

### **Bail granted to Chartered Accountant not being a beneficiary of illegal availment of ITC**

The Hon'ble Punjab & Haryana High Court in the matter of ***M/s Yogender Yadav v Union of India [CRM-M-53014 OF 2021 dated February 15, 2022]*** granted relief to a Chartered Accountant and held that judicial incarceration may not be prolonged, as it would unnecessarily curtail and fetter personal liberty of the Petitioner.

#### **Facts:**

M/s Yogender Yadav (**"the Petitioner"**) has been alleged to commit an offence under Section 132(1)(b)(c) of the Central Goods and Services Tax Act, 2017 (**"the CGST Act"**) while he was serving as a Chartered Accountant with two proprietorship concerns and became arrested on October 23, 2021. The Petitioner is alleged by the Union of India (**"the Prosecution"**) to facilitates fictitious statements of accounts and forged invoices of his two entities, to purportedly illegally avail the benefit , as embodied in Section 16 of the CGST Act.

The Court is of the opinion that the allegation as ascribed by the Prosecution to the Petitioner cannot be tested at this stage and only after the collection of evidence against the Petitioner, it can be concluded by the Inspector concerned to determine the validity of the Petitioner's incrimination. Moreover, there is no tangible evidence of his being a beneficiary of the illegal availment of the Input Tax Credit (**"ITC"**).

#### **Issue:**

- Whether the Petitioner is alleged to facilitates statement of accounts and forged invoices in order to illegally avail the benefit of ITC as embodied under Section 16 of the CGST Act?

#### **Held:**

The Hon'ble Punjab and Haryana High Court in ***[CRM-M-53014 OF 2021 dated February 15, 2022]*** held as under:

- The Petitioner is suffering judicial incarceration since his arrest, as made on October 23, 2021. Therefore, his further judicial incarceration may not be prolonged, as it would unnecessarily curtail and fetter his personal liberty.
- Held that, the Petitioner is ordered to be released from judicial custody in order to fleeing him from injustice and also asked to make his personal appearance when directed unless validly exempted.

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