

फा. सं. GST/INV/Instructions/21-22
वित्तमंत्रालय
राजस्वविभाग
केन्द्रीयअप्रत्यक्ष करएवंसीमाशुल्कबोर्ड
GST-Investigation Wing

10 वाँ माला, टावर-2,
जीवन भारती बिल्डिंग
कनॉट सर्कस, नई दिल्ली-110001.
दिनांक - 13 जनवरी 2025

Instruction No. 01/2025-GST
(Amendment to Instruction No. 02/2022-23 GST (Investigation) dated 17.8.2022)

SUBJECT: GUIDELINES FOR ARREST AND BAIL IN RELATION TO OFFENCES PUNISHABLE UNDER THE CGST ACT, 2017 - REG.

Please refer to Instruction No. 02/2022-23 GST (Investigation) dated 17.8.2022 on the above subject.

Hon'ble High Court of Delhi in case of KSHITIJ GHILDIYAL versus DIRECTOR GENERAL OF GST INTELLIGENCE, DELHI [W.P. (CRL) No. 3770/2024], vide judgement dated 16.12.2024, has held that the grounds of arrest have to be communicated in writing to the arrested person. In coming to this conclusion, the Hon'ble High Court has relied on the judgements of Hon'ble Supreme Court the cases of Pankaj Bansal Versus Union of India & Ors., Criminal Appeal Nos. 3051-3052 of 2023 {@ Special Leave Petition (Crl.) Nos. 9220-21 of 2023} dated 3rd October, 2023, and PRABIR PURKAYASTHA Vs STATE (NCT OF DELHI), CRIMINAL APPEAL (D. No. 42896/2023) Judgement dated 15th May, 2024.

In this context it is relevant to note the distinction between 'reasons for arrest' and 'grounds of arrest' made by the Hon'ble Supreme Court in the case of PRABIR PURKAYASTHA Vs STATE (NCT OF DELHI), CRIMINAL APPEAL (D. No. 42896/2023). The relevant para of the said Judgement dated 15th May, 2024, reads as follows:

"49. It may be reiterated at the cost of repetition that there is a significant difference in the phrase 'reasons for arrest' and 'grounds of arrest'. The 'reasons for arrest' as indicated in the arrest memo are purely formal parameters, viz., to prevent the accused person from committing any further offence; for proper investigation of the offence; to prevent the accused person from causing the evidence of the offence to disappear or tempering with such evidence in any manner; to prevent the arrested person for making inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to the Investigating Officer. These reasons would commonly apply to any person arrested on charge of a crime whereas the 'grounds of arrest' would be required to contain all such details in hand of the Investigating Officer which necessitated the arrest of the accused. Simultaneously, the grounds of arrest informed in writing must convey to the arrested accused

all basic facts on which he was being arrested so as to provide him an opportunity of defending himself against custodial remand and to seek bail. Thus, the 'grounds of arrest' would invariably be personal to the accused and cannot be equated with the 'reasons of arrest' which are general in nature."

In light of the above, Para 4.2.1 of Instruction 02/2022-23 GST (Investigation) dated 17.8.2022 is amended and may be read as follows -

Para 4.2.1 - The grounds of arrest must be explained to the arrested person and also furnished to him in writing as an Annexure to the Arrest Memo. Acknowledgement of the same should be taken from the arrested person at the time of service of the Arrest Memo.

Hindi version to follow.


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To

1. Principal Chief Commissioner(s)/ Chief Commissioner(s) of CGST, All Zones.
2. Principal Director General [DGGI], New Delhi.
3. Webmaster, CBIC (www.cbic.gov.in) for uploading on the website of CBIC under Instructions.