

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 17608 of 2024

With

R/SPECIAL CIVIL APPLICATION NO. 17685 of 2024

With

R/SPECIAL CIVIL APPLICATION NO. 17686 of 2024

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MANOJBHAI DHIRUBHAI GONDALIYA

Versus

UNION OF INDIA & ORS.

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Appearance:

MR HARDIK P MODH(5344) for the Petitioner(s) No. 1

DEEPAK N KHANCHANDANI(7781) for the Respondent(s) No. 1

GOVERNMENT PLEADER for the Respondent(s) No. 3,5

MR SIDDHARTH H DAVE(5306) for the Respondent(s) No. 2,4,5

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CORAM: HONOURABLE MR. JUSTICE BHARGAV D. KARIA
and
HONOURABLE MR. JUSTICE D.N.RAY

Date : 24/01/2025

ORAL ORDER

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

Heard learned advocate Mr. J.K. Mittal for learned advocate Mr. Hardik P Modh for the petitioners and learned Senior Standing Counsel Mr. Siddharth Dave for the respondents on advance copy.

Learned advocate Mr. Mittal submitted that the

impugned show cause notices have been issued on the basis of assessment orders passed by the Income Tax department pursuant to the search carried out under section 132 of the Income Tax Act, 1961 (For short “the Act”) without there being any independent investigation by the respondent authorities.

Learned advocate Mr. Mittal referred to the period covered by the investigation in para no. 5 of the impugned show cause notices wherein reference is made to REIC meeting by the respondent DGGI Ahmedabad Zonal Unit and Income tax department where the soft copies of the relevant show cause notices and assessment orders annexed were provided to the respondent authorities. It was submitted that in the impugned show cause notices, only relied upon documents are the assessment orders for Assessment Years 2017-2018 and 2018-2019 and the notice in form

of DRC-01A issued by the respondent authorities and on perusal of the impugned show cause notices, it appears that the respondent authorities have reproduced the extract from the assessment orders passed by the income tax department which is subject matter of further challenge.

It was further submitted that the petitioners have also challenged the vires of provisions of section 75(2) of the Central/State Goods and Service Tax Act, 2017.

Considering the above submissions, issue notice returnable on 12th March, 2025.

By way of ad interim relief, the adjudication proceedings may continue and the petitioners shall cooperate in such adjudication proceedings by filing appropriate reply etc., however, no final order shall be

passed without the permission of this Court during the pendency of this petition.

Direct service through email is permitted.

(BHARGAV D. KARIA, J)

RAGHUNATH R NAIR

(D.N.RAY,J)