* IN THE HIGH COURT OF DELHI AT NEW DELHI

% ***Reserved on: 22nd September, 2025***

Pronounced on: 16th December, 2025

\+ **W.P.(CRL) 1710/2024, CRL.M.A. 16659/2024**

MD. ANIQUL ISLAM
S/o Sabar Ali
R/o Gali No. 2, New Shastri Park, Delhi. .....Petitioner

Through: Ms. Manisha Gupta, Advocate.

versus

DIRECTORATE OF GOODS AND SERVICES TAX INTELLIGENCE, DELHI
through its Superintendent/Senior Intelligence Officer,
Delhi Zonal Unit, DGGI,
MTNL Building, Near Manipal Hospital,
Sector-6, Dwarka, Delhi. .....Respondent

Through: Mr.Anurag Ojha, SSC with Mr.Dipak Raj, Mr. Priyatam and Ms. Garima Kumar, Advocates.

\+ **W.P.(CRL) 1861/2024, CRL.M.A. 19746/2024 & 20363/2024**

AKHTAR HUSSAIN
Prop. Nila Biri Factory,
Dohabari, Uttar Dinajpur, West Bengal. .....Petitioner

Through: Ms. Manisha Gupta, Advocate.

versus

DIRECTORATE GENERAL OF GOODS AND SERVICES TAX INTELLIGENCE (DGGI)
through its Superintendent/Senior Intelligence Officer,
Delhi Zonal Unit, DGGI,
MTNL Building, Near Manipal Hospital,
Sector-6, Dwarka, Delhi. .....Respondent

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Through: Mr.Anurag Ojha, SSC with Mr.Dipak Raj, Mr. Priyatam and Ms. Garima Kumar, Advocate.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Writ Petition bearing No.1710/2024 under Articles 226/227 of the Constitution of India has been filed on behalf of the Petitioner Md. Aniqul Islam, to challenge Summons dated 06.05.2024 issued under Section 70 of the Central Goods and Services Tax Act, 2017 (*hereinafter referred to as 'CGST Act, 2017'*).

2. ***Brief facts*** are that Petitioner is engaged into a small-scale business to supply '*Bidi*' since 2020 in some pockets of East Delhi. He is registered with GST having Registration No.07CFIPM2676H2Z4. He purchased finished stocks of Bidi from ***M/s Nila Biri Factory, Village Dohabari, West Bengal,*** who are the manufacturer of *bidi* with the Brand name of 'Udaan', through proper Tax Invoices during Financial Years 2020-21, 2021-22, 2022-23, 2023-24 and 2024-25, which are as under:

Financial Year	Total Purchases	Invoice dated	Total Sales and Closing Stock	Remarks
2020-21	Rs.12,90,650/-	12.06.2020 & 14.12.2020	Sales – Rs.8,70,000/- Closing Stock- Rs.4,20,650/-	Copy of the Ledger of FY 2020-21 & all the tax invoices are annexed as **Annexure P-2**
2021-22	Rs.3,82,894/-	25.10.2021	Sales –	Copy of the

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			Rs.5,36,650/- Closing Stock- Rs.2,66,894/-	Ledger of FY 2021-22 & all the tax invoices are annexed as **Annexure P-3**
2022-23	Rs.10,32,192/-	14.07.2022 14.07.2022 17.01.2023 17.01.2023 17.01.2023	Sales – Rs.6,25,280/- Closing Stock- Rs.6,73,806/-	Copy of the Ledger of FY 2022-23 & all the tax invoices are annexed as **Annexure P-4**
2023-24	Rs.11,03,471/-	28.07.2023 26.03.2024	Sales – Rs.12,75,000/- Closing Stock- Rs.5,02,277/-	Copy of the Ledger of FY 2023-24 & all the tax invoices are annexed as **Annexure P-5**
2024-25 till date	Rs.6,63,560/-	16.04.2024 06.05.2024	Sales – Rs.5,00,000/- Closing Stock- Rs.6,65,837/-	Copy of the Ledger of FY 2024-25 & all the tax invoices are annexed as **Annexure P-6**

3. Petitioner submits that the payments were made through banking channels, details of which have been mentioned in the year-wise Ledger. No other purchase was made from any other Suppliers, by the Petitioner.

4. On 22.03.2024, a Search and Survey was carried out from 10:54 AM till 06:15PM., at the premises of the Petitioner located at Gali No.2, New Shastri Park, Delhi, by the Officers from the Office of DGGI, Zonal Unit Delhi. A *panchnama* and Order of Seizure under Rule 139(3) in Form GST

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INS02 dated 22.03.2024 was prepared by Sh. Rajpal, Intelligence Officer under his signature along with two other witnesses. As per the *panchnama*, goods worth Rs.7,22,500/- were seized by the Respondent / Officials of DGGI, Delhi. The reason of seizure and confiscation mentioned in the *panchnama* is that the Invoices of the said stock, were not provided.

5. The Petitioner was called to join investigations during this search, but he was not available at the time when the search began at 10:54 AM. He reached at 02:20 PM and fully cooperated with the Officers.

6. On the same day, i.e. 22.03.2024, Summons under Section 70 of CGST Act, 2017 without a DIN number, was issued by the Senior Intelligence Officer to the Petitioner, to appear on same day at 04:30 PM.

7. This Summons dated 22.03.2024 is claimed to be contrary to the *panchnama* dated 22.03.2024, as the Petitioner was with the Officers of the Respondent and co-operated through out. There was no purpose of issuing Summon under Section 70 of CGST Act, 2017, to appear at 04:30 PM. In fact, this Summon was an afterthought and was a violation of the procedure to be followed by the GST Officers, of giving Notice prior to carrying out any search. In order to cover up, the said Summon dated 22.03.2024 was served.

8. Md. Aniqul Islam was shocked to receive another summon dated 06.05.2024 (*signed on 03.05.2024*) seeking presence of the Petitioner on 08.05.2024, in connection with the goods seized on 22.03.2024; however, linking this to an entity namely *M/s Aarti Traders.* Petitioner claims to be not even remotely connected with M/s Aarti Traders. It is claimed that this summon dated 06.05.2024 is issued with an ulterior motive and must be stayed.

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9. Correspondingly, a **search was carried out** by DGGI at the factory premises and residential premises of **Akhtar Hussain**, **Proprietor of *M/s Nila Biri Factory, West Bengal*** in **W.P.(CRL) 1861/2024** on 15.05.2024 from 12:50 PM till 12:20 AM on 16.05.2024, as per the *Panchnama*. The stock lying at the premises matched with the stock register and was found to be in order. The *Panchnama* / Seizure Memo dated 15.05.2024 confirmed the search carried out at the factory premises and the co-operation of the Petitioner. The *Panchnama* indicated that nothing adverse was found from Petitioner's residential premises. Petitioner submits that all purchases were made after paying proper tax and he is regularly filing GST returns.

10. Petitioner Akhtar Hussain has stated that he is engaged into a small-scale business of manufacturing and supply of bidi, since 1990. After the demise of his father in 2019, he took over the said business. GST Registration Number of the business is 19ABPPH3960C1ZL and GST returns of the last five years, i.e. from FY 2019-20 to FY 2023-24 are collectively annexed, along with the Writ Petition.

11. Summons dated 25.05.2024 was issued against seeking the presence of **Akhtar Hussain**, before the Respondent DGGI on 31.05.2024, at 11.30 am. Aggrieved by the said Summons dated 25.05.2024, the Petitioner has filed the present Writ Petition.

12. The **Petitioners, in their respective Writs have challenged the Summons on the ground** that Summons dated **22.03.2024** and **25.05.2024** issued to **Aniqul Islam** and Summons dated **25.05.2024** issued to **Akhtar Hussain**, clearly reflect the ill-motive and *mala fide* intent of the search and seizure. Commissioner, GST (Investigation), CBIC *vide* their Circular Instructions bearing Nos.03/2022-23 and GST/INV/Instructions/2021-22

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both dated 17.08.2022, issued procedure of arrest and guidelines with respect to issuance of Summon under Section 70 of CGST Act, 2017, in cases where arrest is required.

13. The Summons are in clear violation of Circular No.128/47/2019-GST dated 23.12.2019, issued by the Ministry of Finance, Department of Revenue, CBDT, GST Investigation Wing, where a standard format, while issuing search, summon, arrest, inspection notice, etc., has been provided. Summons dated 22.03.2024 was handwritten and without DIN number and without the seal of the issuing Office. Such a summons, in the light of aforesaid Circular, has to be treated as invalid and deemed to have never been issued.

14. Petitioners have relied on Bank statements of the years 2020 to 2023, in support of their assertions. It is claimed that in the last few years, it has been noted by various Courts that the Officers of DGGI are misusing their powers given under Section 69 of CGST Act, 2017. In the name of revenue collection, the Officers have resorted to practices which are normally known as tax-terrorism.

15. Reference has been made to Bail Application No.3771/2021 titled as *Tarun Jain vs. Directorate General of GST Intelligence DGGI* decided on 26.11.2021.

16. It is further submitted that the Full Bench of the Apex Court in Writ Petition (Crl.) No.336/2018 titled as *Radhika Agarwal vs. Union of India*, is seized of a matter examining the powers of the GST Officers with respect to the Arrest, which is pending adjudication.

17. As per *Section 132(5) of CGST Act, 2017*, the offences relating to taxable goods and / or services, where the amount of tax evaded or the

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amount of input tax credit wrongly availed or the amount of refund wrongly taken exceeds Rs.5 crore, shall be cognizable and non-bailable. Other offences under the Act, are non-cognizable and bailable as provided in sub-*Section 132* (4) of the Act.

18. It is further submitted that since no assessment has ever been carried out, no liability is imposed / crystallized on account of GST dues by the Respondent, Section 132(5) CGST Act which clearly states that only where the amount exceeds Rs.5 crore would it be cognizable and non-bailable, cannot be invoked.

19. Furthermore, in the pre-GST regime, no arrest can happen without enquiry/assessment/adjudication, as has been held in the cases of *Make My Trip vs. UOI*, (2016) 44 STR 481 (Del.) and *Cleartrip Pvt. Ltd & Others vs. UOI*, (2016) 42 STR (Bom.)

20. Even in GST regime, it has been similarly held that no arrest can happen without enquiry/ assessment/ adjudication, for which reference has been made to *Akhil Krishnan Maggu vs. DGGI*, (2020) 32 GSTL 516 (P&H) and *Jaychandran Alloys P. Ltd. vs. Superintendent of GT Salem*, (2019) 25 GSTL 321(Mad.).

21. It is submitted that in *C. Pradeep Kumar vs. Commissioner of GST and Central Excise, Saleem*, the Apex Court had granted Anticipatory Bail to the Petitioner therein, on deposit of 10% of the disputed liability in the case. Likewise, in *Orion Secutiry Solutions & Anr. vs. Commissioner of CGST, Delhi East*, this Court also granted Anticipatory Bail to the Petitioner therein, on partial deposit of money out of total liability.

22. It is further asserted that no *Show-Cause Notice* has ever been given by the Respondent/s DGGI, Delhi to the Petitioners, for recovery towards

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GST dues/over-dues. In absence of such Notice, issuing summons under Section 70 CGST Act, 2017 and that too in a vague and mechanical manner, is only with the ulterior motive.

23. It is submitted that *Anticipatory Bail Application No.634/2024 preferred by the Applicant Aniqul Islam under Section 438 Cr.P.C., was dismissed by learned ASJ vide Order dated 15.05.2024*. He claims that he is fully cooperating in investigations and has provided all the Invoices and the Ledgers to show that he is a *bona fide* small scale purchaser, who had routed all the transactions through banking channels and there are no violations of CGST Act, 2017.

24. Reliance is placed on Judgment dated 14.12.2023 passed by Hon'ble Supreme Court in W.P.(CRL) No.138/2021 titled as *Ram Ramaswamy and Ors. Vs. Union of India and Ors*.

25. Reliance has also been placed on *Ashwani Oberoi vs. State of Haryana*, SLP (Crl.) 8695 of 2021 wherein the Apex Court had granted interim protection to one of the buyers of the Petitioner in the Aniqul Islam Writ, *vide* Order dated 28.05.2024, and bail was granted *vide* Order dated 02.03.2022.

26. The Petitioners claim parity in the light of the said decision. Reliance is further placed on *Suraj Vijay Agarwal vs. State of Maharashtra*, SLP (Crl.) 8432 of 2023, wherein the Apex Court had granted bail *vide* Order dated 21.08.2023 and on *Arun Yadav vs. The State of Uttar Pradesh*, SLP (Crl.) No. 1649 of 2024, wherein the Apex Court granted bail *vide* Order dated 01.03.2024 on the ground of parity.

27. Further, the Apex Court is examining the powers of the officers of the GST Department, in *Radhika Agarwal vs Union of India* (supra). Reliance is

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placed on the interim Order dated 17.05.2024 passed in the matter, whereby it has been observed that *an arrest under the Act cannot be on mere suspicion but after proper inquiry and adherence to the procedure laid down under the law, and should be based on verifiable material.*

28. As per the *panchnama* dated 22.03.2024 and 15.05.2024 respectively, full cooperation had been extended by the Petitioners in the first place. Moreover, the stock lying in the factory matched with the stock showing in the books of account and was found in order.

29. *Hence, it is prayed that a direction be issued to the Respondent from taking any coercive action against the Petitioners and granting protection to the Petitioners from arrest; the setting aside of summons* dated *06.05.2024* and *25.05.2024 respectively,* under Section 70 CGST, 2017 *issued by the Respondent and further, direct the Respondent to release the seized papers/documents/goods seized by them by respective panchnama.*

30. Counter Affidavit has been filed on behalf of the Respondent wherein it is submitted that the Petitioner Aniqul Islam was engaged in clandestine trading of goods *viz. Bidi* from Akhtar Hussain, the manufacturer namely M/s. Nila Biri Factory, based in West Bengal. The case requires further investigation, which includes the confrontation of the evidence recovered during searches conducted at the related premise of the Petitioner Aniqul Islam and M/s. Aarti Traders.

31. The evidence indicates clandestine trading of goods *viz*. Bidi from the same manufacturer by both the firms, which also needs to be confronted with the Petitioner. Further, till date no documentary evidence / Tax Invoice has been produced by the Petitioner Aniqul Islam against the goods seized, from his undeclared godown and no compliance of the Summons dated

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06.05.2024 and 20.05.2024 has been ensured. The apprehension of arrest of Aniqul Islam is absolutely unfounded and the invocation of extraordinary jurisdiction of this Court is calculated to derail the investigation and to avoid the liability of GST.

32. Reliance is placed on *Jatin Gupta vs. Directorate General of GST Intelligence Unit, Delhi*, 2023:DHC:6165, wherein the Court declining to grant protection at the stage of investigation, by observing that there are inherent safeguards in Section 69 prior to the affecting arrest of the accused persons.

33. Reliance is also placed on *Prakash Kumar Rameshbhai Patel vs. State of Maharashtra and Ors*., 2024:BHC-AS:17051-DB, wherein the High Court of Bombay, noting the non-cooperation of the Petitioner with the Investigating Authorities, declined to grant protection to the Petitioner.

34. It is claimed that the fraud committed in this case is of an extraordinary nature, characterized by a persistent and ongoing practice of fraudulent evasion of Goods and Services Tax. This type of fraud transcends ordinary offenses and poses a significant threat to the integrity of the GST system. Furthermore, the Petitioner is derailing the investigation by not cooperating with the investigating authorities. Therefore, the recourse to present Writ Petition is improper, as the Petitioner has not approached the Court with clean hands.

35. Reliance also placed on *The State of Gujarat vs. Choodamani Parmeshwaran Iyer*, 2023 INSC 972, wherein it was held that a prayer of Anticipatory Bail is improper at the stage of summons.

36. Respondent states **that correct facts** are that following a specific input, an investigation was launched simultaneously by the officer of the

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Delhi Zonal Unit of the Directorate General of Goods and Services Tax Intelligence (DGGI) against M/s Aarti Traders, situated in Panipat, Haryana and M/s Mohammad Aniqul Islam, situated in Shastri Park, Delhi.

37. The search proceedings under Section 67 (2) CGST Act, 2017 were conducted at their registered and undisclosed premises, including those of certain transporters based in Delhi and the Parcel Office of Old Delhi Railway Station. During the search conducted at the aforesaid premises, various incriminating details, documents, mobile phones, and unofficial records / *kacchi* were recovered. In addition, un-declared/non-duty paid goods i.e. *Bidi* were seized from the premises related to *M/s Aarti Traders* & *M/s Mohammed Aniqul Islam, of which Shri Naveen is the proprietor*.

38. Both parties are involved in the covert acquisition and distribution of merchandise, specifically *biri* under the "UDDAN" brand, through their respective proprietorship enterprises, which were sourced from *the mutual supplier, M/s Nila Biri Factory, located in Dohabari, Uttar Dinajpur, West Bengal.*

39. In respect of ***M/s Mohammed Aniqul Islam (Petitioner),*** it is documented that search operations were conducted on 22.03.2024 at two locations; one at principal place of business situated at Ground Floor, A-95 Flats, Shastri Park, North East Delhi, and other at undeclared warehouse situated in Gali No.2, Shastri Park, North East Delhi. During the inspection at registered place of business at Shastri Park, it was found that firm was not operational at the aforementioned premises. Instead, operations of the said firm were found to be conducted from an undeclared warehouse located in Gali No.2, Shastri Park, North East Delhi. A simultaneous search was carried out at the aforesaid undeclared warehouse. The proceedings of

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search were duly documented under a *Panchnama* dated 22.03.2024, in the presence of two independent witnesses (*panchas*) and an employee of M/s Mohammad Aniqul Islam.

40. During the search, a total of 85 cartons of un-declared/non-duty paid goods, specifically *Biri*, were discovered, which were on-site by the Officers. The confiscation was formalized under GST Form INS-02 dated 22.03.2024. This action was taken in accordance with the guidelines prescribed under CGST Act, 2017.

41. During the course of the search, Summons dated 22.03.2024 was issued to *Mr. Mohammad Aniqul Islam* pursuant to the authority vested under Section 70 of CGST Act. In compliance of the Summons, statement of Mr. Mohammad Aniqul Islam was duly recorded on the spot by the Competent Authority. However, due to certain technical reasons, the Document Identification Number (DIN) could not be generated at the time of issuance of the Summon. This issue was explicitly acknowledged on the Summon itself with a notation stating, "*Could not be generated due to technical error*" and the same was acknowledged by the Petitioner.

42. Furthermore, given the absence of any response from Mr. Mohammad Aniqul Islam regarding the goods seized by the Officers, a subsequent Summon was issued dated 06.05.2024 with DIN Number, as mandated, was issued. The intent of this second Summon was to ensure that the appropriate procedures for handling the seized goods, as stipulated under CGST Act, 2017 was duly followed.

43. However, instead of complying with the summons, the Petitioner Mr. Mohammad Aniqul Islam filed an Application before the learned District and Sessions Judge, Patiala House Court for grant of Anticipatory Bail,

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which was dismissed on 15.05.2024. Thereafter, Petitioner filed Anticipatory Bail Application before this Court.

44. It is further submitted that the grounds stated in the present Writ Petitions by the Petition are similar to those mentioned in the Anticipatory Bail Application filed before the learned Trial Court.

45. **On merits**, all the averments made in the Writ Petitions are denied as false. It is stated that due procedure was followed and there is no merit in both Writ Petitions, which are liable to be dismissed.

Submissions heard and record perused.

46. The present Writ Petitions have been filed for the setting aside of summons issued under Section 70 CGST Act, 2017, and the release of goods seized.

47. The Petitioners had been issued summons and asked to appear for ensuring that the appropriate procedures for handling the seized goods, as stipulated under CGST Act, 2017 were duly followed.

48. The Petitioners have challenged the summons on the ***grounds*** that they are in clear violation of the guidelines issued by the Respondent from time to time, and have even been issued without having the seal of the office of the Respondent, which is in gross violation of the guidelines.

49. The ***first aspect*** to be considered is the **nature of the summons issued under Section 70 CGST Act, 2017**.

50. Section 70 of the CGST Act, 2017 is as follows:

> "***70. Power to summon persons to give evidence and produce documents.***— *(1) The proper officer under this Act shall have power to summon any person whose attendance he considers necessary* ***either to give evidence or to***

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<u>produce a document or any other thing in any inquiry in the same manner, as provided in the case of a civil court under the provisions of the Code of Civil Procedure, 1908 (5 of 1908).</u>

1[(1-A) All persons summoned under sub-section (1) shall be bound to attend, either in person or by an authorised representative, as such officer may direct, and the person so appearing shall state the truth during examination or make statements or produce such documents and other things as may be required.]

(2) Every such inquiry referred to in sub-section (1) shall be deemed to be a "judicial proceedings" within the meaning of Section 193 and Section 228 (45 of 1860) of the Indian Penal Code."

[Emphasis supplied]

51. As per the ***Oxford Dictionary of Law*** (2003), the terms "***summons***" has been defined as *a Court Order to an individual to appear in Court, at a specific place and time*.

52. In *<u>Armour Security India Limited vs. Commissioner CGST Delhi East Commissionerate</u>*, 2025 SCC OnLine Del 5786, a writ petition had been filed challenging the summons issued by the CGST authorities, wherein the State GST authorities had already initiated proceedings against the petitioner therein, and the petitioner had averred that it was impermissible for the CGST authorities to commence any proceedings owing to Section 6(2)(b) of the CGST Act. It was observed by the Division Bench of this Court that:

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"7. We bear in mind the fact that <u>an investigation or any summons issued pursuant to a search would only be a precursor to proceedings that the Central GST authorities may initiate.</u> We also cannot possibly lose sight of the fact that a search case would stand clearly distinct and separate from proceedings which authorities, be it Central or State, may propose to undertake by virtue of powers conferred by Sections 73 or 74 of the Act.

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9. However and notwithstanding the above, ***<u>a summons issued pursuant to a search would have to be distinguished from an actual assessment that an authority may choose to undertake. This since such a summons is principally intended to elicit information in respect of material that may have been gathered or comes to light in the course thereof. A search may lead to the discovery of material and information which may not have been even available at the stage of the original assessment proceedings.</u>*** *However, if the contention of the petitioner were to be accepted, authorities would stand injuncted and barred from either examining the implication of the evidence so collated or consider justifiable inferences that could be drawn.* ***<u>A search could, hypothetically speaking, also lead to the recovery of material that never formed part of the original assessment and was unknown to the assessing authority. It could, theoretically speaking, also have a bearing on the</u>***

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truthfulness of the disclosures made in the course of the original proceedings. *The submissions addressed by learned senior counsel, in our considered opinion, clearly fails to factor these aspects into consideration.*

10. We are thus unconvinced that Section 6(2)(b) seeks to interdict a summon that may be issued pursuant to a search. ***As noticed hereinabove, at that stage the authority is merely seeking to gather information and a response from the assessee in respect of material unearthed and information gathered. We would at that stage also be unaware of what action the authority proposes to take.*** *We would thus be left to hypothesize whether the authority seeks to invoke Section 73 or Section 74 of the Act. If the authority were to invoke Section 74 in case of an assessment already made, it would still have to establish that the thresholds created by that section are satisfied.*"

[Emphasis supplied]

53. The order of the Division Bench of this Court was upheld in Special Leave Petition (Civil) No. 6092, titled *M/s Armour Security (India) Ltd. vs. Commissioner, CGST, Delhi East Commissionerate & Anr.*, 2025 SCC OnLine SC 1700 It was observed as follows:

"*57.* ***A summons is not the culmination of an investigation, but merely a step in its course. It is in this context that the legislature has used the term "inquiry" in Section 70, as at the stage of issuing a summons, the Department is primarily engaged in gathering information regarding a***

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__possible contravention of law, which may subsequently form the basis for proceedings against an assessee.__ Since the objective is to collect information, the Department has, in certain instances, advised resorting to a letter of requisition in place of a formal summons.

58. __At the stage of issuing a summons, the Department is yet to determine whether proceedings should be initiated against the assessee. Such evidence-gathering and inquiry do not constitute "proceedings" within the meaning of Section 6(2)(b) of the CGST Act. The mere issuance of a summons cannot be equated with proceedings barred under the Act, as the subject matter cannot be ascertained solely through summons.__ That said, summons should not be issued in routine matters or for documents readily available on the GST portal. They ought to be issued after much thought and consideration as to the exact information required. We acknowledge that the issuance of multiple, cyclostyled summons may indicate a roving inquiry.

59. We affirm and appreciate the view taken by the High Court of Allahabad in G.K. Trading (supra) and the High Court of Kerala in K.T. Saidalavi (supra) respectively. The High Court of Allahabad rightly held that the issuance of summons cannot be conflated with a statutory step taken upon conclusion of an inquiry. Similarly, the High Court of Kerala was correct in holding that initiation of inquiry or the issuance of summons does not amount to the initiation of

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"any proceedings". The phrase "initiation of any proceedings" refers specifically to the issuance of a notice under the relevant provisions of the GST enactment.

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74. In the facts of the present case, the mere issuance of summons does not imply that the Department has decided to proceed against the taxpayer for recovery of liability. ***Therefore, issuance of summons, by no stretch, can be considered as the initiation of proceedings, since at that stage, the Department still retains the discretion not to initiate any proceedings. A mere contemplation or possibility of initiating action cannot be equated with "proceedings", as doing so would undermine the framework of cross-empowerment under the Act.*** *Even when a discovery is made during the search proceedings under Section 67 of the CGST Act, the Department is required to bring such proceedings to a definitive conclusion, either by issuing a show cause notice under Section 74 or by dropping the matter altogether.*"

[Emphasis supplied]

54. Likewise, in the case of *Kuppan Gounder P.G. Natarajan vs DGGI, New Delhi*, 2021 SCC OnLine Mad 17053, a writ petition had been filed to challenge the summons issued under Section 70 of the CGST Act, 2017 by the Respondent therein. The Division Bench of the High Court of Madras had dismissed the petition, observing that:

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"3. The Learned Senior Counsel though argued the merits to some extent, this Court is of the considered opinion that disputed facts or merits need not be considered by this Court at this point of time, in view of the fact that the very issuance of summon under the provisions of the Act is under challenge. The impugned summon states that the respondent is making an enquiry in connection with the petitioner's company M/s. KPN Travels India Limited & Others under the Central Goods and Services Tax Act, 2017. The petitioner was directed to give evidences or produce documents or things of the following description in his possession or under his control.

4. This being the nature of summon issued, this Court is of the considered opinion that authorities need not be restrained unnecessarily to conduct investigation or proceedings under the statute. It is an opportunity for the petitioner to submit his documents, statements etc. ***In the event of entertaining a writ petition, at this budding stage/the same would paralyze the entire proceedings, which would not desirable and in such an event, the very purpose and object would be defeated****. Thus, on merits, no adjudication needs to be undertaken as such an exercise is to be done by the competent authorities of the department based on the records, documents and evidences or statements available. Writ Court cannot entertain such an adjudication, more specifically, when summon itself is*

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under challenge on the ground that the same lacks jurisdiction."

[Emphasis supplied]

55. From the aforesaid judgements, it emerges that under Section 70 CGST Act, 2017, the officer is empowered to summon any person, whose attendance he considers necessary either to give evidence or to produce a document or any other thing in any **inquiry** in the same manner, as provided in the case of a Civil Court under the provisions of the Civil Procedure Code, 1908. In terms of *Section 70(2),* every such inquiry referred to in sub-section (1) of Section 70 *shall be deemed to be **"judicial proceedings"** within the meaning of Section 193 and Section 228 of the Penal Code, 1860.*

56. The ***second aspect*** is to consider the meaning of the term ***"inquiry***" used in Section 70 CGST Act. The Division Bench of the Allahabad in *G. K. Trading Company vs. Union of India and Ors.*, 2020 SCC OnLine All 1907, had observed that:

> "*10. The words "subject-matter", "proceedings" and "inquiry" have not been defined either under the State GST Act or the Union Territory GST Act or the CGST Act. Therefore, these words have to be interpreted in the context of the aforesaid Acts.* ***The word "inquiry" in section 70 has a special connotation and a specific purpose to summon any person whose attendance may be considered necessary by the proper officer either to give evidence or to produce a document or any other thing. It cannot be intermixed with some statutory steps which may precede or may ensue upon the making of the inquiry or conclusion of inquiry.***

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<u>The process of inquiry under section 70 is specific and unified by the very purpose for which provisions of Chapter XIV of the Act confers power upon the proper officer to hold inquiry.</u> *The word "inquiry" in section 70 is not synonymous with the word "proceedings", in section 6(2)(b) of the UPGST Act/CGST Act.*"

[Emphasis supplied]

57. Therefore, for the purposes of Section 70 CGST Act, a summons is issued primarily for gathering information and for providing an opportunity to produce documents, etc.

58. ***Hence, issuance of summons under Section 70 CGST Act cannot be considered to be initiation of proceedings against the Petitioners.***

59. Even otherwise, in case there is a possibility of arrest in the future, there are sufficient inherent safeguards contained in Section 69 prior to the affecting arrest of the accused persons. In *<u>Jatin Gupta</u>* (*supra*), Section 69 CGST Act, which pertains to the power to arrest provided under the Act was considered and it was observed that "*The legislature in its wisdom has made it mandatory that before affecting the arrest of the accused, the commissioner should have reasons to be believe that a person has committed an offence under Section 132 of the CGST, it further provides that the officer authorized to arrest the person shall inform such person the ground of arrest.*"

60. In view of the same, the present Writ Petitions, are premature and liable to be dismissed. However, the Petitioners would be at liberty to approach the appropriate forum at the appropriate stage.

Conclusion:

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61. In light of the law discussed above, this Court finds no merit in the Writ Petitions which are **dismissed** in the aforesaid terms.

62. Pending Applications, if any, also stand disposed of.

(NEENA BANSAL KRISHNA)
JUDGE

DECEMBER 16, 2025/*R*

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