IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 22211 of 2019

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M/S SAWARIYA TRADERS
Versus
STATE OF GUJARAT
==
Appearance:
MR MONAL S CHAGLANI(10240) for the Petitioner(s) No. 1,2
for the Respondent(s) No. 2,3,4
ADVANCE COPY SERVED TO GOVERNMENT PLEADER/PP(99) for the Respondent(s) No. 1
==

CORAM: **HONOURABLE MS.JUSTICE HARSHA DEVANI**
and
HONOURABLE MS. JUSTICE SANGEETA K. VISHEN

Date : 17/12/2019

ORAL ORDER
(PER : HONOURABLE MS.JUSTICE HARSHA DEVANI)

1. Mr. Samir Gupta, learned advocate with Mr. Monal Chaglani, learned advocate for the petitioners invited the attention of the court to the order of detention made under section 129(1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as 'the CGST Act') and other statutes to submit that the same is totally silent as regards the discrepancy noticed after the physical verification of the goods and conveyance. Referring to the notice issued under section 130 of the CGST Act in Form GST MOV-10, it was pointed out that the grounds set out therein have got nothing to do with the goods which were in transit. It was submitted that there is no allegation as regards any contravention in respect of the goods in transit. Reference was made to section 130 of the

CGST Act to point out that the same contemplates five contingencies in which the action can be taken thereunder. It was submitted that, in the impugned notice, it has not been specified as to which of the five clauses of sub-section (1) of section 130 of the CGST Act has been infringed in the present case. It was further submitted that notice under section 130 of the CGST Act has to be issued to the person who contravenes the provisions of the CGST Act whereas, in the facts of the present case, such notice has been issued to the driver, who would not be the proper person to answer such show-cause notice.

2. Having regard to the submissions advanced by the learned advocate for the petitioners, issue ***Notice***, returnable on **20th December 2019**.

Direct service is permitted **today**. The petitioners are permitted to serve the respondents directly through Speed-post at their own cost.

[Harsha Devani, J.]

[Sangeeta K. Vishen, J.]

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