

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 7307 of 2020**

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REMANKHAN BELIN

Versus

STATE OF GUJARAT

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Appearance:

MR VARIS V ISANI(3858) for the Petitioner(s) No. 1,2

for the Respondent(s) No. 2,3

MR TIRTHRAJ PANDYA ASSISTANT GOVERNMENT PLEADER/PP(99) for
the Respondent(s) No. 1

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CORAM: HONOURABLE MR. JUSTICE R.M.CHHAYA

and

HONOURABLE MR. JUSTICE RAJENDRA M. SAREEN**Date : 08/06/2020****ORAL ORDER****(PER : HONOURABLE MR. JUSTICE R.M.CHHAYA)**

1. Heard Mr. Varis V. Isani, learned advocate for the petitioners and Mr. Tirthraj Pandya, learned AGP for the respondents on advance copy.

2. By way of this petition under Article 226 of the Constitution of India, the petitioners have challenged the order dated 14.5.2020 passed under Section 130 of the GST Act in Form GST MOV-11 at Annexure-A to the petition.

3. The predominant ground raised in the petition is that no opportunity of actual hearing was given. Mr. Pandya, relying upon the written instructions received by him dated 8.6.2020, states that notice for hearing was given to the petitioner, however, he preferred not to remain present and thereafter, the order was passed in absence of the petitioner.

4. Considering the present situation, the impugned order dated 14.5.2020 therefore smacks of vice of breach of principles of natural justice. Because of pandemic Corona Virus Covid-19, the petitioner could not remain present and/or preferred to stay safe because of Corona Virus Covid-19 and meanwhile, the impugned order is passed. Mr. Pandya has read over the written instructions dated 8.6.2020 to the Court.

5. It is an admitted position that the impugned order dated 14.5.2020 is passed without hearing the petitioner and only on the short ground, the impugned order dated 14.5.2020 is hereby quashed and set aside and the authorities concerned shall pass a fresh order on merits without being influenced by the order impugned after giving an opportunity of hearing to the petitioner. The petitioner shall remain present for hearing on the date fixed by the authorities and the authorities shall inform the petitioner in advance. It is, however, clarified that this Court has not examined the issue involved in the proceedings before the authorities and the impugned order is quashed and set aside only on the ground of non-hearing.

6. Accordingly, the petition is allowed to the aforesaid extent. However, there shall be no order as to costs.

(R.M.CHHAYA, J)

(RAJENDRA M. SAREEN,J)

ALI ISTAYAK