

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 14648 of 2020****MESSERS SB TRADERS THROUGH PROPRIETOR SUMAIR K THROUGH
POWER OF ATTORNEY & 1 other(s)****Versus****STATE OF GUJARAT THROUGH THE SECRETARY, MINISTRY OF
FINANCE & 2 other(s)****Appearance:****MR SAMEER GUPTA FOR MR MONAL S CHAGLANI(10240) for the
Petitioner(s) No. 1,2****MR CHINTAN DAVE, AGP for the Respondent(s) No. 1****CORAM: HONOURABLE THE CHIEF JUSTICE MR. VIKRAM NATH
and
HONOURABLE MR. JUSTICE J.B.PARDIWALA****Date : 06/11/2020****ORAL ORDER****(PER : HONOURABLE MR. JUSTICE J.B.PARDIWALA)**

1. We have heard Mr. Sameer Gupta, the learned counsel assisted by Mr. Monal S. Chaglani, the learned counsel appearing for the writ applicants and Mr. Chintan Dave, the learned Assistant Government Pleader appearing for the respondents.

2. By this writ application under Article 226 of the Constitution of India, the writ applicants have prayed for the following reliefs :

"This Hon'ble Court may graciously be pleased to issue a writ, order or direction in the nature of :

(a) Certiorari quashing the MOV-10 (Confiscation notice dated 08.08.20 (Annexure-F to the petition);

(b) Certiorari quashing the order bearing No.GSL/S.5(1)/B.1 dated 23.06.17 (Annexure-M passed by the Respondent No.2.

(c) *Certiorari quashing the notification bearing No.GSL/1/Jurisdiction/B.2052 dated 29.06.17 (Annexure-N) issued by the Respondent no.2.*

(d) *Certiorari quashing the notification bearing no.VVK-502017-771-TH-3, dated 30.06.17, (Annexure-O) issued by the Respondent no.2.*

(e) *Certiorari quashing the order bearing no.VVK/MKM-1/Namadhidhan/2017-18/O/2626, dated 26.07.17 (Annexure-P) passed by the Respondent No.2.*

(f) *Mandamus directing the Respondent No.3 to forthwith release the goods and vehicle without demanding any security;*

(g) *Pending notice, admission and final hearing of this petition, this Hon'ble Court may be pleased to direct the learned Respondent Authorities to forthwith release goods with vehicle no.KA01 AE 4259 detained/seized in purported exercise of powers under Section 129 and Section 130 of the GST Acts;*

(h) *Issue any other writ, order or direction in favour of the petitioner which this Hon'ble Court deems fit in the facts and circumstances of the case;*

(I) *Award cost of the petition to the petitioner;"*

3. Mr. Gupta, the learned counsel did make few submissions more particularly with regard to the very jurisdiction of the Chief Commissioner of State Tax. However, as we are not inclined to go into such issue, Mr. Gupta made a request that this petition may be disposed of relegating the writ applicants to avail the alternative remedy of filing an appeal under Section 107 of the Act. It is further pointed out by Mr. Gupta that yesterday the final order in Form MOV-11 has been passed. This is suggestive of the fact that the final order of confiscation has been passed. Such order would be an

appealable order under Section 107 of the Act. It is also pointed out that three months back, an application was filed under Section 67(6) of the Act for provisional release of the goods and the conveyance. However, according to the learned counsel, no orders have been passed on such application.

4. We dispose of this writ application with a direction to the authority concerned to immediately take up the application filed by the writ applicants under Section 67(6) of the Act for the provisional release of the goods and the conveyance and pass an appropriate order in accordance with law within a period of one week from the date of the presentation of this order. We clarify that we have otherwise not gone into the merits of the matter.

5. With the above, this writ application stands disposed of.

(VIKRAM NATH, CJ)

सत्यमेव जयते
THE HIGH COURT
OF GUJARAT

(J. B. PARDIWALA, J)

A. B. VAGHELA / GAURAV THAKER

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