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

\+ CRL.M.C. 2411/2021

DIRECTORATE GENERAL OF GST INTELLIGENCE

.....Petitioner

Through: Mr. Satish Aggarwala, Sr. Standing Counsel and Mr. Gagan Vaswani, Adv.

Versus

RAMESH WADHERA

.....Respondent

Through: Appearance not given.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

<u>O R D E R</u>

% 25.04.2025

1. Petition under Section 482 of the Cr.P.C. has been filed against the Order dated 2.3.2020 of learned ASJ, who vide Order dated 2.3.2020 in an application under Section 439(2) CrPC filed by the petitioner for recall of the Order dated 11.09.2019, rejected the challenge to the Order of the learned CMM granting bail to the respondent.

2. It is submitted that the Respondent along with three other persons, had been arrested by the petitioner Department, for fraudulent claim of IGST refund of more than 63 crores. Respondent was remanded to judicial custody and was eventually granted Bail by learned CMM vide Order dated 11.09.2019, which has been confirmed by the learned ASJ.

3. The recall of the Bail order is sought on the ground that the Order is bad in law as well as on tax.

4. The main contention of the Department is that the respondent is involved in many cases of fraud, which fact should have been considered by

the learned Trial Court. The details of 10 previous cases showing involvement of the Respondent was recorded in the order of the learned Sessions Court dated 2.3.2020. The reason given for dismissal of the Application of the Department seeking recall is the statement of the counsel for the petitioner that all these cases are not the cases, but are the only inquiries and in none of the cases Complaint has been filed. It was further observed by learned ASJ that these some of these Enquiries pertain to year 1993 and 1996 but there is no Complaint filed and thus, it cannot be considered as previous involvement of the respondent. It was clear from the Order of the learned ASJ that no such submission was made before the learned CMM.

5. It is asserted that learned ASJ has held in as much as not acknowledging serious involvement and repeated complexity of the respondent in offences and fraud. The fact that the Respondent is not only involved in number of economic offenses but being investigated by DRI and Customs, in some of these cases, he has already been held guilty and convicted in one matter. He is not even joining investigation and the DRI had to file prosecution for non-compliance of summons.

6. The involvement of the petitioner has been detailed in page 3 of the Order of the learned ASJ as under:-

S.No/Deptt.	Period	Title
1.CBI & Deptt. of Telephones	December 2005	Illegal international Telephone Exchange
2. Customs	May 2018	M/s.Accturist Overseas (OPC) Pvt. Ltd. Mis Horrens Exim, M/s. Sparx Exports, M/s. Shree Shyam Enterprises.
3.Customs	June 2019	M/s.Accturist Overseas (OPC) Pvt. Ltd. M/s

		Horrens Exim, Mis Sparx Exports, M/s Shree Shyam Enterprises
4.DRI (HQ)	April 1993	M/s. Chopra Associated Sanjay Gandhi Transport Nagar, New Delhi
5.DRI (HQ)	2014-15 & 2015-16	Fraudulent availment of Duty drawback
6. DRI (HQ)	March 2013	M/s Pixels Overseas
7.DRI (HQ)	November 2003	M/s Sea Sky Overseas, M/s Global Overseas, Exim International and Lakshay Export
8. DRI (HQ)	June 1996	Ramesh Wadhera, Darshan Singh, Muni Lal, Ajay Kumar Arora and Salish Dhingra
9. DRI (HQ)	DRI/DZU/23-ENQ/107/2015	M/s Dev International
10. DGGI (HQ)	August 2019	M/s. Monal Enterprises

7. It is thus, contended that the Respondent succeeded in getting the bail by making untrue statements and thereby playing fraud upon the Court. He has tried to mislead the Court while he is actually involved in multiple conspiracies of tax evasion.

8. The cancellation of bail is sought, for which reliance has been placed on *Prahlad Singh Bhati Vs. NCT of Delhi-2001 AIR SCW 1266, Malwinder Mohan Singh Vs. State of NCT of Delhi decided on 10.08.2020, P. Chidambaram Vs. Enforcement Directorate Crl. Appeal No.1430/2019 decided on 05.09.2019, State of Gujarat vs. Mohanlal Jitamalji Porwal (1987) 2 SCC 364* and various other judgments.

9. **Learned counsel on behalf of the respondent** has contested the Application and has submitted that though there was involvement of the

respondent in some cases but in most of the cases, no Complaint has been filed while in two or three matters, he has been sentenced to fine which has been duly paid by him. Some of the cases listed by the Prosecution are under 174,175 IPC wherein the respondent had joined investigations after the protection was given by this court.

10. There was no fraud committed by the Respondent as the counsel appearing on behalf of the Petitioner, had conceded before the learned ASJ that there were no complaints filed in these cases. It is submitted that since the day of bail being granted, the Complaint has still not been filed till date. There is no ground for cancellation of bail.

11. It is submitted that there was no fraud committed by the Respondent nor was there any misstatement of facts which warrants recall of bail Order.

12. Submissions heard and record perused.

13. Essentially the learned MM after considering the totality of facts, has granted bail to the Respondent. There is no ground shown that the discretion has not been exercised judiciously. The learned ASJ before whom the previous involvement had been agitated, has duly considered the same. Some of the prosecutions claimed by the Department are under 174, 175 IPC for not appearing before pursuant to the service of summons. Furthermore, no Complaint has been filed till date and there is no ground made out for recall of the Bail order.

7. The petition is hereby dismissed.

NEENA BANSAL KRISHNA, J

APRIL 25, 2025

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