



2024 : DHC : 384



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Judgment reserved on: 11th December, 2023***
Judgment delivered on: 19th January, 2024

+ CRL.M.C. 881/2023

DIRECTORATE GENERAL OF GST INTELLIGENCE... Petitioner
Through: Mr.Satish Aggarwala, Senior
Standing Counsel and Mr.Anurag
Ojha, Senior Standing Counsel with
Mr.Gagan Vaswani, Advocate.

versus

MANISH GOYAL Respondent
Through: Mr.Tanmay Mehta, Mr.Vijay Kasana,
Mr.Kshitij Chhabra and Mr.Chirag

+ CRL.M.C. 6801/2023 & CRL.M.A. 25415/2023 (stay), CRL.M.A.
25416/2023 (Ex.)

MANISH GOYAL Petitioner
Through: Mr.Tanmay Mehta, Mr.Vijay Kasana,
Mr.Kshitij Chhabra and Mr.Chirag
Verma, Advocates.

versus

DIRECTORATE GENERAL OF GST INTELLIGENCE
..... Respondent
Through: Mr.Satish Aggarwala, Senior
Standing Counsel and Mr.Anurag
Ojha, Senior Standing Counsel with
Mr.Gagan Vaswani, Advocate.

CORAM:
HON'BLE MR. JUSTICE AMIT BANSAL



JUDGMENT

1. CRL.M.C.881/2023 has been filed on behalf of the agency Directorate General of GST Intelligence (DGGI) against the order dated 21st December, 2022, passed by the learned Additional Sessions Judge (ASJ), Patiala House Courts, New Delhi, whereby regular bail was granted to the accused Manish Goyal.
2. CRL.M.C.6801/2023 has been filed on behalf of the accused Manish Goyal seeking setting aside of the order dated 15th September, 2023, passed by the learned Additional Sessions Judge (ASJ), Patiala House Courts, New Delhi, whereby regular bail granted *vide* order dated 21st December, 2022 was cancelled.
3. Brief facts, as agitated by the DGGI, are as follows:
 - 3.1 The accused Manish Goyal is the proprietor of M/s Radiant Traders situated at B-36-6, Jhilmil Industrial Area, Shahdara, Delhi, which is engaged in manufacture of smoking mixtures.
 - 3.2 M/s Radiant Traders had supplied their smoking mixture to M/s Harsha International, who exported the said mixtures. One of the batch of consignments which were sent for export by M/s Harsha International were intercepted by the officials of DGGI at Mundra Port, Gujarat and were examined by the Central Revenues Control Laboratory (CRCL), Kandla, wherein it was revealed that the aforesaid smoking mixture was a spurious product and not fit for human consumption.
 - 3.3 During the course of investigation, it was found that no business activity was being conducted from the registered premises of M/s Radiant Traders and no goods or plant or machinery was found at their premises. Further, search was also conducted at the previous business premises of M/s



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Radiant Traders situated at D-248, Gali No.10, Near Laxmi Nagar Metro Station, Laxmi Nagar, Delhi and it was found that M/s Radiant Traders was not existing.

3.4 Subsequently, statement of accused Manish Goyal was recorded under Section 70 of the Central Goods and Services Tax Act, 2017 (CGST Act).

3.5 Manish Goyal was arrested on 25th November, 2022 under the allegations of having committed offences under Section 132(1)(b) and (c) of the CGST Act.

3.6 Manish Goyal approached the learned Additional Chief Metropolitan Magistrate (ACMM), Patiala House Courts, New Delhi for grant of regular bail which was dismissed *vide* order dated 8th December, 2022.

3.7 Thereafter, Manish Goyal preferred a bail application before the learned Additional Sessions Judge (ASJ), Patiala House Courts, New Delhi, which was allowed *vide* order dated 21st December, 2022 and he was released on regular bail.

4. After the grant of bail, Manish Goyal was summoned by the DGGI on four subsequent occasions and Manish Goyal was late by two hours in respect of the first two summons and did not join investigation in respect of the next two summons.

5. Resultantly, the DGGI moved the Sessions Court seeking cancellation of the bail granted to him *vide* order dated 21st December, 2022, which was allowed by the learned ASJ, Patiala House Court, New Delhi, *vide* order dated 15th September, 2023. This Court had granted stay on the aforesaid order *vide* order dated 19th September, 2023.



6. Senior Standing Counsels appearing on behalf of the DGGI have made the following submissions:

- I. Manish Goyal is involved in a serious economic offence relating to evasion of Goods and Services Tax (GST) to the tune of Rs.218 crores.
- II. In the present case, Input Tax Credit has been shown to be received by M/s Radiant Traders on the basis of procurement of cigarettes which have been shown to be used as raw material to manufacture smoking mixture. M/s Radiant Traders has purchased raw material worth Rs.221 crores and sold the finished products (smoking mixtures) at Rs.69 crores. Therefore, the aforesaid method is neither economically viable nor technically feasible and has been done only to commit fraud upon the exchequer.
- III. The smoking mixtures seized at Mundra port were tested by CRCL, Kandla, wherein it has been established that the smoking mixture is a spurious product and not fit for human consumption.
- IV. Manish Goyal is required in custody in order to unearth the conspiracy behind the present case and to ensure that he does not interact with the other co-accused persons, who are avoiding investigation.
- V. As per the statement of Manish Goyal recorded under Section 70 of the CGST Act, he has admitted that no manufacturing activity was being carried out at M/s Radiant Traders and cigarettes were not used as inputs in manufacturing of smoking mixtures. He has further stated that if cigarettes are shown to be received at the



premises of M/s Radiant Traders, they must have been sold in the wholesale market in Delhi.

- VI. Statements given under Section 70 of the CGST Act can be used as evidence and are a valid piece of evidence in view of Section 136 of the CGST Act which pertains to the relevancy and admissibility of statements made and signed under Section 70 of the CGST Act. In this regard reliance has been placed on the case of ***Tofan Singh v. State of Tamil Nadu*** (2021) 4 SCC 1.
 - VII. Manish Goyal was granted bail on the condition that he shall join investigation and co-operate in the same. However, Manish Goyal was late on two occasions and did not appear on the next two occasions on being summoned after the grant of bail on 15th September, 2023.
7. *Per contra*, counsel appearing on behalf of Manish Goyal has made the following submissions:
- I. As has been observed in the impugned order dated 21st December, 2022, passed by the learned ASJ, the CRCL Report is inconclusive and on the basis of the report it cannot be said that the cigarettes purchased have not been used in the manufacture of the smoking mixture.
 - II. Merely on the basis that one of the consignments was found to be spurious, it cannot be assumed that all previous consignments were spurious as well.
 - III. There is no infirmity in the order granting bail and hence there is no ground for interfering with the same.



- IV. No criminal complaint has been filed in the present case and therefore this is a pre-chargesheet case.
- V. Non-appearance on one date cannot be a ground for cancellation of bail. The accused has appeared for investigation on every date except 27th February, 2023, which was on account of is ill-health.
8. I have heard the counsels for the parties and perused the material on record.
9. The DGGI has drawn attention to the statements of various persons involved in the present case including Manish Goyal, in a sealed cover.
10. Manish Goyal, in his statement under Section 70 of the CGST Act has stated that no manufacturing activity with respect to smoking mixtures was being carried on by M/s Radiant Traders and no smoking mixtures have been supplied by his firm to M/s Harsha International. However, he has stated that he had provided signed copies of documents such as Aadhar Card, PAN Card, photographs among others, to Chirag Goel, who had set-up M/s Radiant Traders in his name.
11. It also appears from the statement given by Abhay Kumar, the Director of Pinnacle Exports Trade Pvt. Ltd., who was also the driver of Chirag Goel, that Manish Goyal was an employee of Chirag Goel, the main accused.
12. As per the DGGI itself, when the suppliers of cigarettes to M/s Radiant Traders were questioned as to who contacted them on behalf of M/s Radiant Traders, they all named Chirag Goel as the proprietor of M/s Radiant Traders.
13. Therefore, on a *prima facie* view, it appears that Manish Goyal was acting on the directions of the co-accused Chirag Goel and was not



responsible for or aware of the day to day functioning of M/s Radiant Traders. It also appears that it was Chirag Goel who had set up M/s Radiant Traders by taking documents from Manish Goyal and the real control of the firm was with Chirag Goel.

14. Further, Manish Goyal has spent almost a month in custody and it is not the case of the DGGI that further custodial interrogation is required.

15. In these facts and circumstances, this Court finds no infirmity in the order dated 21st December, 2022 passed by the learned ASJ granting bail to Manish Goyal.

16. I am in agreement with the submissions made on behalf of Manish Goyal that non-appearance for investigation on one or two dates cannot be ground for cancellation of bail. It is an admitted position that after grant of regular bail, Manish Goyal did appear before the authorities pursuant to summons received by him on various occasions. Therefore, the order dated 15th September, 2023, passed by the Sessions Court cancelling bail on account of non appearance on one or two dates is harsh and is accordingly set aside.

17. However, it is made clear that Manish Goyal shall strictly comply with the conditions imposed *vide* order dated 21st December, 2022, passed by the learned ASJ while granting bail.

18. Though this Court is confirming the bail granted to Manish Goyal, he is warned that in the future, if he does not appear pursuant to summons issued by the DGGI, his bail would be liable to be cancelled. However, the DGGI shall give a notice of at least 48 hours to appear pursuant to the issuance of summons.



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19. Liberty is given to the DGGI to seek cancellation of bail in the event Manish Goyal fails to appear in a timely manner pursuant to summons issued.

20. Accordingly, CRL.M.C.881/2023 filed on behalf of the DGGI is dismissed and CRL.M.C.6801/2023 filed on behalf of Manish Goyal is allowed. All pending applications stand disposed of.

21. Needless to state that any observations made herein are purely for the purposes of deciding the question of grant of bail and shall not be construed as an expression on the merits of the case.

AMIT BANSAL, J.

JANUARY 19, 2024

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