

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/SPECIAL CIVIL APPLICATION NO. 17533 of 2019**

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SIDDHBALI STONE GALLERY

Versus

STATE OF GUJARAT

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Appearance:

MR. APURVA N MEHTA(7202) for the Petitioner(s) No. 1

VIJAY H PATEL(7361) for the Petitioner(s) No. 1

for the Respondent(s) No. 2

ADVANCE COPY SERVED TO GOVERNMENT PLEADER/PP(99) for the  
Respondent(s) No. 1

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**CORAM: HONOURABLE MS.JUSTICE HARSHA DEVANI**

and

**HONOURABLE MS. JUSTICE SANGEETA K. VISHEN****Date : 09/10/2019****ORAL ORDER****(PER : HONOURABLE MS.JUSTICE HARSHA DEVANI)**

1. Mr. Apurva N. Mehta, learned advocate for the petitioner has submitted that in this case, due to inadvertence out of three vehicles, in case of one vehicle e-way bill was not generated. It was pointed out that in this case, the goods in question viz. marble, were imported from Italy and at the time of import thereof, the integrated goods and services tax payable thereon was already paid. It was submitted that therefore, there was no liability on the part of the petitioner to pay any further integrated goods and services tax on such goods. It was submitted that when the conveyance in question along with the goods came to be intercepted, the petitioner has paid the tax and penalty on such goods as

computed by the respondent authorities. It was submitted that despite the aforesaid facts, the respondent authority has issued a notice in Form GST MOV-10 for confiscation of the goods or conveyance and levy of penalty under section 130 of the Gujarat Goods and Services Tax, 2017 (hereinafter referred to as "GGST Act") read with the relevant provisions of other statutes.

2. It was submitted that having regard to the facts of the case wherein all the documents except the e-way bill were tendered to the authority and even the e-way bill was thereafter immediately generated, there was no reason for respondent authority to issue a notice for confiscation of the goods in question under section 130 of the GGST Act. It was urged that having regard to the fact that the tax and penalty has already been paid, the conveyance together with the goods in question be ordered to be released.

3. Having regard to the submissions advanced by the learned advocate for the petitioner, Issue **notice**, returnable on 14.11.2019.

4. Considering the documents placed on record which reveal that the petitioner had paid the integrated goods and services tax on the goods in question at the time of import thereof as well as the fact that after the conveyance came to be intercepted, the petitioner has paid the tax and

penalty on such goods as computed by the respondent authorities, by way of ad-interim relief the respondents are directed to forthwith release the conveyance being truck number GJ-12-AZ-5184 along with the goods contained therein, subject to the final outcome of the petition.

5. Direct service, is permitted.

BINOY B PILLAI

(HARSHA DEVANI, J)

(SANGEETA K. VISHEN, J)

