

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 14018 of 2019****[On note for speaking to minutes of order dated 22/08/2019 in
R/SCA/14018/2019]****=====**
M/S SUPER POWDER COATING ANODIZING AND TRADING
Versus
UNION OF INDIA
=====

Appearance:

MR BHARAT RAICHANDANI WITH MR ADITYA R PARIKH(8769) ADVOCATES for the
Petitioner(s) No. 1
for the Respondent(s) No. 4
DS AFF.NOT FILED (R)(71) for the Respondent(s) No. 1,2,3
=====**CORAM: HONOURABLE MR.JUSTICE J.B.PARDIWALA**
and
HONOURABLE MR.JUSTICE A.C. RAO**Date : 30/08/2019**
ORAL ORDER**(PER : HONOURABLE MR.JUSTICE J.B.PARDIWALA)**

By this note for speaking to minutes, it is pointed out that inadvertently, the name of Mr. Bharat Raichandani is not indicated in the appearance for the petitioner along with the learned counsel Shri Aditya R. Parikh.

The Registry shall add the name of Mr. Bharat Raichandani along with Mr. Aditya Parikh as the learned counsel appearing for the petitioner in our order dated 22nd August 2019 passed in the Special Civil Application No.14018. The necessary addition shall be effected and a fresh writ of the order shall be issued.

(J. B. PARDIWALA, J)**(A. C. RAO, J)**

CHANDRESH

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 14018 of 2019**

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M/S SUPER POWDER COATING ANODIZING AND TRADING
Versus
UNION OF INDIA

=====

Appearance:

ADITYA R PARIKH(8769) for the Petitioner(s) No. 1

MS MAITHILI MEHTA, AGP for the Respondent No.4

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CORAM: HONOURABLE MR.JUSTICE J.B.PARDIWALA
and
HONOURABLE MR.JUSTICE A.C. RAO

Date : 22/08/2019

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

1.00. **RULE,** returnable on 25/09/2019. Ms.Maithili Mehta, learned AGP waives service of notice of rule for and on behalf of the respondent No.4. The rest of the respondents shall be served directly.

2.00. It appears from the material on record that the writ applicant is a registered dealer under the provisions of the Central Goods and Service Tax Act, 2017 ("Act, 2017" for short) bearing GST registration No.27AXFPS5592R1ZB. The writ applicant purchased aluminum section classified under Chapter Heading 7604 of TGST Tariff from one M/s. Rama Industries (manufacturer). While the goods were in transit, the vehicle was intercepted by the respondent No.3 on 31/07/2019 at Songadh. It appears that the driver was unable

to furnish E-way Bill. In such circumstances, the vehicle came to be detained and ultimately seized along with the goods. It appears that thereafter notice was issued under sub-section (3) of section 129 and an amount of tax came to be determined. However, we take notice of the fact that immediately upon the seizure, notice for confiscation of the goods and levy of penalty under section 130 of the Act, 2017 came to be issued.

3.00. Identical petitions came up before this Court redressing grievance that the authority would not be justified in straightway invoking section 130 of the Act, 2017 without proper inquiry. This Court has heard all those petitions and judgement has been kept reserved. This petition shall also be finally disposed of in terms of the judgement that may be delivered by this Court. However, for the present, we are inclined to pass interim order for the purpose of release of the vehicle as well as the goods.

4.00. If we go by the provisions of section 129, then for the purpose of release, we can ask the writ applicant to deposit the amount of tax as determined and equivalent amount towards penalty subject of-course to the right of the adjudication so far as the confiscation proceedings under section 130 of the Act, 2017 is concerned.

5.00. For the present, **we direct** the writ applicant to furnish Bank Guarantee of the amount of Rs.2,05,768/-. **Upon furnishing of a Bank Guarantee, the authority shall release the vehicle as well as the goods.** We also direct that the **authority shall not proceed further with the**

show cause notice which has been issued for the purpose of confiscation of the vehicle and the goods **under section 130 of the Act, 2017.**

D.S. Permitted QUA respondent Nos.1, 2 & 3.

Sd/-

(J. B. PARDIWALA, J)

Sd/-

(A. C. RAO, J)

RAFIK

