

TAX INFO

Dated 09.11.2021

Latest update on GST Law: Information regarding **Granting of Bail when the assessee availed fraudulent ITC** as given in **Judgements by High Court Of Punjab And Haryana.**

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Summary of Case: KrishanLal ChopraVSDirector General of GST Intelligence

ITC of Rs.12.19 crores was fraudulently availed by Shubham Steels on purchase from Atul Trading Company, Narwana, Shree Krishna Trading Company, Narwana and S.K. Trading Company, Kaithal taking benefit of nonworking of toll plazas in Punjab/Haryana due to farmers' agitation. During the period 01.11.2020 to 15.06.2021, Shubham Steels had passed on 40% of its ITC to a single firm, namely Salasar Castings whose proprietor is Sh. KrishanLal Chopra who was arrested.

However, it was contended by the petitioner that ITC availed by Shubham Steels on purchase made from its dealers is only Rs.12.19 crores and 40% of the same would be around Rs.4.87 crores and such offence is bailable. Also, No show cause notice was issued to the petitioner before arresting him, therefore, no legal procedure was followed, asking the petitioner to deposit any amount, if found short. The petitioner has been arrested straightway without following procedure under Section 69 of CGST Act; therefore, his arrest is in violation of Article 20 of the Constitution of India. The order dated 22.09.2021 was passed by this Court granting interim bail to the petitioner.

The order dated 22.09.2021 is made absolute thereby granting regular bail to the petitioner.

Summary of Case: Manoj BansalVS Director General of GST Intelligence

M/s Nikita Industries Pvt. Ltd., Sonapat is a manufacturer of Pure Lead Ingots and is registered with the GST Department. The petitioner is the Director in-charge of the Company and is thereby responsible for the conduct of the business of the same. The company was alleged of having availed a hefty amount of Input Tax Credit of Rs.15.44 crores on the basis of invoices issued by their suppliers, without any actual movement of goods. The said suppliers constitute 31 firms. Upon investigation, it came to surface that the said supplier firms were not even in existence at their registered premises. It was also uncovered during investigation that some of the transporters through whom goods were shown to have been conveyed, were also found to be non-existent. The petitioner was arrested.

The Court noted that the petitioner has complied with the conditions as imposed in the detailed order dated 16.03.2021 vide which interim bail was granted to the petitioner and also the fact that the petitioner had been in custody from 07.12.2020 till 16.03.2021 and that the challan has already been filed before the Judicial Magistrate Ist Class and the proceedings under Section 74 of the CGST Act have also been initiated and the case is primarily based on documentary evidence, thus, no purpose would be served in sending the petitioner back into custody.

The order dated 16.03.2021 is made absolute thereby granting regular bail to the petitioner.

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