

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 7366 of 2020**

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ASSOCIATED ROAD CARRIERS LTD. THROUGH ITS AUTHORISED
PERSON PRAKASH DHANIRAM ARYA

Versus
STATE OF GUJARAT

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Appearance:

MR AADITYA D BHATT(8580) for the Petitioner(s) No. 1
for the Respondent(s) No. 2

MS MANISHA LAVKUMAR SHAH, GOVERNMENT PLEADER/PP(99) for the
Respondent(s) No. 1

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CORAM: **HONOURABLE THE CHIEF JUSTICE MR. VIKRAM NATH**
and
HONOURABLE MR. JUSTICE J.B.PARDIWALA

Date : 15/06/2020

ORAL ORDER

(PER : HONOURABLE MR. JUSTICE J.B.PARDIWALA)

1. By this writ application under Article 226 of the Constitution of the India, the writ applicant engaged in the business of transport has prayed for the following reliefs :

“(A) that your lordships be pleased to quash and set aside the order dated 07.06.2020, under the provisions of Section 129 of the CGST Act, specifying the tax and penalty of Rs.2,02,974/- payable, along with the related provisions of State GST and/or integrated GST Act, in the interest of justice;

(B) Pending admission hearing and final disposal of the present petition, your lordships may be pleased to direct to release the Vehicle bearing Registration

No.RJ27GC2872, as well as consignments under the purported exercise of the powers under Section 129 of the GST Act.

(C) Be pleased to award the cost of the petition to the present petitioner.

(D) Grant such other and further relief as the nature of the case may require in the interest of justice.”

2. It appears from the materials on record that while the goods were in transit, the vehicle/conveyance bearing Registration No.RJ-27-GC-2872 came to be seized on the ground that the driver of the conveyance was not able to produce a valid E-way bill. Ultimately, a show cause notice was issued by the authority concerned and an order has been passed in MOV.09 dated 07.06.2020 calling upon the writ applicant to pay a particular amount of tax and penalty. The writ applicant being dissatisfied with the impugned order passed by the authority concerned is here before us with the present writ application.

3. We have heard Mr.Aaditya Bhatt, the learned counsel appearing for the writ applicant and Ms.Manisha Lavkumar Shah, the learned Government Pleader for the respondent – State.

4. We invited the attention of the learned counsel for the writ applicant to the fact that his client has a remedy of preferring a statutory appeal under Section 107 of the Gujarat State Goods and Services Tax Act, 2017.

5. In view of the fact that there is a statutory appeal provided against the impugned order, we are of the opinion that the writ applicant should avail the alternative remedy and prefer an appropriate appeal if he deems fit. At this stage, we may clarify that if the statutory appeal under Section 107 is preferred by the writ applicant and if the appeal is not disposed of at the earliest or in near future, it is always open for the writ applicant to prefer an application under Section 67(6) of the Act for interim release of the conveyance pending the final adjudication of the statutory appeal.

6. We dispose of this writ application in the aforesaid terms with a clarification that if any such application is preferred under Section 67(6) of the Act, the same shall be decided in accordance with law at the earliest.

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

THE HIGH COURT
OF GUJARAT

(VIKRAM NATH, CJ)

WEB COPY

(J. B. PARDIWALA, J)

A. B. VAGHELA