IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 21731 of 2019

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M/S BOMBAY VERAVAL TRANSPORT COMPANY
Versus
STATE OF GUJARAT

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Appearance:
MR NV GANDHI(1693) for the Petitioner(s) No. 1
MR SOAHAM JOSHI, AGP (1) for the Respondent(s) No. 1,2

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

Date : 08/01/2020

ORAL ORDER

(PER :HONOURABLE MR. JUSTICE BHARGAV D. KARIA)

1. By this petition, under Articles 226 and 227 of the Constitution of India, the petitioner has prayed for the following reliefs:

> *"(A) Your Lordship may be pleased to admit and allow this petition;*
>
> *(B) Your Lordship may be pleased to issue writ of certiorari, or any other writ or order or directions and be further pleased to quash and set aside the impugned order/s dtd.4.12.2019 passed by Resp.no.2 (Annex.A);*
>
> *(C) Your Lordship may be pleased to stay impugned order dtd.4.12.2019 passed by Resp.no.2 (Annex.A), pending hearing and final disposal of this petition;*
>
> *(D) Your Lordship may be pleased to direct the second respondent to release the vehicle bearing RTO Reg.no.GJ-11-Y-9199 along with the goods forthwith on the terms and conditions as may be deemed fit and proper by this Hon'ble Court;*

(E) Your Lordship may be pleased to grant interim relief in terms of Para (C) & (D), pending hearing and final disposal of this petition;

(F) Your Lordship may be pleased to pass such other and further orders may be deemed just and proper in the facts and circumstances of the present case."

2. This Court (Coram:Hon'ble Ms.Justice Harsha Devani and Hon'ble Ms.Justice Sangeeta K. Vishen), on 6th December, 2019, passed the following order:

"1. The learned advocate for the petitioner has submitted that the conveyance bearing No. GJ11Y9199 was intercepted on 04.12.2019 and it was found that out of 300 boxes loaded in the conveyance, in case of 40 boxes, Part-B of the E-way Bill was not available. It was submitted that despite the aforesaid position, the conveyance as well as the boxes, in respect of which both the Invoice and E-way bill are available, have not been released.

2. On a perusal of the Form GST MOV07 annexed along with the petition, it appears that respondent No.2 has proposed tax and penalty on the goods, namely the boxes in respect of which Part-B of the E-way was not available.

3. Under the circumstances, considering the nature of the goods, which are medicines and are perishable in nature, in the interest of justice, this court deems it fit to direct the respondents to release the conveyance bearing No.GJ11Y9199, together with the goods contained therein, to the extent such goods were accompanied by valid Invoice and E-way Bill.

4. From the averments made in the petition, it appears that in case of 40 boxes, Part-B of the E-way bill was not available.

5. Under the circumstances, issue Notice, returnable on 12.12.2019. The respondents are directed to forthwith release the conveyance bearing No.GJ11Y9199

> *together with the rest of the 260 boxes in respect of which there is no discrepancy. Direct service is permitted today.”*

3. Today, the learned counsel for the petitioner has submitted that the remaining 40 boxes have also been released by the Authority, on furnishing the security, as required by the Authority.

4. As it emerges from the record, after issuance of notice, under Section 129 of the Central Goods & Services Tax Act, 2017 (for short the ‘Act’), the petitioner has not filed any reply and therefore, no order is passed by the Authority, under Section 129(3) of the Act.

5. In view of the aforesaid fact situation, the petition is disposed of with the direction that as and when the petitioner files reply to the notice, under Section 129(3) of the Act, the respondent-Authority may consider the same, after giving an opportunity of hearing to the petitioner, in consonance with Sub-Section 4 of Section 129 of the Act and pass an appropriate order, under the provisions of the Act.

6. The petition is accordingly disposed of. Notice is discharged.

(J. B. PARDIWALA, J)

(BHARGAV D. KARIA, J)

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