IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 2179 of 2026

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE A.S. SUPEHIA

and
HONOURABLE MR. JUSTICE PRANAV TRIVEDI

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Approved for Reporting	Yes	No
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HANNANTH PETRO CHEM PRIVATE LIMITED
Versus
STATE OF GUJARAT & ORS.
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Appearance:
MR PUNIT B JUNEJA(3972) for the Petitioner(s) No. 1
MS. TANUSHREE SHRIMAL, ASSISTANT GOVERNMENT PLEADER for the Respondent(s) No. 1,2,3
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CORAM:**HONOURABLE MR. JUSTICE A.S. SUPEHIA**
and
HONOURABLE MR. JUSTICE PRANAV TRIVEDI

Date : 09/04/2026

ORAL JUDGMENT
(PER : HONOURABLE MR. JUSTICE PRANAV TRIVEDI)

1 ***Rule.*** Since the issue involved in the present writ petition is in narrow compass, the matter is taken up for final hearing and final disposal today.

2 By way of present writ petition preferred under Article 226 of the Constitution of India, the writ petitioner has prayed for quashing and setting aside the order dated 04.11.2025 in Form GST DRC-07 under the provisions of Section 74 of the

Gujarat Goods and Service Tax Act, 2017 (hereinafter referred to as “the Act” for short).

3 The brief facts leading to the filing writ petition is that the petitioner is engaged in the business of bitumen trading and import and is a registered person under the Act. The petitioner was given an intimation under Form GST DRC-01 A on 25.06.2025 for the Financial Year 2018-19, proposing payment under Section 74(5) of the Act.

3.1 The DRC-01A quantified alleged tax liability at the intimation stage itself as IGST Rs.1,30,43,621/- and also proposed interest and 15% penalty. The petitioner disputed the very foundation of the allegation, including the invocation of Section 74 of the Act at the pre-notice stage.

3.2 On 25.06.2025, the petitioner submitted reply in Part B to DRC-01A disputing the allegation and the liability proposed. Thereafter, on 27.06.2025, the respondent issued show-cause notice in Form GST DRC -01 bearing reference No. ZD240625120106U for the Financial Year 2018- 19 under Section 74, proposing demand of tax, interest and penalty and fixing timelines for reply and hearing.

3.3 On 03.07.2025, the petitioner filed reply to the show-cause notice in Form GST DRC-06 and uploaded the supporting documents on portal.

3.4 Despite the above, the respondent No.3, passed the impugned order dated 04.11.2025 under Section 74(9) of the Act and issued summary in Form GST DRC-07 dated 04.11.2025 bearing Reference No. ZD241125008128U confirming demand and directing payment by 04.12.2025.

4 Heard learned advocate Mr.Punit Juneja appearing for the petitioner and learned Assistant Government Pleader Ms.Tanushree Shrimal for the respondent.

4.1 Learned AGP Ms.Shrimal has submitted that looking to the order sheet, the show-cause notice in Form GST DRC-01 was issued on 27.06.2025. While replying to the show-cause notice by filing Form GST DRC-06 dated 03.07.2025, the petitioner has taken option of personal hearing as “No”.

3.2 The stand taken by the learned Assistant Government Pleader cannot be countenanced, inasmuch as, the option of no personal hearing taken by the petitioner, cannot override the effect of mandate given by the statutory provision in Section 75(4) of the Act.

3.3 It was incumbent upon the authority to follow the mandate of Section 75(4) of the Act and grant opportunity of further hearing. This Court in the decision in the case of *M/s. Yadav Trailor Transport Co. Vs. Union of India And Ors.,* rendered in *Special Civil Application No. 3027 of 2025,* has held as under:

*" 9.1 It has been categorically observed by this Court in the case of **Regent Overseas Pvt Ltd (supra),** that when three dates had been granted, it would tantamount to adjournments. However, the provisions of Sub-section (2) of Sec.33A of the Act provides for three adjournments, therefore, that would amount to 4 days and 3 adjournments. For ready reference, the observations made by this Court in the case of **Regent Overseas Pvt Ltd (supra),** are reproduced:*

> *"12. Another aspect of the matter is that by the notice for personal hearing three dates have been fixed and absence of the petitioners on those three dates apepars to have been considered as grant of three adjournments as contemplated under the proviso to sub-section (2) of section 33A of the Act. In this regard, it may be noted that sub-section (2) of section 33A of the Act provides for grant of not more than three adjournments, which would envisage four dates of personal hearing and not three dates, as mentioned in the notice for personal hearing. Therefore, even if by virtue of the dates stated in the notice for personal hearing it were assumed that adjournments were granted, it would amount to grant of two adjournments and not three adjournments, as grant of three adjournments would mean, in all four dates for personal hearing.*
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> *13. As discussed hereinabove, in view of the fact that the notice for personal hearing was not served upon the petitioners in accordance with law, no one could remain present for personal hearing on behalf of the petitioners on the dates specified in the notice and the adjudicating authority has proceeded on the footing that three adjournments have been granted and has passed the impugned ex parte order Such order is, therefore, clearly in breach of the principles of natural justice warranting interference by this court in exercise of powers under Article 226 of the Constitution of India."*

9.2 In wake of such submissions, the Order-in-Original is passed against the settled legal position and in breach of principles of natural justice.

9.3 It is not in dispute that the petitioner was not heard before passing of the Assessment Order. It is fundamental proposition of law that other side should be heard before any order is passed. The maxim of Audi Alteram Partem is broad enough to include the rule against bias since a fair hearing is must for it to be unbiased hearing. The essential ingredients of fair hearing is that a person should be served with a proper notice and should be given a right to hearing.

10 For the foregoing reasons, the impugned Order-in-Original dated 31.03.2023 passed under the Finance Act, 1994, as well as the Order-in-Appeal dated 25.06.2024 is hereby quashed and set aside and the matter is remanded back to the Adjudicating Authority to de novo hear the petition and decide the same in accordance with law after affording adequate opportunity of hearing to the petitioner. Such exercise shall be completed within a period of 12 weeks from the date of receipt of copy of *this order.*

It is clarified that this Court has not gone into merits of the matter.

Rule is made absolute to the aforesaid extent. No order as to costs."

4 As per the provisions of Section 75(4) of the Act, the respondents are supposed to grant three opportunities of personal hearing before passing any adverse orders. Hence, the stand remains uncontroverted.

5 Accordingly, the writ petition is allowed. The impugned order is hereby quashed and set aside. The matter is remanded back to the respondent authorities to pass a fresh order within a period of 12 weeks after giving opportunity of hearing to the petitioner. Rule is made absolute. No order as to costs.

(A. S. SUPEHIA, J)

(PRANAV TRIVEDI,J)

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