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

\+ **W.P.(C) 1143/2021**

PRAMOD VIJAY KHULLAR .....Petitioner

Through: Mr. Aman Ahluwalia Advocate for Mrs. Anjali Jha Manish and Mr. Priyadarshi Manish, Advs. (M: 9811150714)

versus

UNION OF INDIA & ORS. .....Respondents

Through: Mr Amit Tiwari CGSC, Mr. Ayush Tanwar & Ms. Ayushi Srivastava, Advs. (M:9311487129)
Mr. Himanshu Pathak, SPC, Mr. Amit Singh, Adv. (M:8860109331)

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE DHARMESH SHARMA

O R D E R

% **17.01.2025**

1. This hearing has been done through hybrid mode.

2. The present writ petition has been filed by the Petitioner under Article 226 of the Constitution of India challenging the *vires* of Sections 69 and 132 of the CGST Act, 2017 and seeking to declare them as being unconstitutional.

3. The counter affidavit filed by the Respondent shows that the Constitutional validity of these provisions have already been upheld on 8th January, 2021 in two connected petitions *i.e., W.P.(C) 5454/2020* titled ***Dhruv Krishan Maggu v. Union of India & Other*** and *W.P.(C) 10130/2020*

titled ***KP and Sons & Ors. v. Union of India & Ors.*** The relevant paragraphs of the said judgment reads as under:

> "*34.In fact, the power of arrest conferred by Section 69 of the Act is not a general power of arrest, but is restricted to certain offences which are specified under Section 69 of the Act namely some of the offences covered under Section 132 of the Act and the offences so specified are all offences relating to goods and service tax.* ***Consequently, this Court is of the prima facie view that the expression „with respect to" goods and services tax used in Article 246A, being a constitutional provision, must be given its widest amplitude and would include the power to enact criminal law with regard to goods and services tax.***
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> *38.****Consequently, this Court is of the prima facie opinion that the pith and substance of the CGST Act is on a topic, upon which the Parliament has power to legislate as the power to arrest and prosecute are ancillary and/or incidental to the power to levy and collect Goods and Services Tax.***
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> *41.Accordingly, this Court is of the prima facie opinion that even if Sections 69 and 132 of the Act could not have been enacted in pursuance to power under Article 246A, they could have been enacted under Entry 1 of List III, as laying down of a crime and providing for its punishment is "criminal law".* ***Consequently, this Court is of the prima facie view that in either option both Sections 69 and 132 of the Act are constitutional and fall within the legislative competence of Parliament."***

4. In view of this, on the previous date *i.e.,* 29th January, 2021, this Court had observed as under:

"1. The present petition has been filed challenging the vires of Section 69 and 132 of the CGST Act, 2017. By way of an interim application, direction is sought to respondents to not take any coercive action against the petitioner.
2. During the course of the arguments, the attention of the learned counsel for the petitioner has been drawn to recent decision dated 8th January 2021, rendered by this Court in ***Dhruv Krishan Maggu v. Union of India & Ors.*** *in W.P.(C) 5454/2020, wherein, by way of a detailed order, the court has dismissed the interim applications seeking similar relief of protection from coercive action.*
3. Mr. S.V. Raju, learned ASG submits that subsequently, the said decision has been followed by this court in its interim order/judgment dated 19th January 2021 in the case of ***Sartaj Ali v UOI &Anr.****, in WP(Crl.) 2020/2020, wherein the court has similarly refused to grant any interim protection. Ms. Manish, counsel for the petitioner, submits that the facts of the present case are distinct and the aforesaid judgments are not be applicable."*

5. Thereafter, the Petitioner had sought time to take instructions and to amend the petition. Today, it is submitted that the Petitioner has not received any instructions to amend the petition.

6. In view of this background, the challenge in this petition no longer survives and is, accordingly, dismissed.

7. On facts, however, if the Petitioner has any remedies, he is free to avail of the same.

PRATHIBA M. SINGH, J.

DHARMESH SHARMA, J.

JANUARY 17, 2025
dj/Am