

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 8778 of 2025**

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KAMLABEN UDABHAI @ UDESINH CHAUHAN & ORS.

Versus

RASHMIKANT MAGANBHAI GOHIL & ORS.

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Appearance:

MR. MEHUL P. PANDYA(14183) for the Petitioner(s) No. 1,2,3,4

MR.ASHUTOSHSINGH S RAJPUT(17569) for the Petitioner(s) No. 1,2,3,4

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CORAM:HONOURABLE MS. JUSTICE NISHA M. THAKORE**Date : 04/07/2025****ORAL ORDER**

1. Heard Mr. Mehul P. Pandya, learned advocate on record for the petitioners- original claimants.

2. Learned advocate has raised grievance against the Tribunal by contending that no opportunity of hearing was given before passing of the impugned order, dismissing their claim petition summarily. The attention of this Court was invited to the Delay Condonation Application and the Amendment Application, which were sought to be placed on record by the original claimants on 18.10.2024. It was pointed out that the copies of the aforesaid applications were duly served upon the respondents-original opponents. While referring to the proceedings as recorded in the Rojkam, learned advocate has

pointed out that on 18.10.2024, the matter was adjourned for hearing of Exh. 25. The Tribunal had refused to accept the Delay Condonation Application and the Amendment Application to be taken upon record. He has further pointed out that despite aforesaid facts, the respondent no.4- Insurance Company had responded to the Delay Condonation Application by filing reply, which has been accepted on record at Exh.33 on 20.11.2024. The next date of hearing was, thereafter, fixed on 13.01.2025. The oral request was made on behalf of the petitioners' advocate; however, the Tribunal had proceeded to fix the matter for hearing of Exh.25 on 21.01.2025. On the next date of hearing, the Tribunal, without examining the stage, at which the matter was notified precisely for hearing of Exh.25, the Tribunal proceeded to pass the order dismissing the claim petition.

2.1 Referring to the aforesaid events, learned advocate has submitted that the Tribunal has miserably failed to extend sufficient opportunity of hearing to the petitioners before examining the claim petition on merits at threshold, and summarily dismissing it. He has, therefore, submitted that in view of the decision of the Hon'ble Supreme Court in the case of **M/S. Godrej Sara Lee Ltd. vs. The Excise and Taxation Officer-Cum-Assessing Authority & Ors.** reported in **(2023) 3 S.C.R. 871**, this Court in writ jurisdiction has

ample powers to entertain the petition despite availability of remedy under the statute.

3. Considering the aforesaid submissions of learned advocate for the petitioners, issue **Notice** upon the respondents, making it returnable on **01.08.2025**.

SUYASH SRIVASTAVA

(NISHA M. THAKORE,J)