

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 20021 of 2019**

RAJ CHAMUNDA ROADLINES

Versus

STATE OF GUJARAT

Appearance:

MR.D K.PUJ(3836) for the Petitioner(s) No. 1

MR SOAHAM JOSHI(1) for the Respondent(s) No. 1,2,3

CORAM: **HONOURABLE MR.JUSTICE J.B.PARDIWALA**
and
HONOURABLE MR. JUSTICE BHARGAV D. KARIA

Date : 26/02/2020**ORAL ORDER****(PER : HONOURABLE MR.JUSTICE J.B.PARDIWALA)**

1. By this Writ-Application under Article 226 of the Constitution of India, the writ-applicant has prayed for the following reliefs:

"A. This Hon'ble Court may be pleased to issue a writ of mandamus, or any other appropriate writ, order and/or directions in the nature of mandamus quashing and setting aside the notice issued by the respondent No.2 dated 28.09.2019 for confiscation of goods or conveyance and levy of penalty under Section 130 of the GST Act as well as the order of confiscation passed by the respondent No.2 in Form GST-MOV-11 on 12.10.2019 as the said actions of the respondent No.2 are absolutely illegal, unlawful, contrary to the facts and evidence on record, violative of principles of natural justice and against the provisions of the Act and Rules framed thereunder.

B. During the admission, hearing and final disposal of the present Petition, the Hon'ble Court may be pleased to grant an

interim relief directing the respondent No.2 to release the goods and coveyance in question forthwith on any terms and conditions as may be fixed by this Hon'ble Court;

C. The Hon'ble Court may be pleased to pass any other order or relief as may be deemed fit to the Hon'ble Court."

2. The Co-ordinate Bench of this Court, on 15th November, 2019, passed the following order:

"1.Mr. Kavi Patel, learned advocate for Mr. D.K.Puj, learned advocate for the petitioner invited the attention of the court to Form GST-MOV-02 to submit that the vehicle in question together with the goods came to be detained by the respondent No.2 for the purpose of verification. By an order made in Form GST-MOV-03, the time for inspection came to be extended for a further period of three days. It was pointed out that accordingly physical verification of the goods came to be carried and Form GST-MOV-04 came to be issued wherein no discrepancy was found in respect of the goods in question. It was submitted that despite the aforesaid position, the respondents have proceeded under section 130 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the "CGST Act") by issuing notice in Form GST-MOV-10 on the ground that after checking the dealers record according to the GST system, the dealer appears to be involved in bogus billing practice or making false claim of ITC for the period of August, 2019 and September, 2019. It was submitted that thereafter, on the same ground an order has been passed under section 130 of the CGST Act confiscating the goods and the vehicle in question.

2.It was submitted that in the absence of any discrepancy in the documents and the goods, it is not permissible for the respondents to confiscate either the vehicle or the goods.

3.Having regard to the submissions advanced

by the learned advocate for the petitioner, issue **notice**, returnable on 18th November, 2019.

4. Direct service is permitted, today."

3. Thereafter, very same Co-ordinate Bench of this Court, on 17th December, 2019, passed the following:

1. Heard Mr. D.K. Puj, learned advocate for the petitioner and Ms. Maithili Mehta, learned Assistant Government Pleader for the respondents.

2. Having regard to the fact that the petitioner has already paid the amount of Rs.1,85,248/, which is more than the amount of fine in lieu of confiscation in terms of the order of confiscation passed under section 130 of the Central Goods and Service Tax Act, 2017, the respondents are directed to forthwith release the conveyance bearing No. GJ01BT8242. However, it is clarified that the petitioner shall cooperate with the respondent authorities and shall furnish the details of Crown Metals as well as other details as may be called for by the respondent authorities.

S.O. To 23.01.2020.

Direct service is permitted today."

4. It appears that the writ-applicant availed the benefits of the orders passed by the Co-ordinate Bench of this Court, in accordance with law, and get the goods and vehicle released.

5. This is a case in which the final order in Form GST-MOV-11 has been passed. In such circumstances, we relegate the writ-applicant to prefer an appeal, against such order, under Section 107 of the Act, 2017.

6. With the above, this Writ-Application stands disposed of.

(J. B. PARDIWALA, J)

(BHARGAV D. KARIA, J)

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