$~5

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

\+ W.P.(C) 13075/2021

DHRUV KRISHAN MAGGU .....Petitioner

Through: Mr. Akhil Krishan, Mr. Vikas Sareen, Ms. Oshin, Ms. Mehak Sharma and Mr. Aryan Nagpal, Advs.

versus

ADDITIONAL DIRECTOR GENERAL, DGGI (HQRS.), R.K. PURAM, NEW DELHI .....Respondent

Through: Mr. Harpreet Singh, SSC along with Mr. Jatin Kumar Gaur and Mr. Jai Ahuja, Advs.

CORAM:
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

O R D E R

% **21.05.2026**

1. The petitioner while placing reliance on the decision of the Supreme Court in ***Radhika Agarwal v. Union of India and Ors.***[1] contends that the respondents are under an obligation to supply the reasons to believe and the grounds of arrest. The reference to paragraphs 56 and 62 has been made by the petitioner, which are extracted as under:

> *"**56**. It is clear from the aforesaid provisions that, to pass an order of arrest in case of cognizable and non-cognizable offences, the Commissioner must satisfactorily show, vide the reasons to believe recorded by him, that the person to be arrested has committed a non-bailable offence and that the pre-conditions of sub-section (5) to Section 132 of the Act are satisfied. Failure to do so would result in an illegal arrest. With regard to the submission made on behalf of the Revenue that arrests are not made in case of bailable offences, in our considered view,*

[1] 2025 INSC 272

the Commissioner, while recording the reasons to believe should state his satisfaction and refer to the 'material' forming the basis of his finding regarding the commission of a non-bailable offence specified in clauses

(a) to (d) of sub-section (1) to Section 132. The computation of the tax involved in terms of the monetary limits under clause (i) of sub-section (1), which make the offence cognizable and non-bailable, should be supported by referring to relevant and sufficient material.

***62**. The circular also refers to the procedure of arrest and that the Principal Commissioner/Commissioner has to record on the file, after considering the nature of the offence, the role of the person involved, the evidence available and that he has reason to believe that the person has committed an offence as mentioned in Section 132 of the GST Act. The provisions of the Code, read with Section 69(3) of the GST Acts, relating to arrest and procedure thereof, must be adhered to. Compliance must also be made with the directions in D.K. Basu (supra). The format of arrest, as prescribed by the Central Board of Indirect Taxes and Customs in Circular No. 128/47/2019-GST dated 23.12.2019, has also been referred to in this Instruction. Therefore, the arrest memo should indicate the relevant section(s) of the GST Act and other laws. In addition, the grounds of arrest must be explained to the arrested person and noted in the arrest memo. This instruction regarding the grounds of arrest came to be amended by the Central Board of Indirect Taxes and Customs (GST-Investigation Wing) vide Instruction No. 01/2025-GST dated 13.01.2025 (GST/INV/Instructions/21-22). The circular dated 13.01.2025 now mandates that the grounds of arrest must be explained to the arrested person and also be furnished to him in writing as an Annexure to the arrest memo. The acknowledgement of the same should be taken from the arrested person at the time of service of the arrest memo. Instruction 02/2022-23 GST (Investigation) dated 17.08.2022 further lays down that a person nominated or authorised by the arrested person should be informed immediately, and this fact must be recorded in the arrest memo. The date and time of the arrest should also be mentioned in the arrest memo. Lastly, a copy of the arrest memo should be given to the person arrested under proper acknowledgement. The circular also makes other directions concerning medical examination, the duty to take reasonable care of the health and safety of the arrested person, and the procedure of arresting a woman, etc. It also lays down the post-arrest formalities which have to be complied with. It further states that efforts should be made to file a prosecution complaint under Section 132 of the GST Acts at the earliest and preferably within 60 days of arrest, where no bail is granted. Even otherwise, the complaint should be filed within a definite time frame. A report of arrests made must be maintained and submitted as provided in paragraph 6.1 of the Instruction. The aforesaid directions in the Circular/instruction should be read along with the specific directions* *outlined in the earlier judgments of this Court and the present judgment.*

2. It appears from the facts of case that the petitioner was arrested in the year 2019, thereafter, was released on bail. The offence against the petitioner was under Section 132 of the Central Goods and Services Tax Act, 2017. The petitioner is facing a complaint case at the instance of the department. The petitioner had made applications for supply of the reasons to believe and ground of arrest. Those applications are stated to be pending before the department.

3. The Court, thus, deems it appropriate to direct the Department to consider the petitioner's pending applications and do the needful, bearing in mind the principle laid down by the Supreme Court in the case of ***Radhika Agarwal.***

4. Petition stands disposed of.

5. If the grievance of the petitioner is not fully mitigated, shall be at liberty to take appropriate recourse in accordance with law.

PURUSHAINDRA KUMAR KAURAV, J

MAY 21, 2026/p