

Limiting Judicial Intervention in relation to powers of arrest under Writ Jurisdiction

The Hon'ble Supreme Court in *State of Gujarat v. Choodamani Parmeshwaran Iyer & Anr.* [SLP(Crl.) No. 4212-4213 of 2019 dated July 17, 2023] set aside the order passed by the Hon'ble Gujarat High Court and held that power to arrest a person by an empowered authority under the GST Act may be termed as statutory in character and ordinarily the high courts should not interfere with exercise of such power under writ jurisdiction.

Facts:

Choodamani Parmeshwaran Iyer ("**the Respondent**") was issued multiple summons calling upon for interrogation in connection with an inquiry against M/s Iyer Enterprise Mundra Kutch in regard to the alleged evasion of tax under the provision of the Finance Act, 1994 ("**the Finance Act**") and the Central Goods and Services Tax Act, 2017 ("**the CGST Act**").

Revenue Department ("**the Appellant**") submitted that 14 summons have been issued to the Respondent but the Respondent appeared only for one such interrogation and contended that the inquiry was started five years ago but no proceedings could be initiated.

Thereafter, the Respondent filed two writs before the Hon'ble Gujarat High Court, as the Respondent was under apprehension of arrest, while passing an order dated December 24, 2018 ("**the Impugned Order**") wherein the High Court placed certain conditions on the Appellant with regard to interrogation.

Aggrieved with the Impugned Order the Appellant filed an appeal before the Hon'ble Supreme Court.

Issue:

Whether court vide writ petition can interfere with the statutory power of Revenue Authority by imposing conditions?

Held:

The Hon'ble Supreme Court in ***SLP (Crl.) No. 4212-4213 of 2019*** held as under:

- Observed that, if any person is summoned under Section 69 of the CGST Act for the purpose of recording of his statement, the provisions of Section 438 of Criminal Procedure Code, 1908 cannot be invoked.
- Opined that, the power of officers under the CGST Act to arrest a person could be termed as statutory in character and a writ court should not ordinarily interfere with exercise of such power.
- Relied upon the Judgement of the Hon'ble Supreme Court in ***Union of India v. Padam Narain Aggarwal and Ors. (2008) criminal appeal No. 1575 of 2008*** wherein the court observed that normally the court should not impose any condition before effecting arrest, if any conditions are imposed before effecting arrest for instance giving prior intimation to the person concerned etc., the statutory provisions would render ineffective and meaningless.
- Held that, the Respondent shall be afforded an additional opportunity to present before the authority for the purpose of recording of their statements.

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