclined to interfere in this matter. Writ Petition No.3194 of 2025 is, accordingly, dismissed.

[GAUTAM A. ANKHAD, J.] **[CHIEF JUSTICE]**

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