

HIGH COURT OF ORISSA: CUTTACK

BLAPL NO.2217 OF 2020

AMIT BERIWAL

petitioner

Versus

STATE OF ODISHA

Opp. Party

For petitioner:

Mr.S.Mohanty, AK.Mohanty,
H.K.Singh, R.P.Kar,
A.N.Ray, N. Paikray,
B.P.Mohanty,
S.K.Rout, Advocate

For the Opp. Party:

Mr. Sunil Mishra,
Addl. Standing Counsel

PRESENT

THE HONOURABLE SHRI JUSTICE S.K. PANIGRAHI

Date of Hearing – 10.06.2020 Date of judgment –27.07. 2020

1. The present petitioner, who is in custody, has filed the instant bail application under Section 439 of the Cr.P.C. in connection with Case No.2 of 2019 dated 18.01.2020 of the C.T. and GST Enforcement Unit Jajpur, Jajpur Road, corresponding to 2(C) CC Case No. 9 of 2020 for commission of offences punishable under

Section 132(1)(b)(c) and (l) of OGST Act, 2017. Prior to instant application, the petitioner also approached the First Additional Sessions Judge, Rourkela vide Bail Application No. 70 of 2020 arising out of 2(C) cc Case No. 9 of 2020 which was rejected on 24.02.2020.

2. Shorn of unnecessary details, as per the underlying complaint and the prosecution report, a large number of fraudulent business transactions were made using several fictitious firms including M/s G.S Unitrade, M/s G.S. Steels and Alloys Co. M/s B.B Associates, M/s Om Shri Ganesh Traders. Sri Amit Beriwal/Petitioner herein, Sri Ronak Beriwal, Sri Subhash Chandra Swain and Sri Basanta Kumar are the proprietors of M/s GS Unitrade, M/s G.S. Steels & Alloys Co, M/s B.B. Associates and M/s Omm Shree Ganesh Traders respectively. The above persons, individually and in collusion with each other, are stated to have created several dummy and non-existent entities to avail bogus Input Tax Credit (ITC), for the purpose of defrauding the Revenue.

3. The typology and modus operandi of such fraudulent activities involved in the creation of these dummy and non-existent firms, it appears, have been a matter of grave concern for the authorities. They were predominantly engaged in passing bogus input tax credit, secured on the strength of fake and fabricated invoices, without supply of any physical goods to such other existing and non-existing firms, thereby enabling the recipients to avail and utilize the same while discharging tax liabilities. These fake and fraudulent transactions have, among others, caused huge loss to the State exchequer at least to the tune of Rs.122.67 crores.
4. After intensive analysis of data from GSTN/e-way bill portal and inputs from various sources, the Joint Commissioner of State Tax, CT & GST Enforcement Range, Sambalpur detected the fraud committed by the Accused. After being satisfied that M/s GS Unitrade is engaged in such fraudulent business activities, the Authority issued INS-01 for conducting inspection and search of his business premises and residence.

5. As seen from the records, during the search, several incriminating documents, containing business transactions of such business entities, were unearthed and seized with due acknowledgement. The Petitioner was subsequently summoned by the Authorities. The Petitioner was subjected to interrogation and, *prima facie*, it appears that the Petitioner, in his capacity as the proprietor of M/s G.S.Unitrade, has shown to have purchased goods from many bogus firms and has availed ITC on the strength of fake invoices, without actual transfer of goods; used to place purchase orders to the suppliers through Brokers/Dalal whose identities are yet to be ascertained; during the period 2017-18, 2018-19 and 2019-20 has availed ITC worth about Rs.12,62,91,751.00 on purchase of good and transferred/passed on ITC worth Rs.13,85,88,423.00 on sale of goods to the recipients. The manner in which the Accused, in collusion with other accused, have been operating would suggest that there are certain inherent flaws in the GST system, which is prone to such abuse. Furthermore, the fraudsters are taking advantage of the inadequacy of electronic trails of all transactions by employing ingenious methods.

6. The investigation conducted by officers of DGGI, Bhubaneswar, also revealed that the purported suppliers were also non-existent/non-functional and were being used as a tool to defraud the Revenue. The Investigation report submitted by the Officers of CT & GST Enforcement Unit, Bolangir, Cuttack-I, Cuttack-II, Balasore, Rourkela, Jharsuguda, Sambalpur, Angul and Baripada also confirm the said findings.
7. Pertinently, the search and inspection conducted by the State Authorities have revealed that no business was actually being conducted by the declared place of business; multiple entities have been shown to be functioning from same premises; there are no transport documents or lorry receipts to show the actual supply of goods; there were no warehouses to stock the purported goods; and no equipment to measure or weigh the same were available in the premises.
8. The records further reveal that during the period February, 2018 to October, 2019, the petitioner, through his firm M/s G.S. UNITRADE has availed input tax credit of Rs.4.18 crores and has passed on the same, without physical receipt or supply of goods.

Further, the total bogus input tax credit availed and passed on by the petitioner in the name of these fake firms is around Rs. 8.63 crores. In addition to the above, the Department also uncovered as many as 21 fictitious firms fraudulently floated and operated by the petitioner. Interestingly, these fictitious firms have been created in the name of many daily labourers, private tutors, housewives etc., with the help of their identity documents like PAN, Aadhaar Card, Mobile phone, Voter Card, etc.. The said documents, it appears, were obtained on the pretext of offering them employment. The records also reveal that the accused has raised bogus input tax credit to the tune of Rs.71 Crores, by utilizing such fake invoices and has passed on that bogus ITC. The petitioner has thus spearheaded the tax fraud of massive proportions and defrauded the Revenue of about Rs.98.91 crores (Rs.94.73 Cr. +4.18 Cr.) thereby causing losses to the public exchequer. The accused is thereby alleged to have committed offences under Section 132(1)(i) read with Section 132(5) of the OGST Act, 2017, which are a non-bailable and cognizable.

9. Learned counsel appearing for the petitioner, Mr S. Mohanty submits that the present petitioner is no way involved in the commission of the offences alleged and that he has been arrested on frivolous grounds, in violation of the guidelines laid down in ***D.K.Basu Vs State of West Bengal***.¹ He further submits that the proceeding in the instant case has been drawn at the behest of State officials which is not maintainable as, per the self-same allegation, investigation is also being conducted by the Central Tax Authority in view of Section 6(ii)(b) of CGST Act.. He also relied on the copy of a notification bearing No.D.O.E. No.CBEC /20/43/01/2017 GST (Pt.) dated 05.10.2018 issued by the Ministry of Finance of Govt. of India. He also relied on the judgment of the High Court of Gujarat in ***Sureshbhai Gadhecha Vs. State of Gujarat***² He further submitted that the present petitioner has been arrested in contravention of Section 41 and 41-A of the Cr.P.C. with respect to the alleged offence which is punishable with imprisonment upto five years. He also contended that, without serving any notice as provided under

¹(1997) 1 SCC 416.

² Special Civil Application No.23279 of 2019 dated 7.12.2019(Gujarat HC)

Section 41-A of the Cr.P.C, the authority could not have arrested him. On the merits of the case, he submits that the arrest has been made without determining the tax liability and by wrongfully calculating ITC allegedly availed by the present petitioner.

10. During course of argument, he relied on judgments delivered by various High Courts namely, **Vimal Vs. State of Gujarat**³ **Kamlesh Vs. State of Gujarat**,⁴ **Mahendra Sinh Vs. State of Gujarat**,⁵ **Halari Vs. State of Gujarat**⁶, **Rakesh Kumar Khandelwal Vs. Union of India**⁷, **Make My Trip Pvt. Ltd. Vs. Union of India**⁸ **Jayachandran Alloys (P) Ltd. Vs. Superintendent of GST & C.Ex. SALEM**⁹, **Clear Trip Pvt. Ltd. Vs. Union of India**,¹⁰ **Akhil Krishna Maggu Vs. Dy. DIR., D.G. of GST Intelligence**,¹¹ **P.V. Ramana Reddy Vs. Union of**

³ Civil Application No.13679 of 2019 dated 07.08.2019.

⁴ Criminal Misc. Application No.16662 of 2019 decided on 13.09.2019.

⁵ Criminal Misc. Application No.2210 of 2019 dated 18.12.2019,

⁶ Criminal Misc. Application No.16656 of 2019 dated 13.09.2019

⁷ Criminal Miscellaneous Bail Application No.12440 of 2019 (Rajasthan HC) disposed of on 14.10.20-19

⁸ 2016 (44) (DEL)- Delhi High Court

⁹ 2019 (25) GSTL 321 (Mad)-Madras High Court

¹⁰ (2016) 42 STR 948 (Bom)- Bombay High Court

¹¹ 2020 (32) GSTL. 516 (P & H)-Punjab & Haryana HC

India,¹² Siddharam Satlinagappa Mehetre Vs. State of Maharashtra & Ors¹³, P.Chidambaram Vs Central Bureau of Investigation¹⁴. .

11. Per contra, Mr. Sunil Mishra, learned Addl. Standing Counsel appearing for the State submitted that the proceeding has been rightly initiated against the present petitioner and after complying with the all formalities relating to arrest, he has been arrested. The petitioner is engaged in choreographing a complex variant of GST fraud. The provision of Section 41 and 41(A) of the Cr.P.C. is not applicable to the facts involved in the present case. He made detailed submissions regarding the economic perspective of the fraud, the nature and modus operandi of the crime, the relevant provisions of GST regime and its abuse by employing such fraud and forgery. It was further submitted that under the OGST Act, the acts of commission and omission, as enumerated thereunder, provides for both Criminal Prosecution U/s 132 of the Act as well as civil proceedings in terms of Sec.

¹² 2019 (25) GSTL 185 (Telengana),

¹³ 2011 (1) SCC 694

¹⁴ 2019 (14) SCALE 157

73 and Sec. 74 of the Act. He has placed reliance of the judgments in **Sanjay Dhigar Vs D.G Goods and Service Tax**,¹⁵ **YS. Jagan Mohan Reddy Vs CBI**¹⁶, **Nimmagadda Prasad Vrs. Central Bureau of Investigation**¹⁷ **Bharat Raj Punj vs. Commissioner of Central Goods and Services Tax**,¹⁸ **Sanjay Dhingra versus Direcgtor General of Goods & Service Tax Intelligence**,¹⁹ **Arvind Kumar Gupta vs. Union of India**,²⁰ **Jatinder Mantro Vrs. Directorate General of Goods and services tax Intelligence**²¹ and **Sri Tirthankar Patel Vs. the State of Odisha**.²²

12. Mr. Mishra further submits that the propensity to manipulate Accounts and to destroy evidences, by accused/petitioner, is extremely high in these types of cases. Moreover, the other co-accused are still absconding and are yet to be arrested. He also contended that if the accused in the present case is released on

¹⁵ 2020(2) TMI 428(Punjab & Haryana HC)

¹⁶ (2013) 7 SCC 439

¹⁷ (2013) 7 SCC 466

¹⁸ Criminal Writ No. 76/2019, dated 12.03.2019(Raj. HC)

¹⁹ Criminal Misc-M-50256 of 2020 TMI 428 2020(2)

²⁰ CRM 1259 of 2020- Calcutta HC

²¹ 2019 (9) TMI 1268 -Telengana HC

²² BLAPL No.7365 of 2019 disposed of on 04.12.2019.(Orissa HC)

bail, it will encourage similar fraudsters and also deter the ongoing investigations. Curiously enough, the accused/petitioner has also prayed for some more time before the trial court to get himself ready for co-operating with the investigation and to respond to the queries of the Investigating Officer. The accused, who is in judicial custody, has taken a plea that he is not mentally stable to answer to the questions posed by the Investigating Officer. It is vehemently contended that this type of non-cooperative attitude and behavior of the accused does not warrant the exercise of discretion by this Hon'ble Court to grant bail. Considering the constraint of time, the prosecution report has been prepared and submitted by the investigating officer, after the sanction of prosecution report by the Commissioner of State Tax, Odisha on date 17th March, 2020. Additionally, a prayer has also been made to keep investigation open.

13. Heard the Ld. Counsel for the parties, perused the Investigation report prepared by the GST department. The case in hand, indicates the increasing trend of GST fraud of , by creating many fake firms. As stated above, the records produced before this

Court make out a prima facie case against the accused for having indulged in a fraud of enormous magnitude.

14. Before dealing with the specific submissions raised by the respective parties, it may be relevant to note the following observations of the Hon'ble Supreme Court in **State of Gujarat vs. Mohanlal Jitamalji Porwal and Ors.**²³

"...The entire Community is aggrieved if the economic offenders who ruin the economy of the State are not brought to books. A murder may be committed in the heat of moment upon passions being aroused. An economic offence is committed with cool calculation and deliberate design with an eye on personal profit regardless of the consequence to the Community. A disregard for the interest of the Community can be manifested only at the cost of forfeiting the trust and faith of the Community in the system to administer justice in an even handed manner without fear of criticism from the quarters which view white collar crimes with a permissive eye unmindful of the damage done to the National Economy and National Interest."

²³ (1987)2SCC364

The threat posed by grave economic offences to the financial health of the country is further elaborated by the Hon'ble Supreme Court in ***Nimmagadda Prasad vs. Central Bureau of Investigation***²⁴.

15. The contention of the petitioner regarding the non-compliance of due procedure while arresting the petitioner, has been vehemently opposed by the Revenue by stating, among others, that the GST Intelligence had collected inputs regarding the involvement of the present petitioner along with the other co-accused persons for creating fake invoices and wrongfully availing ITC. Further, the business activities of the accused have also been investigated into before seeking arrest of the Accused. The Investigating Officer submitted preliminary investigation report to the Commissioner of Tax, Orissa, Cuttack after having been convinced that there are sufficient reasons to believe that the present accused along with the co-accused have committed the offence under Section 132(1)(b)(c) and L of the OGST Act

²⁴ (2013) 7 SCC 466

2017. The Commissioner of State Tax, Cuttack has issued memo to arrest the accused persons under Section 69 of the OGST Act, 2018. Accordingly, the present petitioner was arrested on 22nd January, 2020. After his arrest on 23rd January, 2020 the Arresting Officer has duly served the arrest memo on the accused wherein the grounds of arrest have been sufficiently explained. Hence, it can be seen that the due procedures have been followed while arresting the petitioner. Needless to state, in the event the accused is able to prove anything to the contrary, he shall be at liberty to avail appropriate remedies.

16. Striking a note of caution, while dealing with a petition filed by a lawyer practicing in the field of taxation, who was issued a notice by Senior Intelligence Officer (for short 'SIO'), Directorate General of GST Intelligence, a Division Bench of the Hon'ble High Court of in **Akhil Krishan Maggu vs. Dy. Dir., D.G. of GST Intelligence (Supra)** was pleased to observe as under:

10. Taking cue from judgment of Delhi High Court in the case of MakeMytrip (supra) followed by Madras High Court in the case of Jayachandran Alloys (P.) Ltd. (supra), law laid down by Hon'ble Supreme Court in the

case of Siddharam Satlingappa Mhetre (supra) as well keeping in mind Sections 69 and 132 of CGST Act which empower Proper Officer to arrest a person who has committed any offence involving evasion of tax more than Rs. 5 crore and prescribed maximum sentence of 5 years which falls within purview of Section 41A of Cr.P.C, we are of the opinion that power of arrest should not be exercised at the whims and caprices of any officer or for the sake of recovery or terrorizing any businessman or create an atmosphere of fear, whereas it should be exercised in exceptional circumstances during investigation, which illustratively may be:

- (i) a person is involved in evasion of huge amount of tax and is having no permanent place of business,*
- (ii) a person is not appearing in spite of repeated summons and is involved in huge amount of evasion of tax,*
- (iii) a person is a habitual offender and he has been prosecuted or convicted on earlier occasion,*
- (iv) a person is likely to flee from country,*
- (v) a person is originator of fake invoices i.e. invoices without payment of tax,*

(vi) when direct documentary or otherwise concrete evidence is available on file/record of active involvement of a person in tax evasion.

The reliance placed on the above case by counsel for the Petitioner is woefully misdirected, in the light of the factual aspects detailed hereinabove. In particular, it may be seen that the magnitude of evasion runs into several crores; voluminous documentary and other evidences have been unearthed by strenuous data mining, which prima facie show his involvement in generating the fake invoices and his active involvement of the Petitioner herein; the accused has not been fully co-operating with the investigation; and there is flight risk.

17. In so far as the jurisdictional question raised by the petition, the CGST authorities have already issued summons under Section 70 of the CGST Act in view of the bar under Section 6(2-b) of the OGST Act. In the present case, as is evident from the case records, the present proceedings distinct and different from proceedings initiated under CGST Act. Furthermore, the documents like authorization to arrest

under Section 69 of OGST Act by the Commissioner of State Tax, Orissa; arrest memo dated 22nd January, 2020; the reasons to arrest mentioned in the check list dated 23rd January, 2020; the compliance petition; and the prosecution report which are available on record would show that the proceeding under OGST Act, has been initiated, after following due with respect to fictitious fake firms created by the petitioner in collusion with the co-accused. The accused is stated to have colluded in floating and controlling about 21 fictitious firms/shell companies in the name of daily laborers, private tutors, housewife, etc. using their personal identity related documents like PAN, Aadhaar Card, Mobile phone, Voter card etc. which have been revealed from the laptop of the accused. By utilizing these bogus entities, the accused, it appears, have fraudulently availed ITC to the tune of Rs.71.58 crores. In view of the above, the petitioner's objection with respect to jurisdiction ought to be rejected at this stage.

18. Further, the objection raised by the petitioner with regard to Section 41 and 41(a) of Cr.P.C. is also unfounded. The

authority has acted after receiving credible information about the fraudulent and exploitative activities. Detailed investigation has been conducted before proceeding against the accused and the co-accused with respect to commission of offence under Section 13(1)(b)(c) (L) of OGST Act 2017. The authorization to arrest issued, under Section 69 of the OGST Act dated 20th January, 2020, was issued by the Commissioner and the reasons for the arrest have been recorded in detail. In view of the above, the contention raised by the petitioner regarding non-compliance of Section 41 and 41(a) of Cr.P.C. is unsubstantiated. As such, the objection of the petitioner that the prosecution, as against him, is without determination of tax is also misconceived. In this regard, it may be necessary to take note of the following findings rendered by the High Court of Telangana in ***P.V. Ramana Reddy vs. Union of India***²⁵

“50. The contention of the petitioners is that the CGST Act, 2017 prescribes a procedure for assessment even in cases where the information

²⁵ (2019) 73 GST 727

furnished in the returns is found to have discrepancies and that unless a summary assessment or special audit is conducted determining the liability, no offence can be made out under the Act. Therefore, it is their contention that even a prosecution cannot be launched without an assessment and that therefore, there is no question of any arrest.

51. It is true that CGST Act, 2017 provides for (i) self assessment, under Section 59, (ii) provisional assessment, under Section 60, (iii) scrutiny of returns, under Section 61, (iv) assessment of persons who do not file returns, under Section 62, (v) assessment of unregistered persons, under Section 63, (vi) summary assessment in special cases, under Section 64 and (vii) audit under Sections 65 and 66.

52. But, to say that a prosecution can be launched only after the completion of the assessment, goes contrary to Section 132 of the CGST Act, 2017. The list of offences included in sub-Section (1) of Section 132 of CGST Act, 2017 have no co-relation to assessment. Issue of invoices or bills without supply of goods and the availing of ITC by using such invoices or bills, are made offences under clauses (b) and (c) of sub-Section (1) of Section 132 of the CGST

Act. The prosecutions for these offences do not depend upon the completion of assessment. Therefore, the argument that there cannot be an arrest even before adjudication or assessment, does not appeal to us.”

It may be relevant to note that SLP (CRL.) No. 4430 of 2019 filed against the above judgment was dismissed on 27.05.2019.

19. Further, regard being had to the cases like **Bharat Raj Punj vs. Commissioner of Central Goods Service tax(supra)** which held that tax first determined under Sections 73 and 74 of the Act does not have any force for the reason the offence committed under Section 132 of the Act does not require determination of tax and the department can straightaway proceed by issuing summons and if reasonable grounds exist, the offender can be arrested. Similar view has also been echoed in **Sanjay Dhingra versus Director General of goods & Service Tax Intelligence(supra)** wherein the Hon'ble Court has held that merely because the accused has been remanded to judicial custody, it cannot be said that he

becomes entitled to bail. There is absolutely no bar to arrest and launch prosecution before the adjudication or assessment or before issuance of any prior notice to the petitioner. According to the learned counsel for the State, Hon'ble High of Calcutta in the case of **Arvind Kumar Gupta vs. Union of India (supra)** has declined bail to the accused since there was time constraint to submit charge-sheet within sixty days as per provision under Section 173(8) of Cr.P.C.. The prosecution also prayed to the Court to keep the investigation open to enable production of further evidence. It is also pointed out that since the trial has not begun, there is a good possibility of the accused influencing the witnesses, triggering derailment of investigation process and also absconding.

20. It may also be seen that there are four named accused persons in the present case and two of them are still evading arrest. Given the factual scenario, at this stage, this court is inclined to accept the submission of the Respondent State that if the accused persons are granted bail, the same could also pose difficulties in apprehending the other accused

persons. It is brought to the notice of the court that the authorities have made a prayer before the trial court for issuance of NBW against the absconding co-accused. Further, there flight risk of the petitioner herein cannot be ruled out.

21. There is no hard and fast rule regarding grant or refusal to grant bail. Each case has to be considered on the touchstone of its own generic facts and individual merits. However, the discretion of the court has to be exercised judiciously sans any element of arbitrariness. Even if the “bail is the rule and jail is the exception” -- the basic bail jurisprudence remains unaltered, but in the instant case, the alleged GST fraud committed by the petitioner is having humongous ramification on the revenue collection by the State. At this backdrop, the possibility of the accused tampering the evidence and/or influencing/intimidating the witnesses also cannot be ruled out.

22. Moreover, the courts cannot lose sight of the adverse impact such activities would have in the economy. It appears that a large number of cases have now emerged in different

parts of the country, where such persons, with vested interests, have created a host of unscrupulous and bogus entities. These fake entities are then used for the purpose of indulging in issuances of false and fabricated invoices, without actual movement or supply of goods and services and without payment of any GST to the public exchequer, but for the purpose of claiming ITC, by defrauding the Revenue. Enormity of such devious activities touch the raw nerve of the economic system and strike at the root of the proper and effective functioning of the GST regime, which has been set up with the laudable object of "One Nation, One Tax, One Market", by subsuming various earlier indirect levies such as Central Excise Duty, Service Tax, VAT etc.; expecting that goods and services would be cheaper and beneficial to the common man. One cannot lose sight of the fact that GST regime is relatively new and is still evolving. Unfortunately, the attempts to dampen the spirit of its proper implementation are already assuming huge proportions and need to be curbed with an iron fist so that the contours of fiscal compass will be extended to the advantage of the people.

23. This Court is well aware of the complications thrown in by the new GST regime and the problems posed in its implementation. It seems a countrywide cartel specializing in defrauding the GST system is operating to bring the economy to its knees. These complications created by the unscrupulous fraudsters, one would fear, could lead to arrest of innocent businessmen and traders. However, a reading of the GST code would make it abundantly clear that it is rooted with several checks and balances to ensure that the initiation of prosecution or an arrest is to be made only after following due and elaborate process.

24. One cannot lose sight of the fact that the Governments are making their best efforts to enhance the ease of doing business, to reduce the burden on the tax payers, to make the procedures simpler with the use of new technologies. The Government officials have also been making all efforts to ensure efficient collection of tax, so that the burden on the genuine tax payers can be reduced. All these efforts cannot be permitted to be sabotaged by such criminals who prey on the

public exchequer. The text book notion of tax collection needs to be overhauled by conjuring with the emerging technologies so as to get rid of practical hiccups.

25. Furthermore, the larger ramification of the fraud involved was taken note of by the GST Council while issuing the Standard Operating Procedure (SOP)²⁶ for utilizing the fake invoice issuers dataset by SGST authorities. In particular, it was observed that:

“Large number of GST fraud cases involving the use of fake invoices for wrong availment of input tax credit (ITC), which is further used to pay GST on outward supply have been detected since the rollout of GST by the Central GST authorities as well as the State GST authorities. Whereas the mens rea for the use of such fake invoices appears to be fraudulent availment/encashment of ITC credit, the unscrupulous entities engaged in this also defraud other authorities such as Banks by inflating turnovers, laundering of money etc.”

²⁶ Office Memorandum dated 12.05.2019 issued by GST Investigation Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance.

26. At this juncture, it may be apposite to note that in the year 2018-19, 1620 cases involving a sum of Rs.11251.23 crores, were registered with respect to fake invoice(s) involving fraudulent Input Tax Credit in GST by the Central GST alone²⁷ Further, during the year 2019-20 (till 25.06.2019), 535 cases involving a sum of Rs.2565.40 crores were registered. These numbers are quite alarming and effective measures, in terms of ensuring increased bandwidth of efficiency of the tax officials, have to be devised to streamline the system, to ensure that the ITC is not misused.

27. In view of the discussions made in the above contextual orbit, considering submissions made and taking into account a holistic view of the facts and circumstances in the instant case, this Court is not inclined to release the accused Petitioner on bail at this stage. Accordingly, the bail petition filed on behalf of the accused/petitioner stands rejected. It is, however, clarified that the above observations shall not come in the way of a fair trial before the Ld. Trial Court and it will

²⁷ Answer by the Minister of Finance to the Unstarred Question No.1385 (on 1.07.2019) in the Lok Sabha

proceed to decide the matter on its own merits, uninfluenced by any of the observation made hereinabove.

28. The bail Application under Section 439 Cr.P.C. is accordingly dismissed.

[S.K. PANIGRAHI,J.]

Orissa High Court, Cuttack.
The 27^h day of July, 2020