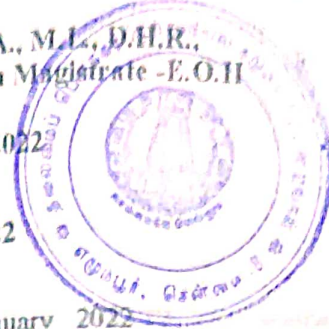


IN THE COURT OF THE ADDITIONAL CHIEF METROPOLITAN
MAGISTRATE (E.O.ID), COURT, EGMORE, CHENNAI 600 008.

PRESENT: Tmt. S. Hermies, B.A., M.L., D.H.R.,
Addl. Chief Metropolitan Magistrate -E.O.II

CrLM.P.No. 03 of 2022
in

R.R No. 01 of 2022



Dated this the 25th day of January 2022

Yasar Arabath. M/a, 28 yrs.,
S/o. Kaleel Rahman,
Proprietor of Tvl. Golden Traders,
(GSTIN: 33ANLPY6885F2Z8),
No. 39A, Second Main Road,
Shree Sai Nagar, West Tambaram,
Chennai – 600 045.

... Petitioner/Accused

/Vs/

The Deputy Commissioner (State Taxes),
(Inspection – II),
(Intelligence-II),
Chennai – 6.

.. Respondent/Complainant

This petition coming on 24.01.2022 before me for hearing in the presence of
M/s. Ahmad Associates, M. Mubarak Ahmad, M. Dinesh, R.Dinesh & J. Ashish,
Counsels for petitioner/accused, and Thiru N.R.R. Arun Natarajan, Special Govt.

Pleaded (Taxes) for the Respondent/Complainant, and upon perusing the records, and upon hearing the arguments of both sides, and having stood over for consideration till this day, this court delivers the following:-

ORDER

This petition filed by the Petitioner u/s. 436 of Cr.P.C to enlarge the petitioner on bail.

2. The averments in the petition filed by the Petitioner / Accused in brief is as follows:-

The petitioner/accused was arrested by the respondent and remanded to judicial custody on 10.01.2022 for the alleged offence u/s. 132 (1) (ii) of the CGST Act, 2017. He is innocent of the said commission of the offence. He undertakes to co-operate with the respondent in the investigation. He assures that he will not tamper any of the witness. He undertakes to appear regularly whenever and wherever he is ordered to do so by this Court. He seeks to enlarge him on bail. Hence, the petition.

3. Counter filed by the Respondent/Complainant is as follows:-

The petitioner/accused is engaged in bill trading activity and passing on Input Tax Credit to its beneficiaries. He has himself taken ITC in GSTR-3B return without actual receipt of goods and also issued fake invoices without supply of goods and this has resulted in loss of government revenue to the tune of Rs. 5,16,36,620/- (till

November 2021). An inspection was conducted in the place of business of the accused on 19.08.2021 as per the authroization of the Principal Secretary/Commissioner of Commercial Taxes, Chennai - 5 and a statement was obtained from the accused. The turnover and tax paid details as per GSTR-3B from the year 2018 to 2021 was mentioned as out of the total tax liability of Rs. 5,23,66,944/- (upto November 2021, the accused had paid the tax amount of Rs. 7,30,324/- and the balance tax liability of Rs. 5,16,36,620/- has been fraudulently passed over to the beneficiaries without making actual movement of goods. In the arrest order dated 06.01.2022 issued by the Additional Chief Secretary/Commissioner of State Taxes, Chennai, it was mentioned that the loss of revenue to the Government was Rs. 4,83,37,114/- and it was further stated that the total tax liability as Rs. 4,90,29,726/- (Upto August 2021), the Accused had made payment of Rs. 6,92,612/- in cash after adjusting ITC of Rs. 4,83,37,114/- for the years from 2018-2019 (From February 2019) to 2021-2022 (Upto August 2021) and the above figure mentioned was as on August 2021. On further scrutiny of monthly returns in Form GSTR-3B upto the month of November 2021, the tax liability is arrived as Rs. 5,23,66,944/- and the accused had paid the tax amount of Rs. 7,30,324/- and hence as on November 2021, the wrong availment of Input Tax Credit by the accused is Rs. 5,16,36,620/-. Hence the net tax evaded as mentioned in the Remand Application is Rs. 5,16,36,620/-. In the Arrest memo dated 10.01.2022, issued under Section 69 of the TNGST Act and CGST Act, 2017, Estimated tax evasion /

fraudulent Input Tax Credit involved is mentioned as Rs. 3.39 crores upto the month of July 2021. On further scrutiny of monthly returns in Form GSTR-3B upto the month of November 2021, the total tax liability of Rs. 5,23,66,944/- (upto November 2021), the taxpayer had paid the tax amount of Rs. 7,30,324/- and the balance tax liability of Rs. 5,16,36,620/- has been passed over to the beneficiaries without making actual movement of goods and these transactions should not be treated as outward supply and hence the actual tax evaded amounts to Rs. 5.16 Crores and the evidences gathered in this regard. The petitioner/accused has committed the offence under section 132(1) (b) & (c) of the TNGST Act and is liable to be punished under section 132(1) (i) of the TNGST Act as the amount of input tax wrongly availed is Rs. 5,16,36,620/-. Under Section 132(5) of the TNGST Act, the offence which the accused has committed is cognizable and non bailable. The accused is part of larger network and his custody is required to unearth the larger conspiracy involved to defraud the Government. A sustained investigation is of paramount importance and for the same, the custody of the accused is necessary. Hence, the petition is liable to be dismissed.

Heard

4. Petitioner is the accused in R.R.No.01/2022. The present petition has been filed on behalf of him to enlarge him on bail. The petitioner/accused has been arrested and remanded to custody for the commission of alleged offence u/s. 132 (1)

(i) of Tamil Nadu Goods and Service Act 2017. The petitioner/accused alleged to have been engaged in mere bill trading by raising invoices without actual supply of goods. He alleged to have passed on Input Tax Credit to a tune of Rs. 4,78,47,505/- . He alleged to have availed Input Tax Credit in this regard to a tune of Rs. 5,16,36,620/- The name of the companies also reflects in the Remand Report.

5. The foremost contention of the learned counsel for the petitioner is that the offence is bailable in nature and in this regard the quantum referred in the arrest memo issued to the petitioner has been referred. However the learned Special Govt. Pleader would contend that an error crept in and the input tax availed till the month of July 2021 was mentioned in the arrest memo issued to the accused. No doubt, glaring inconsistencies of quantum in the arrest in memo issued to the accused and the remand report. However the documents produced by the prosecution and the details given in the remand report would disclose that the input tax availed by the petitioner/accused had crossed 5 crores limit. So obviously it falls within the purview of 132(1)(i) of TNGST Act, 2017.

6. The petitioner/accused was examined under Section 70 of the TNGST Act 2017 and the record would manifest that the accused had admitted to have committed the offence. The statement has been enclosed with the Remand report. The evidentiary value of the statement has to be dealt with during the course of trial. Even

otherwise, there is prima facie complicity of the accused with the crime, Learned counsel for the petitioner would contend that the beneficiaries and those who evaded tax were not implicated. The medical records of the petitioner/accused showing various illness have been produced and the learned counsel would put forth a point of illness of the petitioner. Here it is to be emphasised that non implication of other accused and his illness would hardly be of any help to the accused. No infirmities as alleged in the procedure of arrest. The contention of the learned counsel for the petitioner/accused that the State authorities have no right to add the CGST tax evasion is quite untenable. The investigation is still in the nascent stage. Other persons involved in the racket is yet to be arrested. Prima facie complicity of the petitioner/accused in the crime is established. Release of the accused at this stage would hamper the investigation. Hence this Court is not inclined to allow the present petition.

7. In the result, petition is dismissed.

//Pronounced by me in open court this the 25th day of January 2022//