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Arrest Under GST: Telangana High Court's Important Observations in the Online Gaming Investigation



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1. Introduction

The power of arrest under the Goods and Services Tax laws has emerged as one of the most debated and controversial aspects of the indirect tax regime in India. Conceived as a mechanism to combat serious tax evasion and fake invoicing rackets, the arrest provisions under the Central Goods and Services Tax Act, 2017 have, over the years, increasingly become the subject matter of intense constitutional scrutiny and judicial intervention. The growing invocation of criminal machinery in tax administration has raised significant concerns regarding the balance between safeguarding government revenue and protecting individual liberty guaranteed under Article 21 of the Constitution of India.

Unlike the traditional understanding of indirect tax laws as primarily fiscal and regulatory statutes, the GST framework introduced stringent penal consequences including arrest, prosecution, attachment of property, and custodial investigation. Section 69 of the CGST Act empowers the Commissioner to authorise arrest where he has "reasons to believe" that certain specified offences involving substantial tax evasion have been committed. However, the breadth of these powers, coupled with allegations of coercive investigations and arrests at the pre-adjudication stage, has triggered a wave of litigation before various High Courts and the Hon'ble Supreme Court. Courts have therefore repeatedly been called upon to examine the limits of executive discretion, procedural safeguards, and the extent to which criminal law principles apply to GST investigations.

The jurisprudence surrounding arrest under GST has consequently evolved at a rapid pace, reflecting an ongoing judicial attempt to reconcile revenue considerations with constitutional protections against arbitrary deprivation of liberty. Questions relating to the necessity of arrest, applicability of anticipatory bail, maintainability of writ petitions, recording of "reasons to believe," compounding of offences, and the distinction between civil liability and criminal intent have assumed considerable significance in recent years. The issue therefore no longer remains confined merely to tax administration but has developed into an important constitutional and criminal law discourse within the GST regime.

In this background, the judgment of the Hon'ble Telangana High Court in *Rishi Nand Kishore Gupta v. Union of India & Ors.* [(2026) 41 Centax 393 (Telangana)] becomes another significant addition to the expanding jurisprudence on arrest provisions under GST law. The decision assumes further importance because it arises in the context of the continuing controversy surrounding GST liability on online gaming platforms, fintech intermediaries, and alleged large-scale tax evasion through digital payment ecosystems.

2. Factual background

The petitioner, founder and CEO of M/s. Fino Payments Bank Limited, was accused of offences under Section 132(1)(i) of the CGST Act in connection with alleged illegal online gaming operations conducted through fintech entities, payment

gateways, and aggregators. During investigation, the DGGI sought merchant and transaction-related information, which according to the petitioner had already been substantially provided by his team. Subsequently, summons under Section [70](#) of the CGST Act were issued to him personally.

The petitioner contended that he lacked direct operational knowledge of the technical details sought and that relevant employees could have furnished the information. After prolonged questioning till around 3:48 AM, he was served with grounds of arrest and taken into custody by the DGGI, following which he challenged the legality of the arrest and remand proceedings before the Hon'ble High Court.

3. Arguments of the Petitioners

The petitioners argued that the company had complied with all KYC requirements applicable to its customers and that the petitioner, being the CEO, was being unnecessarily implicated merely on allegations of non-cooperation.

It was contended that the petitioner was effectively under custodial control long before the formal arrest memo was issued. Reliance was placed upon judicial precedents to argue that once a person's freedom of movement is substantially curtailed by authorities exercising coercive powers, such detention would amount to custody within the meaning of criminal law principles. The petitioners further contended that the production before the learned Additional Chief Judicial Magistrate beyond the constitutional timeline prescribed under Article 22(2) rendered the arrest illegal.

A significant argument raised by the petitioner related to the concept of "non-cooperation." It was argued that mere non-cooperation or failure to provide answers in the manner expected by the investigating agency cannot by itself justify arrest under GST laws. The petitioners submitted that investigating authorities cannot expect confessional statements or admissions of guilt from a person summoned during investigation and any answer falling short of such expectation cannot automatically be branded as evasive.

4. Arguments of the Respondent State

The respondents contended that repeated requests for information and documents had been made to the authorised signatory and officials of the company in connection with investigation into GST evasion by certain entities. However, despite repeated communications, summons, and emails, the required information was allegedly not supplied in a satisfactory manner.

According to the DGGI, summons were repeatedly issued to the petitioner and other authorised representatives requiring personal appearance and production of relevant data. Since the authorities formed an opinion that the petitioner was not cooperating with the investigation, authorisation for search under Section [67\(2\)](#) of the CGST Act was issued.

The respondents submitted that during the search proceedings and statement recording, the petitioner gave evasive replies and failed to cooperate meaningfully with the investigation. Based on the evidence gathered, the authorities concluded that the petitioner was involved in an organised syndicate operating illegal online gaming websites with the assistance of fintech companies and shell entities.

The respondents further argued that the arrest was made strictly in accordance with law after recording "reasons to believe" as required under Section 69 of the CGST Act. The grounds of arrest were duly communicated to the petitioner and intimation of arrest was also furnished to his wife. The State also emphasized that the petitioner was medically examined and produced before the competent Magistrate within the constitutionally prescribed period of 24 hours. Therefore, no violation of Article 22(2) of the Constitution had occurred.

5. Discussion and findings of the High Court

5.1 Scope of investigation and nature of allegations

The High Court noted that the matter related to alleged GST evasion by M/s. Fino Payments Bank and that the investigation had revealed the existence of an organised syndicate involved in operating illegal online gaming websites through fintech entities, payment aggregators, and technology service providers.

The Court observed that the investigation material suggested large-scale routing of funds through shell entities without payment of appropriate GST and that the petitioner, being the CEO of the company, was alleged to be one of the masterminds behind the syndicate.

5.2 Whether search proceedings amounted to arrest

One of the important issues examined by the Court was whether the petitioner could claim that he was effectively under arrest from the moment DGGI officials entered the premises for conducting search proceedings.

Rejecting this contention, the Court held that the officials had entered the premises pursuant to valid authorisation for search and summons issued under the CGST Act. Merely because the petitioner's movements were regulated during the course of search and questioning did not mean that he had been formally arrested from that point in time.

5.3 Compliance with constitutional safeguards under Article 22(2)

The High Court further held that even if the petitioner's own version was accepted that the formal arrest occurred at around 3:48 AM on 27.02.2026, his production before the learned Additional Chief Judicial Magistrate at about 8:30 PM on the same day was well within the 24-hour constitutional timeline prescribed under Article 22(2) of the Constitution of India.

5.4 Sufficiency of material and "reasons to believe"

The Court carefully examined the authorisation of arrest and the grounds communicated to the petitioner. It noted that the investigation had allegedly revealed the involvement of dummy programme managers and shell entities used for routing online gaming funds without payment of GST.

The Court further observed that under agreements executed between the company and programme managers/resellers, the company was responsible for carrying out periodic inspections and audits for risk monitoring. However, according to the investigation, no such meaningful audits had been conducted despite suspicious activities. The Court also took note of allegations relating to the petitioner's foreign visits and association with entities allegedly linked to the online gaming syndicate. The role of third-party onboarding service providers was also considered relevant during investigation.

On the basis of the materials placed before it, the Court concluded that there existed sufficient grounds for the competent authority to form the requisite "reasons to believe" under Section 69 of the CGST Act.

5.5 Judicial approach towards arrest in economic offences

The judgment reflects the continuing judicial approach that economic offences involving large-scale tax evasion stand on a distinct footing because of their impact on the economy and public revenue. The Court appeared persuaded by the magnitude of the alleged evasion and the organised nature of the transactions under investigation.

6. Lessons emerging from the judgment

The judgment carries important lessons for taxpayers, fintech companies, payment aggregators, and digital platform operators functioning within the rapidly evolving online gaming ecosystem.

First, the decision demonstrates that GST authorities are increasingly willing to invoke arrest provisions in cases involving alleged organised financial structures, shell entities, and digital transaction networks. The era where investigations were viewed merely as documentary tax disputes is gradually giving way to aggressive enforcement involving criminal law mechanisms.

Secondly, the ruling indicates that senior management personnel, including CEOs and key managerial officials, may face direct exposure during GST investigations where authorities perceive systemic failures, inadequate compliance monitoring, or active involvement in disputed transactions.

Thirdly, the judgment reinforces the importance of maintaining robust compliance systems, KYC mechanisms, merchant due diligence processes, audit trails, and documented internal controls. In industries such as fintech and online gaming where transaction volumes are enormous and business models are technology driven, absence of adequate monitoring systems can itself become a significant evidentiary circumstance during investigation.

Finally, the case also highlights the limited scope of judicial interference at the investigation stage where authorities are able to demonstrate procedural compliance and existence of prima facie material supporting their "reasons to believe."

7. Online gaming controversy under GST: Far from over

The controversy surrounding GST liability on online gaming platforms appears far from reaching finality in the near future. The sector continues to remain one of the most intensely litigated and commercially sensitive areas under the GST regime.

With investigations involving thousands of crores already underway across multiple jurisdictions, the online gaming industry is likely to witness continued litigation before constitutional courts, adjudicating authorities, and appellate forums for years to come. Simultaneously, the government's increasingly enforcement-oriented approach indicates that arrests, search operations, and criminal prosecution may continue to remain central tools in high-value GST investigations involving digital businesses.

8. Conclusion

While the Court upheld the legality of the arrest in the facts of the present case, the judgment also indirectly underscores the significance of procedural safeguards such as recording of "reasons to believe," communication of grounds of arrest, and timely production before judicial authorities. These safeguards continue to remain critical checks against potential misuse of coercive powers under fiscal statutes.

At a broader level, the case also reflects the changing landscape of GST enforcement in India. Investigations today are no longer confined to conventional tax disputes but increasingly involve sophisticated allegations concerning fintech structures, shell entities, online gaming ecosystems, and digital transaction networks. Consequently, the intersection of tax law, criminal law, constitutional protections, and technology-driven commerce is likely to shape the next phase of GST litigation in India.

As courts continue to develop jurisprudence in this area, the central challenge will remain ensuring that the fight against tax evasion does not dilute the constitutional guarantees of fairness, liberty, and due process that form the bedrock of Indian legal jurisprudence.

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