

VIMAL YASHWANTGIRI GOSWAMI vs. STATE OF GUJARAT

[2020 (11) TMI 40 (GUJARAT HIGH COURT)]

Mere suspicion is not sufficient to invoke provision of Confiscation

Point of Dispute:

- Whether the provisions of sections 154, 155(1), 155(2), 155(3), 157, 172 of the Cr.P.C. are applicable or should be made applicable for the purpose of invoking the power to arrest under section 69 of the CGST Act? In other words, whether the authorised officer can arrest a person alleged to have committed non-cognizable and bailable offences without a warrant of arrest issued by the Magistrate under the provisions of the Cr. P.C.?
- For the purpose of section 69(3), whether the GST authorities could be said to be a "police officer-in-charge of a police station" as defined under section 2(o) of the Cr. P.C.?
- Whether the constitutional safeguards laid out by the Supreme Court in D.K. Basu vs. State of West Bengal [(1997) 1, SCC 416] case in the context of the powers of the police officers under the Cr. P.C. and of officers of the Central Excise, Customs and Enforcement Directorate are applicable to the exercise of powers under the provisions of section 69 of the CGST Act in equal measure?

Conclusion:

- Arrest memo is a crucial component of legal procedure of arrest and the powers of arrest under section 69 are to be exercised with considerable care and circumspection. Prosecution should normally be launched only after the adjudication is completed.