

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/SPECIAL CIVIL APPLICATION NO. 14857 of 2019**

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M/S AV TRADERS  
Versus  
STATE OF GUJARAT

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Appearance:

RAJ K VYAS(8559) for the Petitioner(s) No. 1,2  
MR. SOHAM JOSHI, ASST. GOVERNMENT PLEADER(1) for the  
Respondent(s) No. 1,2,3

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

Date : 09/01/2020

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

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

*“(a) Certiorari quashing the MOV-11 (Order passed in lieu of Section 130 dated 31.07.2019 (Annexure No.6 to the writ petition)*

*(b) Mandamus directing the respondent No.3 to forthwith release the goods and vehicle without demanding any security.*

*(c) 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.*

*(d) Award cost of the petition to the petitioner.”*

2. In view of the recent pronouncement of this Court in the

case of **Synergy Fertichem Pvt. Ltd. & Anr. vs. State of Gujarat & Anr.**, Special Civil Application No.4730 of 2019 and allied petitions, decided on 23<sup>rd</sup> December, 2019, we had suggested to the learned AGP to recall the impugned order passed in MOV-11 and decide the matter afresh keeping in mind the principles of law as explained by this Court in the above referred decision. In this regard, we had requested the learned AGP to take appropriate instructions and revert to us.

3. Today, when the matter is taken up for hearing, the learned AGP makes a statement after obtaining necessary instructions from the officer concerned that the impugned order passed under Section 130 of the Act dated 31<sup>st</sup> July, 2019 shall be recalled and fresh proceedings shall be initiated in accordance with law and a fresh order shall be passed after giving an opportunity of hearing to the writ applicants, keeping in mind the principles as explained by this Court in the above referred decision.

4. In view of such statement being made by the learned AGP, we do not now adjudicate this application on merits. Let exercise in accordance with the statement made by the learned AGP be undertaken at the earliest.

5. We take notice of the fact that the goods and the conveyance came to be detained and seized way back on 19<sup>th</sup> July, 2019. Till this date, the goods and the conveyance is in the possession of the GST Authorities.

6. As we are directing the authorities to initiate fresh proceedings with regard to confiscation, we direct the writ applicants to deposit an amount of Rs.4,02,500/- towards the

tax and penalty as determined under Section 129 of the Act. On deposit of such amount, the goods and the conveyance shall be released forthwith subject to the final outcome of the confiscation proceedings.

7. We clarify that the amount of Rs.4,02,500/- towards the tax and penalty has been determined while passing the order of confiscation under Section 130. Let this amount be deposited by the writ applicants, and subject to deposit, there shall be release of the goods and the conveyance.

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

Direct service is permitted.

(J. B. PARDIWALA, J)

सत्यमेव जयते (BHARGAV D. KARIA, J)

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THE HIGH COURT  
OF GUJARAT

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