

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 2409 of 2019**

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DOWNTOWN AUTO PVT. LTD

Versus

UNION OF INDIA

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Appearance:

UCHIT N SHETH(7336) for the PETITIONER

for the RESPONDENT(s) No. 1,2

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CORAM: HONOURABLE MS.JUSTICE HARSHA DEVANI

and

HONOURABLE DR.JUSTICE A. P. THAKER

Date : 06/02/2019

ORAL ORDER

(PER : HONOURABLE MS.JUSTICE HARSHA DEVANI)

1. Mr. Uchit Sheth, learned advocate for the petitioner has invited the attention of the court to the provisions of section 140 of the Central Goods and Services Tax Act, 2017 and more particularly sub-section (3) thereof, which *inter alia* provides that a registered dealer as described therein, a first stage dealer or a second stage dealer or a registered importer or a depot of a manufacturer, shall be entitled to take credit of eligible duties in respect of inputs held in stock on the appointed day, subject to the conditions enumerated thereunder. It was submitted that all the five conditions enumerated under sub-section (3) of section 140 of the Act are satisfied by the petitioner. Referring to clause (iii) of sub-section (3) of section 140 of the Act, it was submitted that the same provides that the said registered person should be in possession of

invoice or other prescribed documents evidencing payment of duty under the existing law in respect of such inputs. It was submitted that in the facts of the present case, no documents have been prescribed under the Central Goods and Services Tax Rules; under the circumstances, when the petitioner has produced documents evidencing payment of duty, he is entitled to the credit in respect thereof.

2. Having regard to the submissions advanced by the learned advocate for the petitioner, **Issue Notice** returnable on 27th February, 2019. By way of ad-interim relief, the respondents are restrained from making any coercive recovery against the petitioner in connection with the subject matter of this petition.

Direct Service is permitted qua respondent No.2 only.

सत्यमेव जयते (HARSHA DEVANI, J)

THE HIGH COURT
OF GUJARAT

(A. P. THAKER, J)

B.U. PARMAR

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