



# Lawgics

By Nidhi, Advocate



Judgment No.: 058  
Dt.: 29-01-2024



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## Judgment Deals With

Section/Rule	Section 70
Authority	Delhi High Court
Case Name	Manish Goyal VS Directorate General Of GST Intelligence
Dated	19 <sup>th</sup> January, 2024

### Brief Facts:

The accused Manish Goyal is the proprietor of M/s Radiant Traders, engaged in manufacture of smoking mixtures. 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 not fit for human consumption. 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. Search was also conducted at the previous business premises of M/s Radiant Traders and it was found that M/s Radiant Traders did not exist. Statement of accused Manish Goyal was recorded under Section 70 of CGST Act, 2017. Manish Goyal was arrested on 25.11.2022 under the allegations of having committed offences under Section 132(1)(b) and (c) of the CGST Act. The regular bail was granted to Manish Goyal by the learned Additional Sessions Judge (ASJ), Patiala House Courts, New Delhi, vide order dated 21.12.2022. After the grant of bail, Manish Goyal was summoned by the DGGI on 4 subsequent occasions and Manish Goyal was late by 2 hours in respect of the first 2 summons and did not join investigation in respect of the next 2 summons. Resultantly, the DGGI moved the Sessions Court seeking cancellation of the bail granted to him which was allowed by the learned ASJ, Patiala House Court, New Delhi, vide order dated 15.09.2023.

### Contention of the Accused:

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. No criminal complaint has been filed in the present case and therefore this is a pre-chargesheet case. Non-appearance on one date cannot be a ground for cancellation of bail. The accused has appeared for investigation on every date except 27.02.2023, which was on account of his ill-health.

**Contention of the DGGI:**

Manish Goyal is involved in a serious economic offence relating to evasion of GST to the tune of Rs.218 crores. In the present case, ITC 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. The smoking mixtures seized at Mundra port were tested by CRCL, Kandla, wherein it has been established that the smoking mixture is not fit for human consumption. 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. 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.

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.

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 2 occasions and did not appear on the next 2 occasions on being summoned after the grant of bail on 15.09.2023.

**Findings & Decision of the Court:**

Manish Goyal, in his statement under Section 70 of 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.

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.

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. 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.

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. 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 15.09.2023, passed by the Sessions Court cancelling bail on account of non-appearance on one or two dates was harsh and was accordingly set aside.

However, Manish Goyal shall strictly comply with the conditions imposed vide order dated 21.12.2022, passed by the learned ASJ while granting bail.