

TAX INFO

Dated 29/04/2022

Latest update on GST Law: Appellant cannot be indefinitely detained in custody when investigation is pending from 25 months in case of evasion of duty given in Judgment by Supreme Court Of India.

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Name of Petitioner	Paresh Nathalal Chauhan
Name of Respondent	The State Of Gujarat
Court	Supreme Court Of India
Date of Judgement	01.02.2022
Appeal No.	Criminal Appeal Nos.164-165 /2022

Brief Facts of the Case Law:

The appellant has laid emphasis on the fact that the proceedings arising from evasion of GST were preceded by a search operation where the officers concerned occupied a house for more than a week with lady members there which has been adversely commented upon by the High Court and its judgment dated 24.12.2019. The case of the appellant is that he has been in custody for 25 months out of a total period of 5 years for which he can be sentenced. The investigation is still stated to be pending.

Contention of the Department:

The appellant played an important role in execution of the scam and that confidential investigation is still under way in order to identify these persons and the role played in the execution of the scam. The appellant should not be enlarged on bail as he is a habitual offender who has earlier also been engaged in violation of the law as per earlier provisions. A number of accused are absconding and only on their being taken into custody would the root of the problem be detected where the evasion of duty is to the extent of 64 crores.

Decision of the Court:

The appellant cannot be indefinitely detained in custody more so having already undergone a period of 25 months of custody when he can be sent behind bars for maximum five years. It is almost 50% of the sentence.

The Court granted bail to the appellant on terms and conditions to the satisfaction of the Trial Court and the appellant must be careful not to indulge in any such activities in the future.

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