

Notice issued to Revenue Department challenging the arrest & summoning powers of GST officials

The Hon'ble Supreme Court in ***Gagandeep Singh v. Union of India & Ors. [W.P. (Crl) No. 339 of 2023 dated August 25, 2023]*** admitted the Writ filed by the Gagandeep Singh ("**the Petitioner**") and issued notice to the Revenue Department, challenging GST provisions pertaining to power to arrest and power to summon.

The Petition have been filed writ before the Hon'ble Supreme Court under Article 32 of the Constitution of India, contesting the constitutional validity Section 69 (i.e., power to arrest), and Section 70 (i.e., power to summon individuals to furnish proofs and produce documents) of the Central Goods and Services Tax Act, 2017 ("**the CGST Act**").

The Petitioner contended that the above provisions are of criminal in nature, they could not have been enacted under Article 246A of the Constitution of India. The power to arrest and prosecute is not ancillary and incidental to the power to levy and collect goods and services tax. The Petitioners submitted that Entry 93 of List 1 of the Seventh Schedule of the Constitution of India confers jurisdiction upon the Parliament to make criminal laws only concerning matters in List 1, not CGST. Therefore, Sections 69 and 70 of the CGST Act are beyond the legislative competence of the Parliament.

It is worth noting that even though CGST officers possess the powers of both police officers and civil court officials during their investigations, the proceedings are consistently referred to as 'inquiries,' and the individuals summoned are not regarded as 'accused.' It has been emphasized that these officers are not officially recognized as police officers, resulting in the summoned individuals being denied the safeguards specified in Article 20(3) of the Indian Constitution. The cases assert that this scenario is leading to substantial unfairness for the Petitioners.

The Petitioners have filed the present petitions, suspecting coercive action by the Respondents, and have asked that the proceedings against them under the CGST Act, in connection with an alleged non-cognizable offence, be quashed without adhering to the legal process as set forth in Chapter XII of the CrPC, specifically Sections 154 to 157 and Section 172 thereof.

The Supreme Court after hearing the case on August 25, 2023 tagged the present matter with the ***Gagan Kakkar vs. Union of India [WP (Cr.) 357/2023]*** and held that no coercive steps will be taken against the Petitioner.

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