IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 4321 of 2026

FOR APPROVAL AND SIGNATURE:
HONOURABLE MR. JUSTICE A.S. SUPEHIA
and
HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI

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Approved for Reporting	Yes	No

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MOHAMMEDHANIF ABDULKARIM KHIDKIWALA & ORS.
Versus
STATE OF GUJARAT & ORS.

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Appearance:
MS KRUTI SHAH for MR NIRAJGIRI M GAUSWAMI(13675) and
MR NISHITH P THAKKAR(2836) for the Petitioner(s) No. 1,2,3,4,5,6,7
MS TANUSHREE SHRIMAL AGP for the Respondent(s) No. 1,2,3,4

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CORAM:**HONOURABLE MR. JUSTICE A.S. SUPEHIA**
and
HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI

Date : 21/07/2026
ORAL JUDGMENT
(PER : HONOURABLE MR. JUSTICE A.S. SUPEHIA)

1. By way of the present writ petition, the petitioners have prayed for quashing and setting aside the recovery notice dated 19.05.2023 as well as the order dated 06.10.2008 passed by the respondent-authorities. Both the aforesaid orders emanate from non-payment of the Vehicle Tax in relation to the commercial Mazda Bus bearing registration No. GJ-6-U-9570, which was registered on 06.09.1993.

2. From the prayer clause itself, it is manifest that the petitioners have challenged the order dated 06.10.2008 by filing the present writ petition after an inordinate delay of almost 18 years. Subsequently, the Recovery Notice issued in 2023 is challenged after a period of three years.

3. Learned advocate Ms. Kruti Shah for the petitioners has submitted that the tax payment raised pursuant to the vehicle in question, is illegal as the said vehicle was seized in the year 1999, pursuant to the FIR dated 27.02.1999. She has submitted that ever since the vehicle was seized and remained inoperative, the levy of the motor vehicle tax recovery is arbitrary and contrary to the settled law. In support of her submissions she has placed reliance on the decision of the Supreme Court in the case of Ultratech Cement Ltd. Vs. State of Gujarat, (2026) INSC 43.

4. Learned AGP Ms. Tanushree Shrimal on behalf of the respondents has submitted that the present writ petition may not be entertained in view of the delay of more than 18 years since the petitioners have challenged the order dated 06.10.2008.

5. We have heard the learned advocates appearing for the respective parties and perused the materials placed on record. We are not inclined to entertain the present writ petition for the reason that the impugned order dated 06.10.2008 has been passed by the Mamlatdar (Motor Vehicle Tax Recovery) is challenged after a period of 18 years, moreover the said order mentions about the Recovery Certificate issued by the Vehicle Tax Officer bearing Sr No.336 dated 21.11.2000. It also refers to an agreement dated 20.12.2003 filed by the present petitioners agreeing to pay the tax. Neither the vehicle certificate dated 20.12.2003 nor the agreement dated 20.12.2003 is produced, pursuant to which, the Mamlatdar (Motor Vehicle Tax Recovery)

has passed the order dated 06.10.2008 fixing the total tax liability of Rs.1,47,392/-.

6. The Mamlatdar (Motor Vehicle Tax Recovery) passed an order dated 06.10.2008, directed the outstanding dues by mutating the recovery amount over the agricultural land bearing Revenue Survey No. 197, 198, 199, 200, 202, 203 situated at Village Timbi, Taluka Dabhoi, Vadodara. Thereafter, the Notice dated 19.05.2023 has been issued by the Regional Transport Office to the petitioners to pay the outstanding amount of Rs.38,75,718/- for the period from 01.02.1999 to 30.04.2023. This amount has been calculated on the basis of the original amount of Rs.1,47,392/- and on account of penalty at the rate of 25% calculated for the aforesaid period and interest of 2% from 01.04.2003 to 31.03.2007 and thereafter at the rate of 1.5% from 01.04.2007 onwards. It is pertinent to note that the petitioners did not challenge the said communication dated 19.05.2023, within a reasonable period also and the same has been challenged after more than three years by way of the present writ petition. Thus, the petitioners has shown a carefree attitude to the statutory proceedings initiated by the respondent-authorities relating to the payment of Motor Vehicle Tax of the Mazda Bus bearing registration No.GJ-6-U-9570 which was registered on 06.09.1993. It appears that though the petitioners have agreed to pay the amount vide agreement dated 20.12.2003, the same has not been paid, which resulted in passing of this orders.

7. In these established facts, the decision of the Supreme Court in the case of **Ultratech Cement Limited (supra)** will not apply. Furthermore, we have noticed that the said decision of the Supreme Court applies to those vehicles in context of the vehicles which are precisely used for construction equipment, the vehicles which are suitable and are meant for use for operation and use within the industrial area/factory premises/defined enclosed premises and are not meant for use on roads or public roads. By treating such vehicles as off-road equipments the Supreme Court has held that these vehicles would be out of the purview of the "motor vehicle" as defined under Section 2(28) of the Motor Vehicles Act,1988. It was further held that such vehicles do not fall in tax Entry 57 of List-II of the Seventh Schedule of the Constitution and are not even chargeable to road tax under Schedule I to Section 3(1) of the Gujarat Motor Vehicles Tax Act,1958. In the present case, it is not in dispute that the petitioners were plying a Mazda Bus which was used for commercial purpose registered on 06.09.1993, hence, the decision of the Supreme Court will not come to their rescue.

Accordingly, the present writ petition stands ***rejected***.

sd/-
(A. S. SUPEHIA, J)

sd/-
(VAIBHAVI D. NANAVATI,J)

Radhika/23