IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 10308 of 2025

==
COMMODITY ALPHA PRIVATE LIMITED
Versus
STATE OF GUJARAT & ORS.
==
Appearance:
MR. VAIBHAV K. JAJOO(14241) for the Petitioner(s) No. 1
MR. UTKARSH SHARMA, ASSISTANT GOVERNMENT PLEADER for the Respondent(s) No. 1,2,3,4
==

CORAM: **HONOURABLE MR. JUSTICE BHARGAV D. KARIA**
and
HONOURABLE MR. JUSTICE PRANAV TRIVEDI

Date : 04/08/2025

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

1 Heard learned advocate Mr.Vaibhav K Jajoo for the petitioner and learned Assistant Government Pleader Mr.Utkarsh Sharma for the respondents on advance copy.

2 Learned advocate for the petitioner Mr.Vaibhav Jajoo submitted that the impugned order passed under Sec.34(8) is without jurisdiction as no notice of hearing was issued by the petitioner who stated to have been issued on 05.11.2024 through RPAD.

3 It was further submitted that the impugned order was passed on 27.03.2025 and on the previous day, the petitioner was called through telephone by the Assessing Officer without issuing any notice and the representative of the petitioner attended the hearing on 27.03.2025 and on the same day the impugned order is passed. It was submitted that as the petitioner did not receive notice, no submissions or details were filed and in spite of such fact, it is recorded in the impugned order that the details submitted pursuant to the notice by the petitioners are not acceptable.

4 It was, therefore, submitted that the impugned order is passed without application of mind and contrary to the record. It was also pointed out that the respondents have not replied to the application made under the Right to Information Act for service of the notice dated 05.11.2024. It was also pointed

out that the impugned Assessment Order is the third Assessment Order, as earlier, the Assessment Order was passed on 20.11.2020 by the respondent No.2, under Sec.34 of the Gujarat Value Added Tax accepting the annual return of the petitioner without any tax demand, and thereafter, rectification assessment was made on 30.01.2021, being aggrieved by which the petitioner has preferred the appeal in the year 2022 which is pending for hearing.

5 It was also pointed out that the respondent No.2 has issued the notice for re-assessment under Sec.35(1) of the Gujarat Value Added Tax Act in February 2024. However, no action was taken, and thereafter, the impugned order was passed without service of the notice to the petitioner by invoking the jurisdiction under Sec.34(8) of the Gujarat Value Added Tax Act.

6 It was, therefore, submitted that the impugned order is without jurisdiction and liable to be quashed and set aside.

7 Considering the above submissions, issue notice, returnable on 28th August,2025.

Direct service through e-mail is permitted.

(BHARGAV D. KARIA, J)

(PRANAV TRIVEDI,J)

BIMAL