

P1 -> Co
P2 - Director

Powers of Directors seized

Case in NCLT. IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

Raid all documents taken WRIT PETITION (L) NO.5000 OF 2020
WITH INTERIM APPLICATION (L) NO.9100 OF 2020

Repeated summons 3.4.2019
15-4-2019
31.10.2019
4.10.2020
12.10.2020
JSK Marketing Limited & Anr. .. Petitioners
Versus
Union of India & Ors. .. Respondents

Summons challenged
-> Threatening
-> Document with officer
-> No specific allegations/documents asked for
-> Directors re power

- Mr. Mathew Nedumpara a/w Ms. Nikita Panhalkar, Advocate for the Petitioners.
- Mr. Pradeep S. Jetly, Senior Counsel a/w Mr. J.B. Mishra, Advocate for Respondent Nos.1 to 4.
- Mr. Rahul Punjabi, Advocate for Respondent No.5.

CORAM : UJJAL BHUYAN & MILIND N. JADHAV, JJ.

RESERVED ON : FEBRUARY 03, 2021.
PRONOUNCED ON : FEBRUARY 16, 2021.

JUDGMENT : (PER : MILIND N. JADHAV, J.)

Heard Mr. Mathew Nedumpara along with Ms. Nikita Panhalkar, Advocates for the petitioners; Mr. Pradeep Jetly, senior counsel along with Mr. J.B. Mishra, Advocate for respondent Nos.1 to 4; and Mr. Rahul Punjabi, Advocate for respondent No.5.

2. By this petition filed under the provisions of Articles 226 and 227 of the Constitution of India, petitioners have, *inter alia*, sought stay of proceedings and consequential penal action, initiated against the petitioners pursuant to issuance of summons dated 03.04.2019 by the Intelligence Officer in the office of the Directorate of GST Intelligence under section 83 of the Finance Act, 1994 ("the Finance Act" for short), read with section 14 of the Central Excise Act, 1944

repeal and saving
("the Central Excise Act" for short) read with section 174 of the Central Goods and Services Tax Act, 2017 ("the CGST Act" for short) to tender oral evidence and further summons dated 15.04.2019, 31.10.2019, 04.08.2020 and 12.10.2020 under section 83 of the Finance Act read with section 14 of the Central Excise Act read with section 174 of the CGST Act to tender oral / documentary evidence in respect of evasion of goods and services tax (GST).

3. Before we advert to the submissions made on behalf of the respective parties, apt in the circumstances or in relation to something. it will be apposite to briefly refer to the relevant facts :-

3.1. Petitioner No.1 is a company registered under the Companies Act, 1956 and is engaged in the business of trading in consumer goods, FMCG products, cameras, batteries etc. since the last 34 years. Petitioner No.2 is the Managing Director of petitioner No.1.

3.2. On 03.04.2019 Directorate General of GST Intelligence, Mumbai conducted a raid on the premises of petitioner No.1 and respondent Nos.6 and 7 and seized several documents, books of accounts, hard disks etc. for the purpose of GST investigation into alleged tax evasion. A panchnama dated 03.04.2019 was drawn up duly signed by the Senior Intelligence Officer in the office of respondent No.2 i.e. the Directorate General of GST Intelligence, Mumbai Zonal Unit.

3.3. In the meanwhile respondent No.3 i.e. Bombay Sales Agency, a financial creditor of petitioner No.1 invoked section 7 of the Insolvency and Bankruptcy Code, 2016 by filing application in the National Company Law Tribunal, Mumbai. ("NCLT" in short).

By order dated 23.09.2019 NCLT admitted the application of respondent No.3 and declared a moratorium in terms of section 14 of the said Code and appointed respondent No.5 i.e. Ms. Palak Swapnil Desai as Interim Resolution Professional (“IRP” for short), further directing that the assets of petitioner No.1 should not be liquidated until the insolvency process was completed.

- 3.4. On 03.04.2019 respondent No.2 issued summons to petitioner No.2 i.e. Mr. Kunal Jiwarajka (Director) under the provisions of under section 83 of the Finance Act read with section 14 of the Central Excise Act read with section 174 of the CGST Act to tender oral evidence in relation to inquiry regarding evasion of service tax / GST being undertaken by respondent No.2.
- 3.5. On 15.4.2019 respondent No.2 issued a **second summons** to petitioner No.2 i.e. Mr. Kunal Jiwarajka (Director) under the said provisions to tender oral evidence in relation to inquiry about evasion of service tax / GST being undertaken by respondent No.2.
- 3.6. On 31.10.2019 respondent No.2 issued a **third summons** to petitioner No.2 i.e. Mr. Kunal Jiwarajka (Director) again under the said provisions to tender oral evidence in relation to inquiry about evasion of service tax / GST being undertaken by respondent No.2.
- 3.7. On 04.08.2020 respondent No.2 issued a **fourth summons** to petitioner No.2 i.e. Mr. Kunal Jiwarajka (Director) again under the said provisions to tender oral evidence in relation to inquiry about evasion of service tax / GST being undertaken by respondent No.2.

3.8. In the meanwhile, on 31.08.2020 petitioners filed a suit S.C. (ST.) No. 3811 of 2020 in this Hon'ble Court as well as Writ Petition (AD-HOC) LD-VC No.116 of 2020 seeking injunction against the order dated 23.09.2019 passed by the NCLT in insolvency proceedings against the petitioners. Both these proceedings are pending.

3.9. On 12.10.2020 **respondent No.2** issued a **fifth summons** to petitioner No.2 under section 70 of the Central Goods and Services Tax Act, 2017 seeking his attendance for giving evidence and/or producing documents or things from his possession and under his control in respect of the following descriptions:

- i. Transport documents from 2017-18 & 2018-19;*
- ii. Payment particulars to the Transporters for the above period;*
- iii. Samples of sale/purchase invoices for all suppliers and customers;*

3.10. Being aggrieved petitioners filed the present writ petition on 16.10.2020 to challenge the issuance of summons and seeking stay of proceedings / inquiry. **On 16.12.2020 petitioners filed Interim Application (L) No.9100 of 2020** to seek injunction and to bring on record summons dated 13.11.2020 issued by the office of respondent No.2 under Section 70 of the CGST Act to petitioner No.2 seeking his attendance to give evidence and/or produce documents or things from his possession and/or under his control in respect of the following descriptions:

- i. Tender Evidence;*
- ii. Documents as per summons dated 12.10.2020.*

3.11. On 01.12.2020 Advocate for the petitioners addressed a letter to respondent Nos.1 and 2 in reply to the summons issued to the petitioners calling upon them to refrain from taking any precipitatory steps in view of the pendency of the present petition.

to suddenly force somebody/something into a particular state or condition

4. Mr. Mathew Nedumpara, learned counsel appearing on behalf of the petitioners, at the outset, submitted that petitioner No.2 expresses severe apprehension of arrest by the officers of respondent No.2 for interrogation and inquiry in respect of alleged evasion of service tax / GST and has therefore approached this Court seeking protection. He submitted that petitioners and more specifically petitioner No.2 is ready and willing to cooperate with the investigation and inquiry undertaken by respondent No.2.

4.1. He submitted that pursuant to the raid in the office of the petitioners, respondent No.2 has seized documents, hard disks, box files, flag files etc which find mention in the panchnama dated 03.04.2019 produced as Exhibit 'A' to the petition; therefore in order to cooperate with the investigation and inquiry it is necessary for respondent No.2 to make available to the petitioners the materials seized from his possession to enable the petitioners to produce the documents as sought for; respondent No.2 has refused to hand over any material or documents seized from the petitioners' possession based on which the summons have been issued and this amounted to violation of the principles of natural justice; all that the petitioners are submitting that in order to participate and effectively assist in the inquiry and investigation carried out by respondent No.2, petitioners should be given access to the

record seized by respondent No.2 in the event if the petitioners are required to furnish any document in response to the investigation conducted.

4.2. He submitted that in the first 4 summons received by the petitioners there is no reference to any specific allegation / charge of evasion of taxes and it is the duty of the concerned officer issuing the summons to specify the charge and furnish the material and evidence based on which the charge is founded; the summons received by the petitioners therefore could not be replied to in the absence of any specific charge; the act of repeated issuance of summons to the petitioners appeared to be threatening; respondent No.2 being an investigation officer / agency is required to follow the principles of natural justice for the purpose of conducting fair investigation and inquiry under the relevant statutes.

5. PER CONTRA Mr. Pradeep Jetly, learned senior counsel appearing for respondent Nos.1 and 2 has drawn our attention to the affidavit-in-reply dated 06.01.2021 filed by the Deputy Director, Directorate of GST Intelligence, Mumbai Unit and submitted that the summons were issued on the basis of intelligence developed by the officers of respondent No.2 that petitioner No.1 and its associates namely; (a) M/s KBS Industries Private Limited; (b) M/s RAL Consumer Products Limited; (c) M/s Zercon Electricals and Appliances Private Limited; (d) M/s Aastik Trading Private Limited; (e) M/s Harshika Trading Private Limited; (f) M/s Artheon Electronics Private Limited; and (g) M/s Servicare Labs Private Limited have indulged in circular trading activity by raising invoices without supply / movement of goods amongst themselves. He submitted that during the course of investigation carried out by the office of respondent No.2 statement of

various persons were recorded in which they admitted that purchase and sale invoices of petitioner No.1 company were issued without physical inspection, receiving and dispatch of the subjects goods; thereby devolving financial benefit to petitioner No.1 by taking the difference in the value of the sale and purchase of goods.

5.1. He submitted that statement of petitioner No.2 was recorded 03.04.2019 wherein he admitted his involvement in circular trading; further statement of petitioner No.2 recorded on 04.03.2020 also admitted similar transactions so as to improve the balance sheet of petitioner No.1. He submitted that this *modus operandi* clearly showed that petitioners were involved in circular trading of the goods time and again amongst themselves by preparing purchase and sale invoices without actual movement / supply of goods; statements recorded admitting such trading activity namely for financial gain to petitioner No.1 in lieu of commissions by way of value additions in the products on the directions of the petitioner No.1 proved the involvement of petitioners. He submitted that such circular trading involved wrongful eligibility of Input Tax Credit (“ITC” for short) to the parties on the basis of purchase and sale invoices as well as reversal of wrongfully availed ITC.

5.2. He submitted that petitioners have availed loan from 24 banks and financial institutions aggregating to Rs.330.78 crores and have not disclosed the same as per details received from the IRP; petitioner No.1 has availed ineligible ITC on the strength of invoices issued fraudulently without receipt of goods and services; petitioners have paid only Rs. 5.25 crore as service tax in respect of such ineligible ITC availed by them and therefore petitioners have committed an offence under the provisions of

the CGST Act read with the Finance Act and as such it is necessary to interrogate and investigate the petitioner No.2 in order to complete the investigation for safeguarding government revenue. He submitted that in this context summons have been issued to petitioner No.2 being a Director of petitioner No.1 to complete the investigation; and therefore to that extent the information and material required from the petitioners has been stated in the summons dated 12.10.2020 and reiterated in the summons dated 13.11.2020. Hence cooperation of petitioner No.2 is necessary for the purpose of completing the evasion of GST inquiry.

6. Mr. Rahul Punjabi, learned counsel for respondent No.5 i.e. the Resolution Professional has filed affidavit-in-reply, *inter alia*, stating that the petition is not maintainable on behalf of petitioner No.1 company since the authorized representative of petitioner No.1 did not have the requisite authority to institute the petition; the act of petitioner No.2 verifying the petition is an act willful misrepresentation; that the management of petitioner No.1 company vests with the resolution professional as the powers of the Board of Directors of petitioner No.1 stand suspended and are to be exercised by the Resolution Professional.

7. Submissions made by learned counsel for the parties have received the due consideration of the Court. Also examined the materials on record.

8. Before we advert to the submissions made on behalf of the parties, it will be apposite to briefly refer to the relevant statutory provisions.

- 8.1. Section 14 of the Central Excise Act, 1944 pertains to power to summon persons to give evidence and produce documents in inquiry under the said Act. Section 14 is extracted as under :-

“14. Power to summon persons to give evidence and produce documents in inquiries under this Act.—

(1) Any Central Excise Officer duly empowered by the Central Government in this behalf shall have power to summon any person whose attendance he considers necessary either to give evidence or to produce a document or any other thing in any inquiry which such officer is making for any of the purposes of this Act. A summons to produce documents or other things may be for the production of certain specified documents or things or for the production of all documents or things of a certain description in the possession or under the control of the person summoned.

(2) All persons so summoned shall be bound to attend, either in person or by an authorised agent, as such officer may direct; and all persons so summoned shall be bound to state the truth upon any subject respecting which they are examined or make statements and to produce such documents and other things as may be required:

Provided that the exemptions under sections 132 and 133 of the Code of Civil Procedure (5 of 1908) shall be applicable to requisitions for attendance under this section.

(3) Every such inquiry as aforesaid shall be deemed to be a “judicial proceeding” within the meaning of section 193 and section 228 of the Indian Penal Code (45 of 1860).”

- 8.2. Section 83 of the Finance Act, 1994 which is also relevant is extracted as under :-

“83. Application of certain provisions of Act 1 of 1944.-

The provisions of the following sections of the Central Excises and Salt Act, 1944, as in force from time to time, shall apply, so far as may be, in relation to service tax as they apply in relation to a duty of excise :- 9C, 9D, 11, 11B, 12B, 12C, 12D, 12E, 14,15, 35F to 30O (both inclusive), 35Q, 36, 36A, 36B, 37A, 37B, 37D and 40.”

- 8.3. Section 70 of the CGST Act pertains to power to summon persons to give evidence and produce documents. Section 70 is extracted as under :-

“70. Power to summon persons to give evidence and produce documents.-

(1) The proper officer under this Act shall have power to summon any person whose attendance he considers necessary either to give evidence or to produce a document or any other thing in any inquiry in the same manner, as provided in the case of a civil court under the provisions of the Code of Civil Procedure, 1908 (5 of 1908).

(2) Every such inquiry referred to in sub-section (1) shall be deemed to be a “judicial proceedings” within the meaning of section 193 and section 228 of the Indian Penal Code (45 of 1860).”

8.4. Section 174 of the CGST Act, 2017 which is also relevant is extracted as under :-

“174. Repeal and saving.-

(1) Save as otherwise provided in this Act, on and from the date of commencement of this Act, the Central Excise Act, 1944 (except as respects goods included in entry 84 of the Union List of the Seventh Schedule to the Constitution), the Medicinal and Toilet Preparations (Excise Duties) Act, 1955, the Additional Duties of Excise (Goods of Special Importance) Act, 1957, the Additional Duties of Excise (Textiles and Textile Articles) Act, 1978, and the Central Excise Tariff Act, 1985 (hereafter referred to as the repealed Acts) are hereby repealed.

(2) The repeal of the said Acts and the amendment of the Finance Act, 1994 (hereafter referred to as “such amendment” or “amended Act”, as the case may be) to the extent mentioned in the sub-section (1) or section 173 shall not—

(a) revive anything not in force or existing at the time of such amendment or repeal; or

(b) affect the previous operation of the amended Act or repealed Acts and orders or anything duly done or suffered thereunder; or

(c) affect any right, privilege, obligation, or liability acquired, accrued or incurred under the amended Act or repealed Acts or orders under such repealed or amended Acts:

Provided that any tax exemption granted as an incentive against investment through a notification shall not continue as privilege if the said notification is rescinded on or after the appointed day; or

- (d) *affect any duty, tax, surcharge, fine, penalty, interest as are due or may become due or any forfeiture or punishment incurred or inflicted in respect of any offence or violation committed against the provisions of the amended Act or repealed Acts; or*
- (e) *affect any investigation, inquiry, verification (including scrutiny and audit), assessment proceedings, adjudication and any other legal proceedings or recovery of arrears or remedy in respect of any such duty, tax, surcharge, penalty, fine, interest, right, privilege, obligation, liability, forfeiture or punishment, as aforesaid, and any such investigation, inquiry, verification (including scrutiny and audit), assessment proceedings, adjudication and other legal proceedings or recovery of arrears or remedy may be instituted, continued or enforced, and any such tax, surcharge, penalty, fine, interest, forfeiture or punishment may be levied or imposed as if these Acts had not been so amended or repealed;*
- (f) *affect any proceedings including that relating to an appeal, review or reference, instituted before on, or after the appointed day under the said amended Act or repealed Acts and such proceedings shall be continued under the said amended Act or repealed Acts as if this Act had not come into force and the said Acts had not been amended or repealed.*
- (3) *The mention of the particular matters referred to in sub-sections (1) and (2) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of repeal.”*

9. A conjoint reading of the above provisions show that though the Central Excise Act and the Finance Act, 1994 to the extent of Chapter V of the said Act have been repealed, sub-section (2) of section 174 states that the aforesaid action shall not affect any investigation, inquiry, verification (including scrutiny and audit) assessment proceedings, adjudication and any other legal proceedings or recovery of arrears or remedy in respect of any such duty, tax, service charge, penalty, fine etc. and other legal proceedings or recovery of arrears or remedy as may be instituted, continued or enforced and any such tax

may be levied or imposed as if the aforesaid acts had not been so amended or repealed. Thus it is evident that respondent No.2 has power and authority to issue summons to the petitioners and more specifically petitioner No.2 under the provisions of the aforementioned statutes to give evidence and produce the relevant documents in inquiry.

10. Having noticed the above, we may state that the power to summon persons to give evidence and produce documents in inquiry is a statutory function regulated by the aforementioned provisions of the statutes. Sub-sections (1) and (2) of Section 14 of the Central Excise Act state that summons to produce documents or other things in the possession of or under the control of the person summoned can be issued by an officer duly empowered by the Central Government and all persons so summoned shall be bound to attend and state the truth upon any subject respecting which they are examined or make statements or to produce such documents and other things as may be called upon. Sub-section (3) of section 14 states that every such inquiry as aforesaid shall be deemed to be a judicial proceedings within the meaning of section 193 and section 228 of the Indian Penal Code, 1860.

10.1. Respondent No.2 has issued 4 summons dated 03.04.2019, 15.04.2019, 31.10.2019 and 04.08.2020 under the provisions of section 83 of the Finance Act, 1994 read with section 14 of the Central Excise Act read with section 174 of the CGST Act and further 2 summons dated 12.10.2020 and 13.11.2020 under the provisions of section 70 of the CGST Act to the petitioners. Perusal of the summons issued to the petitioners show that the first 4 summons which were issued did not give any details with respect to the subject which the petitioners were required to

give evidence or to produce documents or any other thing in the inquiry undertaken by respondent No.2. Summons dated 12.10.2020 for the first time calls upon the petitioners to attend and give evidence on the subject details mentioned in the summons; calling upon petitioner No.2 to give evidence and/or produce documents or things pertaining to the transport documents for the years 2017-18 and 2018-19, payment particulars to transporters for the above period and sample of sale / purchase invoices for all suppliers and customers from his possession. Summons dated 13.11.2020 called upon the petitioners to give evidence and produce documents and things which are stated in the summons dated 12.10.2020.

10.2. For ease of reference the 2 summons dated 12.10.2020 and 13.11.2020 are extracted as under :-

- (i) Summons dated 12.10.2020 is produced at Exhibit 'E' in the paper book at page 67 and reads thus :-

“ *CBIC-DIN-202010DWW000005A27BO*

SUMMONS

[under Section 70 of the Central Goods and Services Act, 2017]

To,

***Shri Kunal Jiwarajka, Ex. Director of
M/s JSK Marketing Limited
403-405, Sumer Kendra, Behind
Mahindra Tower, Worli, Mumbai -
400018.***

WHEREAS, I S.K. Singh am making inquiry in connection with GST inquiry under the Central Goods and Services Tax Act, 2017.

AND WHEREAS, I consider your attendance necessary to

*(a) give evidence and / or
(b) produce documents or things of the following description in your possession or under you control:*

1. Transport documents for 2017-18 & 2018-19

2. Payment particulars to Transporters for the above period

3. Sample sale / purchase invoices for all suppliers and Customers

NOW, THEREFORE, in exercise of powers vested in me under Section 70 of the Central Goods and Service Tax Act, 2017 I do hereby summon you to appear before me in person on 20/10/2020 at 2:30 PM at the office of 1st floor, NTC House, Mumbai – 400001

Inquiry as aforesaid is deemed to be a judicial proceeding within the meaning of section 193 and section 228 of the Indian Penal Code, 1860 (45 of 1860) and non-compliance of this summon is an offence punishable under Section 174 & 175 of the Indian Penal Code, 1860.

Given under my hand and seal of office to-day the 12 day of October, 2020 at Mumbai.

Name : S.K. SINGH

Signature : SD/-

Designation

***Superintendent / Appraiser / Senior
Intelligence Officer***

Seal of Office.

- (ii) Summons dated 13.11.2020 is produced at Exhibit 'B' to the Interim Application and reads thus :-

“ CBIC-DIN-202011DWW0000000CA1B

SUMMONS

[under Section 70 of the Central Goods and Services Act, 2017]

To,

***Shri Kunal Jiwarajka, Ex. Director of
M/s JSK Marketing Limited
403-405, Sumer Kendra, Behind
Mahindra Tower, Worli, Mumbai -
400018.***

WHEREAS, I S.K. Singh am making inquiry in connection with GST inquiry under the Central Goods and Services Tax Act, 2017.

AND WHEREAS, I consider your attendance necessary to

(a) give evidence and / or

(b) produce documents or things of the following

description in your possession or under you control:

1. Tender Evidence

2. Documents as per summons dated 12.10.2020

NOW, THEREFORE, in exercise of powers vested in me under Section 70 of the Central Goods and Service Tax Act, 2017 I do hereby summon you to appear before me in person on 2020-12-01 at 2:30 PM at the office of 1st floor, NTC House, Mumbai – 400001

Inquiry as aforesaid is deemed to be a judicial proceeding within the meaning of section 193 and section 228 of the Indian Penal Code, 1860 (45 of 1860) and non-compliance of this summon is an offence punishable under Section 174 & 175 of the Indian Penal Code, 1860.

Given under my hand and seal of office to-day the 13 day of November, 2020 at Mumbai.

Name : S.K. SINGH

Signature : SD/-

Designation

Superintendent / Appraiser / Senior Intelligence Officer

Seal of Office.

”

- 10.3.** On a thorough reading of the summons dated 12.10.2020 and 13.11.2020 it is clear that the summons have been issued to petitioner No.2 calling upon him to tender oral evidence and produce documents or things which have been specified in the summons. The summons clearly state that an inquiry in connection with GST under the CGST Act, 2017 is being undertaken by the Superintendent / Appraiser / Senior Intelligence Officer and that the attendance of petitioner No.2 is considered necessary to give evidence and produce documents. Perusal of the summons signify that there is no threat of arrest as perceived and argued by the petitioners / petitioner No.2. This is buttressed by the fact that under section 70 of the CGST Act tendering of evidence or production of document is to be

done in the same manner as done by a civil court under the provisions of the Civil Procedure Code, 1908. The summons specifically call upon the petitioner to tender evidence and produce documents and clarification as stated in the summons dated 12.10.2020.

- 10.4.** Sub-section (2) of section 14 of the Central Excise Act mandates that any person so summoned shall be bound to attend and state the truth upon any subject in respect of which he is examined or make statements and produce such documents and other things as may be required. Under this provision there is a clear mandate on the petitioner No.2 to honour the summons and present himself in the inquiry undertaken in connection with evasion of GST under the CGST Act by the investigating officer. The summons do not state that the petitioner No.2 shall be liable for arrest or will be arrested as the statutory provisions under which the summons have been issued pertain to investigation undertaken by the statutory officer. Hence there is no reason for the petitioners to assume that the petitioner No.2 on presenting himself before the investigating officer will be arrested or apprehended. The inquiry which is undertaken by respondent No.2 is a statutory inquiry pertaining to evasion of GST under the CGST Act wherein the petitioner No.2 has been called upon to tender his oral evidence as also to produce the documents that may be required for the purpose of completing the inquiry by the investigating officer. Petitioners' apprehension that petitioner No.2 will be apprehended / arrested / incriminated since the inquiry pertains to evasion of service tax / GST is not well founded. The summons dated 12.10.2020 makes it succinctly clear that the petitioners are

required to tender oral evidence and produce certain documents. Investigation is under way pursuant to the raid which was carried out at the premises of the petitioners on 03.04.2019 and seizure of the material and documents by the authority. It is therefore incumbent upon the petitioners to cooperate in the investigation / GST inquiry. The summons issued to the petitioners / petitioner No.2, does not authorize the investigating officer to arrest petitioner No.2, but have been issued only for the purpose of completing the investigation into evasion of GST undertaken by respondent No.2. In this view of the matter, we do not see any reason for the petitioners / petitioner No.2 to apprehend arrest on presenting himself before the investigating officer in response to the summons which have been issued to the petitioners.

11. We state that in view of the aforementioned legal position, the summons issued to the petitioners / petitioner No.2 on 12.10.2020 and 13.11.2020 are valid and no interference is called upon.

12. In that view of the matter, we therefore direct that petitioner No.2 shall remain present before the concerned investigating officer / authority in the office of the Directorate General of GST Intelligence, Mumbai Zonal Unit, NTC House, 3rd Floor, N.M. Road, Ballard Estate, Mumbai - 400 001 on 1st March 2021 at 11:00 a.m. for the purpose of inquiry and thereafter as and when required. If the petitioners cooperate in the investigation, respondents shall not take any coercive steps against the petitioners.

13. Writ petition is accordingly disposed of in the above terms. However, there shall be no order as to costs.

14. In view of the disposal of the writ petition, interim application (L) No.9100 of 2020 does not survive and the same is disposed of accordingly.

[MILIND N. JADHAV, J.]

[UJJAL BHUYAN, J.]