

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/SPECIAL CIVIL APPLICATION NO. 6118 of 2019

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DEVI TRADELINK
Versus
STATE OF GUJARAT

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Appearance:

UCHIT N SHETH(7336) 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 MR. JUSTICE BHARGAV D. KARIA

Date : 27/03/2019

ORAL ORDER
(PER : HONOURABLE MS.JUSTICE HARSHA DEVANI)

1. Mr. Uchit Sheth, learned advocate for the petitioner invited the attention of the court to the provisions of sections 129 and 130 of the Central Goods and Services Tax Act, 2017, to point out the procedure which is required to be followed by the respondent authorities in case where any goods are in transit in contravention of the provision of the Act or the rules made thereunder. It was pointed out that firstly, under section 129 of the Act, the officer is required to issue a notice as contemplated under subsection (3) thereof and thereafter, after affording an opportunity of hearing to the person concerned, pass an order thereunder. It was submitted that it is only if there is no compliance of the order passed under section 129 of the Act, that the provisions of section 130 of the IGST Act can be resorted to. The attention of the court was

invited to the impugned show cause notice dated 2.3.2019, to submit that the same seeks to impose penalty, redemption fine and confiscation under section 130 of the Act without initiating any proceedings under section 129 of the Act, which is not permissible in law. It was further submitted that the tax as well as penalty under section 129 of the IGST Act in terms of the impugned notice have already been paid by the petitioner.

2. Having regard to the submissions advanced by the learned counsel for the petitioner, **Issue Notice** returnable on 10th April, 2019. The respondents shall also show cause as to why costs should not be imposed upon the respondents for non-compliance of the relevant statutory provisions.

3. Considering the fact that the petitioner has already deposited tax and penalty under section 129 of the IGST Act, by way of ad-interim relief, the respondents are directed to forthwith release Truck No.HR-55-J-2944 along with the goods contained therein. However, the petitioner shall file an undertaking before this court within a week from today to the effect that in case the petitioner, ultimately, does not succeed in the petition, he shall duly cooperate in the further proceedings.

Direct Service is permitted.

(HARSHA DEVANI, J)

(BHARGAV D. KARIA, J)

Z.G. SHAIKH