IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CNR No: PHHC011291312025
2026:PHHC:104666

CRM-M-45265 of 2025(O&M)
Reserved on: 21.07.2026
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Manoj Bansal

..Petitioner

Versus

Deputy Director, Directorate of Goods and Services Tax Intelligence, Gurugram

..Respondent

CORAM: HON'BLE MS. JUSTICE SHALINI SINGH NAGPAL

Present: Mr. Deepak Gupta, Advocate
for the petitioner.

Mr. Sourabh Goel, Special Public Prosecutor-DGGI
with Ms. Anju Bansal, Advocate and
Ms. Geetika Sharma, Advocate
for the respondent.

SHALINI SINGH NAGPAL, JUDGE

Prayer in the petition under Section 528 of BNS 2023, is for quashing of complaint, COMA-86-2021 dated 05.02.2021 titled '*Deputy Director Versus Manoj Bansal'* under Section 132 of the Central Goods and Service Tax Act, 2017 and all subsequent proceedings arising therefrom.

2. Petitioner has pleaded that respondent-Deputy Director, Directorate of Goods and Services Tax Intelligence, Gurugram filed the complaint against him in his individual capacity, though he was not eligible under the GST frame work to either avail or utilize ITC, not being 'a registered person' within the meaning of Section 2(94) of CGST Act, 2017. The complaint was thus, not legally sustainable. M/s NIPL which

purportedly availed the ITC and utilized it was not arrayed as party and the complaint against the petitioner in his individual capacity was legally untenable and procedurally flawed. The complaint did not allege that petitioner availed the ITC for personal use in the course or furtherance of business, in contravention of Section 16 CGST Act, 2017, therefore, essential ingredients of Section 132(1)(c) of the GST Act, were conspicuously missing. The initiation and continuation of trial proceedings amounted to abuse of the process of law and the complaint was liable to be quashed on this sole ground.

3. Respondent No.1 has filed reply to the petition stating that the complaint was filed after due investigation, based on credible material evidencing that M/s NIPL, of which petitioner was Director, availed and utilized fraudulent ITC to the tune of Rs.15.44 crores without receipt of goods, thereby committing offences under Section 132 of CGST, 2017. Petitioner being Director of M/s NIPL, was actively involved in the management and operations of the Company, during the relevant period and was thus vicariously liable under Section 137 of CGST Act, 2017. It was stated that non-arraignment of the Company as an accused did not invalidate the proceedings. It was further stated that Manoj Bansal was the beneficiary and mastermind in the scheme of availing ITC without actual supply of goods, obtaining invoices without actual receipt of goods and in the capacity of Director of M/s NIPL, he caused wrongful loss to government exchequer by devising *mala-fide* scheme of bogus invoicing, purchasing lead metal from open market without paying taxes, obtaining invoices from brokers on commission basis. It was averred that demand-cum-show cause notice dated 16.04.2021 was issued to M/s NIPL, under Section 74 of CGST Act, 2017

and was confirmed by adjudicating authority vide order dated 16.01.2025. M/s NIPL filed an appeal under Section 107 of CGST Act, 2017, before the Appellate Authority. ITC of more than Rs.15 crores was availed on the strength of fake invoices from non-existent entities. Petitioner, being Director, orchestrated the fraudulent transactions and was rightly proceeded against

4. Learned counsel for the petitioner submits that complaint Annexure P-1, filed by the respondent before learned Chief Judicial Magistrate, Rohtak, against petitioner alone, in the absence of the company M/s NIPL alleging commission of an offence under Section 132 of CGST, 2017 was not maintainable and was liable to be quashed in view of law laid down by Hon'ble Apex Court in ***Aneeta Handa vs. Godfather Travels and Tours Pvt. Ltd. (2012) 5 SCC 661, Himanshu vs. B. Shivamurthy and another (2019) 3 SCC 797, Dayle De Souza vs. GOI and another (2021) 20 SCC 135*** and ***Hindustan Unilever Ltd. Vs. State of Madhya Pradesh (2020) 10 SCC 751***.

5. It was argued that M/s NIPL was a "registered person" under the GST Act, 2017 and it was M/s NIPL that allegedly availed the wrongful ITC. Petitioner was not a registered person under the GST Act, 2017 and therefore, was not entitled to avail the ITC. The complaint, without arraigning M/s NIPL, the entity that allegedly availed the wrongful ITC, as an accused, was not maintainable. Petitioner could be fastened with the liability under Section 137 of CGST Act, 2017 only when proceedings were simultaneously initiated against the Company. It was urged that Section 137 of CGST Act, 2017 was identical to Section 141 of Negotiable Instruments Act, 1881 (hereinafter referred to as 'NI Act'). Hon'ble Supreme Court, in

various precedents, while interpreting the scheme of Section 141 of NI Act had categorically laid down that Director or individual officer cannot be prosecuted without impleading the Company. The principle of law enunciated by Hon'ble Supreme Court was fully applicable to the facts of the case. Thus, proceedings against the petitioner being unsustainable, were liable to be quashed. Reliance was also placed on judgments of coordinate Benches in ***Anil Khandelwal etc. Vs. Phoenic India and another, 2025 SCC online SCC 1883, Nilesh Aggarwal Vs. ITO 2025 SCC online Del 6433, Amar Tea P. Ltd. Vs. State Govt. of NCT of Delhi 2025 SCC online Del 810, Managing Director Sanghi Industries Ltd. Vs. State of Gujarat and another 2016 SCC online Guj 6303, and William Scott Pinckney Vs. Union Territory of Chandigarh, 2018 SCC online P&H 7025, Jaskore Singh Vs. The State of Punjab and another 2016 SCC online P&H 10119, G.P. Kotyal @ Kottiyal Vs. Jindal Udyog and another 2016 SCC online P&H 18364, Surinder Kumar Vs. M/s Punjab Agro Food Grains Corporation Ltd. 2018 SCC online P&H 164 and Manish Jain Vs. Surender Singh 2015 SCC Online P&H 4895.***

6. Learned counsel for the respondent, while fairly conceding that it was M/s NIPL, the Company, which wrongly availed ITC of Rs. 15.44 crores without actual supply of goods, argued that petitioner was the beneficiary and mastermind of the crime being Director of M/s NIPL, actively involved in the management and operations of the Company including GST related matters, thus, could be individually prosecuted under Section 137 of CGST Act, 2017. It was argued that proceedings against the petitioner were not based on vicarious liability but on concrete material and investigation revealing his actively participation and responsibility in company operations. Petitioner was not a passive Director but facilitated the transactions that resulted in fraudulent availing of ITC, without actual receipt of goods.

7. Deputy Director, Directorate of Goods and Services Tax Intelligence, Gurugram Zonal Unit, Gurugram, instituted complaint in the Court of learned Chief Judicial Magistrate against petitioner-Manoj Bansal, under Section 132 of the Central Goods and Service Tax Act, 2017 alleging that on intelligence received that M/s Nikita Industries Pvt. Ltd., Kharkhoda, Sonepat, Haryana was availing benefit of Input Tax Credit (hereinafter referred to as 'ITC'), searches were carried out in the registered premises of M/s Nikita Industries Pvt. Ltd., Kharkhoda, Sonepart Haryana (hereinafter referred to as 'M/s NIPL'). During search, incriminating documents in the form of Purchases invoices, Transport biltis etc were found. Investigation revealed that the suppliers of M/s NIPL were infact bogus/dummy firms created on paper for issuing fake invoices without actual supply of goods fraudulently set up in the name of unsuspecting individuals, without their knowledge and consent. It was found that the petitioner in the capacity of Director of M/s NIPL, used to purchase lead metal without invoices from open market in cash in order to wrongly avail the ITC. He obtained only invoices showing purchase from various non-existing dummy firms, 31 in number to fraudulently avail benefit of ITC. It was found that M/s NIPL, wrongly availed ITC to the tune of Rs.15,44,48,7578/- on the basis of invoices of various firms, without actual supply of goods.

8. Petitioner is being prosecuted under Section 132(1)(b) and (c) CGST Act, 2017, on account of M/s NIPL having wrongly availed ITC of Rs.15.44 crores on the strength of goodless invoices of various firms. The

poser for determination is whether petitioner, who is a Director of M/s NIPL, can be prosecuted individually without impleading the company M/s NIPL as an accused.

9. Section 137 of CGST 2017 deals with offences by companies, relevant portion thereof is reproduced below:

> Section 137 **Offences by companies**.
>
> *(1) Where an offence committed by a person under this Act is a company, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.*
>
> *(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any negligence on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.*
>
> *(3) Where an offence under this Act has been committed by a taxable person being a partnership firm or a Limited Liability Partnership or a Hindu Undivided Family or a trust, the partner or karta or managing trustee shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly and the provisions of sub-section (2) shall, mutatis mutandis, apply to such persons.*
>
> *(4) Nothing contained in this section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.*
>
> *Explanation--- For the purposes of this section,---*
>
> *(i) "company" means a body corporate and includes a firm or other association of individuals; and*
>
> *(ii) "director", in relation to a firm, means a partner in the firm.*

(1) Any offence under this Act may, either before or after the institution of prosecution, be compounded by the Commissioner on payment, by the person accused of the offence, to the Central Government or the State Government, as the case may be, of such compounding amount in such manner as may be prescribed:

Provided that nothing contained in this section shall apply to---

[1]*[(a) a person who has been allowed to compound once in respect of any of the offences specified in clauses (a) to (f), (h), (i) and (l) of sub-section (1) of section 132;]*
[2]* * * * *
[3]*[(c) a person who has been accused of committing an offence under clause (b) of sub-section (1) of section 132;]*
(d) a person who has been convicted for an offence under this Act by a court;
[4]* * * * *
(f) any other class of persons or offences as may be prescribed:
Provided further that any compounding allowed under the provisions of this section shall not affect the proceedings, if any, instituted under any other law:
Provided also that compounding shall be allowed only after making payment of tax, interest and penalty involved in such offences.
(2) The amount for compounding of offences under this section shall be such as may be prescribed, subject to the minimum amount not being less than [5]*[twenty-five per cent. of the tax involved and the maximum amount not being more than one hundred per cent. of the tax involved].*
(3) On payment of such compounding amount as may be determined by the Commissioner, no further proceedings shall be initiated under this Act against the accused person in respect of the same offence and any criminal proceedings, if already initiated in respect of the said offence, shall stand abated.

10. Evidentally, if a person who commits the offence under Section 132 of the CGST Act, 2017, is a company, every person who, at the time of

commission of offence, was incharge of and responsible to the company for the conduct of business of the company shall be deemed to be guilty and shall be liable to be proceeded against. Sub Section (2) deals with the concept of consent, connivance, negligence on part of any Director or office bearer of the Company.

11. At this juncture, it would be relevant to examine the provisions contained under Section 141 of the NI Act, which provide as under:

> ***141. Offences by companies.****—(1) If the person committing an offence under section 138 is a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:*
>
> *Provided that nothing contained in this sub-section shall render any person liable to punishment if he proves that the offence was committed without his knowledge, or that he had exercised all due diligence to prevent the commission of such offence:*
>
> *6[Provided further that where a person is nominated as a Director of a company by virtue of his holding any office or employment in the Central Government or State Government or a financial corporation owned or controlled by the Central Government or the State Government, as the case may be, he shall not be liable for prosecution under this Chapter.]*
>
> *(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.*

> *Explanation.—For the purposes of this section, —*
> *(a) "company" means any body corporate and includes a firm or other association of individuals; and*
> *(b) "director", in relation to a firm, means a partner in the firm.*

12. A bare look at both the provisions would show that they are *pari-materia*. Section 141 NI Act and Section 137 CGST Act 2017, both use the term 'person' and refer it to a Company. That company is a juristic person and cannot claim immunity from criminal prosecution is well settled by now and this very principle is embodied in Section 141 of the Negotiable Instruments Act and Section 137 of CGST Act, 2017.

13. A three Judge Bench of the Apex Court in ***Aneeta Handa Vs. Godfather Travels and Tours Private Limited (supra),*** after considering the various previous decisions on the issue, determined whether an authorized signatory of a Company was liable for prosecution under Section 138 of NI Act, 1881, without impleading the Company as an accused. It was observed as under:

> *'58.Applying the doctrine of strict construction, we are of the considered opinion that commission of offence by the company is an express condition precedent to attract the vicarious liability of others. Thus, the words "as well as the company" appearing in the Section make it absolutely unmistakably clear that when the company can be prosecuted, then only the persons mentioned in the other categories could be vicariously liable for the offence subject to the averments in the petition and proof thereof. One cannot be oblivious of the fact that the company is a juristic person and it has its own respectability. If a finding is recorded against it, it would create a concavity in its reputation. There can be situations when the corporate reputation is affected when a director is indicted.*

59. In view of our aforesaid analysis, we arrive at the irresistible conclusion that for maintaining the prosecution under Section 141 of the Act, arraigning of a company as an accused is imperative. The other categories of offenders can only be brought in the dragnet on the touchstone of vicarious liability as the same has been stipulated in the provision itself. We say so on the basis of the ratio laid down in C.V. Parekh (supra) which is a three-Judge Bench decision. Thus, the view expressed in Sheoratan Agarwal (supra) does not correctly lay down the law and, accordingly, is hereby overruled. The decision in Anil Hada (supra) is overruled with the qualifier as stated in para 51. The decision in Modi Distilleries (supra) has to be treated to be restricted to its own facts as has been explained by us hereinabove.'

14. The proposition of law laid down in ***Aneeta Hada*** was reiterated by Hon'ble Supreme Court in ***Anil Gupta Versus Star India (P) Ltd. (2014) 10 SCC 373***, wherein the Court observed as under:

"13. In the present case, the High Court by the impugned judgment dated 13-8-2007 held that the complaint against Respondent 2 Company was not maintainable and quashed the summons issued by the trial court against Respondent 2 Company. Thereby, the Company being not a party to the proceedings under Section 138 read with Section 141 of the Act and in view of the fact that part of the judgment referred to by the High Court in Anil Hada has been overruled by a three-Judge Bench of this Court in Aneeta Hada, we have no other option but to set aside the rest part of the impugned judgment whereby the High Court held that the proceedings against the appellant can be continued even in absence of the Company. We, accordingly, set aside that part of the impugned judgment dated 13-8- 2007 passed by the High Court so far as it relates to the appellant and quash the summons and proceeding pursuant to Complaint Case No. 698 of 2001 qua the appellant."

15. Again in ***Himanshu Vs. B. Shivamurthy and another,*** **(supra)** two judge Bench of the Apex Court examined an identical issue i.e. whether the Director of a company could be prosecuted without the company being named as an accused. The Court ruled as under:

> '13. *In the absence of the company being arraigned as an accused, a complaint against the appellant was therefore not maintainable. The appellant had signed the cheque as a Director of the company and for and on its behalf. Moreover, in the absence of a notice of demand being served on the company and without compliance with the proviso to Section 138, the High Court was in error in holding that the company could now be arraigned as an accused.'*

16. This issue was again clarified and reiterated by the Apex Court in ***Sharad Kumar Sanghi v. Sangita Rane, (2015) 12 SCC 781*** as under:-

> '*11. In the case at hand as the complainant's initial statement would reflect, the allegations are against the company, but the company has not been made arrayed as a party. Therefore, the allegations have to be restricted to the Managing Director. As we have noted earlier, allegations are vague and in fact, principally the allegations are against the company. There is no specific allegation against the Managing Director. When a company has not been arrayed as a party, no proceeding can be initiated against it even where vicarious liability is fastened on certain statutes. It has been so held by a three-Judge Bench in Aneeta Hada v. Godfather Travels and Tours Private Limited6 in the context of Negotiable Instruments Act, 1881.*
>
> *2. At this juncture, it is interesting to note, as we have stated earlier, that the learned Magistrate while passing the order dated 22.10.2001, had opined, thus :-*
>
> *It appears prima-facie from the complaint filed by the complainant, documents, evidence and arguments that accused company has committed cheating with the complaint by delivering old and accidented vehicle to her at the cost of a*

> *new 5 (2013) 4 SCC 505 6 (2012) 5 SCC 661 truck. Accordingly, prima-facie sufficient grounds exist for registration of a complaint against the accused U/s. 420 of I.P.C. and is accordingly registered."*
>
> *13. When the company has not been arraigned as an accused, such an order could not have been passed. We have said so for the sake of completeness. In the ultimate analysis, we are of the considered opinion that the High Court should have been well advised to quash the criminal proceedings initiated against the appellant and that having not been done, the order is sensitively vulnerable and accordingly we set aside the same and quash the criminal proceedings initiated by the respondent against the appellant.'*

17. ***In Dayle De Souza v. Government of India (2021) 20 SCC 135*** also, the same position was affirmed.

18. Co-ordinate Benches of this Court too in ***Anil Khandelwal etc. Vs. Phoenic India and another, 2025 SCC online SCC 1883, Nilesh Aggarwal Vs. ITO 2025 SCC online Del 6433, Amar Tea P. Ltd. Vs. State Govt. of NCT of Delhi 2025 SCC online Del 810, Managing Director Sanghi Industries Ltd. Vs. State of Gujarat and another 2016 SCC online Guj 6303, and William Scott Pinckney Vs. Union Territory of Chandigarh, 2018 SCC online P&H 7025, Jaskore Singh Vs. The State of Punjab and another 2016 SCC online P&H 10119, G.P. Kotyal @ Kottiyal Vs. Jindal Udyog and another 2016 SCC online P&H 18364, Surinder Kumar Vs. M/s Punjab Agro Food Grains Corporation Ltd. 2018 SCC online P&H 164 and Manish Jain Vs. Surender Singh 2015 SCC Online P&H 4895*** have reasserted the same principle.

19. Penal statues require strict construction. Analysis of Section 141 of NI Act 1881, by the Apex Court in various binding precedents discussed hereinabove, would squarely apply to interpretation of Section 137 of the

CGST Act, 2017, which is *pari-materia.* It has not been disputed by the respondent that the offence of wrongly availing ITC of Rs.15.44 crores has been committed by M/s NIPL and role of the petitioner is that of a Director of M/s NIPL. Complaint Annexure-P1, though filed against petitioner, alleges in para-30.4 that M/s NIPL wrongly availed ITC on the basis of invoices of 31 firms. Commission of offence by the companyM/s NIPL is an express condition precedent to attract the vicariously liability of the petitioner, who was the Director of M/s NIPL at the relevant time. It is only when the company is prosecuted that the petitioner being the Director could be vicariously liable for the offence. Though, learned counsel for the respondent does not dispute that the company may be liable, he insists that prosecution of the petitioner as the main architect of the fraud is legally sustainable. The argument lacks legal basis in view of settled legal position. .

20. As per Section 16 of CGST Act 2017, only a registered person shall be entitled to take credit of input tax charged on any supply of good or services or both to him.

Section 2(94) defines registered person as under:

> ***(94) 'registered person'*** *means a person who is registered under Section 25 but does not include a person having a Unique Identity Number;*

21. Undeniably, it is M/s NIPL, which is a registered person within the meaning of Section 2 (94) of the CGST Act, 2017. It is M/s NIPL which has availed the ITC fraudulently. It is also the admitted position that demand-cum-show cause notice dated 16.04.2021 was issued to M/s NIPL under Section 74 of CGST Act 2017 and it was M/s NIPL which filed an appeal under Section 107 of CGST, 2017 before the Appellate Authority.

22. In the absence of M/s NIPL, being arraigned as an accused, the complaint against petitioner, a Director of the Company would not be maintainable. Unless the company is prosecuted, no vicarious liability can be fastened on the petitioner. Prosecution of the petitioner in his personal capacity without arraigning the company cannot proceed against settled principles of law.

23. Accordingly, the petition succeeds. Complaint bearing COMA-86-2021 dated 05.02.2021 titled as '*Deputy Director Versus Manoj Bansal'* pending before learned Chief Judicial Magistrate, Rohtak and all subsequent proceedings arising thereform, are hereby quashed invoking inherent jurisdiction of the Court.

24. The respondents shall, however, be at liberty to proceed for the offence under Section 132 CGST Act in accordance with law. Copy of this judgment be forwarded to Additional Director General, DGGI, Zonal Unit, Gurugram, for information and necessary action.

All the pending miscellaneous applications, if any, stand disposed of.

(SHALINI SINGH NAGPAL)
JUDGE

01.08.2026

reema Whether speaking/reasoned : Yes
Whether reportable : No