

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 6030 of 2025

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M/S SADBHAV INFRASTRUCTURE PROJECT LIMITED
Versus
UNION OF INDIA & ORS.

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Appearance:

MR HARDIK P MODH(5344) for the Petitioner(s) No. 1
GOVERNMENT PLEADER for the Respondent(s) No. 5
MR PRADIP D BHATE(1523) for the Respondent(s) No. 1,2,3,4

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

Date : 01/05/2025

ORAL ORDER

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

1. Heard learned advocate Mr. J.K.Mittal with learned advocate
Mr. Hardik Modh for the petitioner.

2. By this petition under Articles 226 and 227 of the Constitution
of India, the petitioner has prayed for the following reliefs:

a) this Hon'ble High Court be pleased to issue a Writ
of certiorari/ mandamus or any other appropriate
Writ/ order/ direction against the Respondents by
quashing of the subsection (2) and (2A) of section 75
of the CGST Act, 2017 as well as GGST Act, 2017

by declaring that same are ultra vires to CGST Act, 2017 and GGST Act 2017 and unconstitutional;

b) this Hon'ble High Court be pleased to issue a Writ of certiorari/ mandamus or any other appropriate Writ/ order/direction against the Respondents by quashing of the impugned Circular. No. 204/16/2023, dated 27.10.2023 at Annexure E and Circular No. 225/19/2024-GST, dated 11.07.2024 at Annexure J issued by the Respondent No. 1 & 2 by which it is declared that Corporate Guarantee will be treated as taxable supply of service by declaring that same are illegal and invalid and without and/or in excess of jurisdiction and/or without the authority of law;

c) this Hon'ble High Court be pleased to issue a Writ of certiorari/ mandamus or any other appropriate Writ/ order/ direction against the Respondents by quashing the Impugned sub-rule (2) of Rule 28 of the Central Goods and Service tax Rules, 2017 as Inserted by the Notification No. 52/2023-Central Tax, dated 26.10.2023 at Annexure D and further amended by the Notification No. 12/2024-Central Tax, dated 10.07.2024 at Annexure D issued by the Respondent

No. 1 as well as corresponding sub-rule (2) of Rule 28 of the Gujarat Goods and Service tax Rules, 2017 made by the Respondent No. 5 as same are ultra vires to the provisions of the Central Goods and Services Tax Act, 2017 (CGST Act, 2017) and Gujarat Goods and Services Tax Act, 2017 (GGST Act, 2017);

(d) this Hon'ble High Court be pleased to issue a Writ of certiorari/ mandamus or any other appropriate Writ/ order/ direction against the Respondents by quashing and set aside the Order-in-original dated 31.01.2025 along with GST DRC-07 dated 03.02.2025 (Annexure N) issued by Respondent No. 4;

(e) this Hon'ble High Court be pleased to iss certiorari/ mandamus or any other appropriate writ/order direction against the Respondents by quashing and set aside the demand cum show cause notice dated 23.07.2024 along with GST DRC-01 dated 23.07.2024 (Annexure K) Issued by Respondent No. 3/DGGI Ahmedabad;

(f) That pending the hearing and final disposal of the present Writ petition, this Hon'ble Court be pleased

to (i) stay the impugned Order-in-original dated 31.01.2025 (Annexure N and (ii) restrain the Respondents and all its officers, agents to take any coercive measure against the Petitioner and it's officers during the pendency of Writ Petition;

(g) Ad-interim relief In terms of prayer c) above;

(h) costs of the Petition be provided for;

(i) for such further and other reliefs, as this Hon'ble Court may deem fit and proper in the nature and circumstances of the case may require.”

3. Learned advocate Mr. Mittal submitted that similar matter being Special Civil Application No. 2179 of 2024 raising the issue of levy of GST on the corporate guarantee is pending before this Court.

4. Considering such submission, issue Notice returnable on 12.06.2025.

5. By way of ad interim relief, no coercive action shall be taken

during the pendency of this petition.

Direct service through Email is permitted.

To be heard with Special Civil Application No. 2179 of 2024.

(BHARGAV D. KARIA, J)

(D.N.RAY,J)

JYOTI V. JANI

Original copy of this order has been signed by the Hon'ble Judges.
Digitally signed by: JYOTIBEN VINODKUMAR JANI(HC00213), PRINCIPAL PRIVATE SECRETARY, at High Court of Gujarat on 02/05/2025 12:44:59