Reserved On : 25/09/2026
Pronounced On :..01/10/2026

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/SPECIAL CIVIL APPLICATION NO. 10249 of 2026

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

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Approved for Reporting	Yes	No
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M/S SHREEJI STEEL
Versus
STATE TAX OFFICER (1), KUTCH MOBILE SQUAD

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Appearance:
MR JATIN HARJAI with MR DHRUV CHHAJED for SUJAY J ADESHRA(9325) with MR. JAGRAT B SHAH(17594) for the Petitioner
MR RAJ TANNA AGP for the Respondent(s) No. 1

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

CAV JUDGMENT
(PER : HONOURABLE MR. JUSTICE A.S. SUPEHIA)

1. By way of the present writ petition, the petitioner has assailed the Show-Cause Notice dated 15.01.2026 in Form GST MOV-10 and the Order-in-Original dated 02.03.2026 in Form GST MOV-11.

FACTS OF THE CASE :

2. The petitioner is engaged in the business of trading of waste and scrap of cast iron. It is the case of the petitioner that it purchased goods from M/s. A.S. Construction, Gandhidham, vide its tax invoice dated 12.02.2025, and the same were further supplied directly to M/s. A.K. Tools Industries and delivered through a conveyance bearing vehicle No.PB 13 BR 9947. On 13.02.2025, the said conveyance was inspected by the State Tax Officer (1), Kachchh Mobile Squad, at Radhanpar Highway near

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Samakhiyali. After verification of the vehicle, a verification report in Form GST MOV-4 and a detention order in Form GST MOV-6 came to be issued on 13.02.2025. Thereafter, on 21.02.2025, the respondent issued a show-cause notice under Section 130 of the Central Goods and Services Tax Act, 2017 (for short, 'the CGST Act') in Form GST MOV-10, proposing confiscation of the goods. The penalty and fines in lieu of confiscation were computed as follows : penalty (equal to tax), i.e. Rs.2,47,466/-; fine in lieu of confiscation of goods (i.e. equal to the value of the goods), Rs.13,74,812/-; and fine in lieu of confiscation of the conveyance (equal to tax), amounting to Rs.2,47,468/-.

2.1 Thereafter, the petitioner requested the release of the goods and vehicle on 25.02.2025 and also sought certified copies of the documents. It is the case of the petitioner that the respondent authorities supplied some of the documents to the petitioner by e-mail on 01.03.2025. The objection raised by the petitioner, challenging the show-cause notice under Section 130 of the CGST Act on the grounds of lack of jurisdiction and violation of the principles of natural justice, vide its letter dated 07.03.2025, was disposed of by the respondent vide letter dated 10.03.2025.

2.2 Being aggrieved by the show-cause notice, the petitioner filed Special Civil Application No.3929 of 2025. It appears that, by an interim order dated 02.04.2025, this Court directed the release of the vehicle upon deposit of Rs.5,00,000/-, along with the value of the goods amounting to Rs.13,74,812/-. Upon deposit of the said amount, the goods and vehicle were released by the respondent on 02.04.2025. Thereafter, an adjudication order under Section 130 of the CGST Act was passed on

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24.05.2025, which was subsequently challenged by the petitioner by amending the writ petition.

2.3 By the judgment and order dated 11.12.2025, this Court, in the group of writ petitions which included the petition filed by the petitioner, being Special Civil Application No.9250 of 2020 and allied matters, in the case of M/s.Panchi Traders, Through its authorized signatory Narendra Danabhai Daki vs. State of Gujarat, Through Deputy Commissioner [Enforcement] & Anr., while quashing and setting aside the notices and orders in Forms GST MOV-10 and MOV-11, remanded the matter for reconsideration in light of the observations made by this Court. Thereafter, on 15.01.2026, pursuant to the directions issued by this Court, the respondent issued a fresh show-cause notice in Form GST MOV-10, raising an identical demand. The petitioner filed its reply on 09.02.2026. On 02.03.2026, the respondent passed an order under Section 130 of the CGST Act, confirming the proposed demand, which has been challenged in the present writ petition.

SUBMISSIONS ON BEHALF OF THE PETITIONER :

3. Learned advocate Mr.Jatin Harjai, appearing for learned advocate Mr.Sujay Adeshara, at the outset, while referring to the provisions of Rule 138B of the Central Goods and Services Tax Rules, 2017 (the CGST Rules), submitted that the impugned notice as well as the order are required to be quashed and set aside, as the provisions of Rule 138B of the CGST Rules have been violated. It was submitted that the impugned notice as well as the order had been issued by the same proper officer, who could not be the judge in his own case.

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3.1 In support of his submissions, he relied upon the decision of the Supreme Court in the case of Ashok Kumar Yadav vs. State of Haryana, (1985) 4 S.C.C. 417 (S.C.), and the order passed by the Delhi High Court in the case of Swastik Plastics vs. Commissioner of DGST, [2023] 156 taxmann.com 316 (Delhi). Reliance was also placed on the decision of the Supreme Court in the case of Hukum Chand Shyam Lal vs. Union of India & Ors., (1976) 2 S.C.C. 128 (S.C.). It was submitted that where a power is required to be exercised by a certain authority in a certain manner, it must be exercised in that manner or not be exercised at all.

3.2 Finally, reliance was also placed on the order dated 19.08.2026 passed by the Supreme Court in the case of M/s.G.R. Infra Projects Limited Ratlam vs. State of Madhya Pradesh & Ors. (Civil Appeal No.11277 of 2026). It was submitted that the documents relied upon by the respondent authorities had not been supplied along with the show-cause notice and, hence, the same was required to be quashed and set aside. No further submission is made.

SUBMISSIONS ON BEHALF OF THE RESPONDENT :

4. Opposing the present writ petition and the foregoing submissions, learned AGP Mr.Raj Tanna, at the outset, submitted that the petitioner has an alternative remedy of filing an appeal against the impugned judgment and order under Section 107 of the CGST Act. It was submitted that, in the present case, there is neither violation of the principles of natural justice nor it is the case of excess of jurisdiction. Hence, the petitioner, having the remedy of filing an appeal, may be relegated to the appellate authority. In support of his

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submission, he relied upon the decision of the Supreme Court in the case of Assistant Commissioner of State Tax vs. M/s.Commercial Steel Ltd., (2021) 130 taxmann.com 180, and the decision of the Delhi High Court in the case of Powerline Air Express vs. Principal Commissioner of Central Goods and Services Tax, [2026] 185 taxmann.com 255 (Delhi), against which the Special Leave Petition was dismissed by the Supreme Court.

5. As far as the merit of the matter is concerned, learned AGP submitted that the writ petition is required to be dismissed, as the petitioner has not produced the relevant documents that were supplied to him. It was submitted that the registration of M/s.A.S. Construction, from whom the petitioner had purchased the goods, had been cancelled by the authority. It was further submitted that, upon physical verification of the premises of M/s.A.S. Construction, it was found that the office was closed. It was submitted that the petitioner had also been supplied with the panchnama; however, the same had not been produced on record. It was further submitted that, after the issuance of the show-cause notice, the registration of M/s.A.S. Construction was cancelled on 30.06.2025 and, thus, the entity from which the petitioner had purchased the goods supplied through the conveyance was found to be a bogus entity.

5.1 Learned AGP submitted that, following the decision of this Court remanding the matter to the respective authority, and in compliance with the said order, the petitioner was asked to remain present for a personal hearing on 22.01.2026 before the authority. However, the petitioner did not appear, and a reply

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was filed, which was considered by the adjudicating authority. It was submitted that the detention order in Form GST MOV-06 was issued and served upon the person in charge of the conveyance. It was further submitted that, on 13.02.2025, Form GST MOV-11 was issued along with the verification report in Form GST MOV-04.. Thus, it was urged that the petitioner may be relegated to file an appeal before the appellate authority.

ANALYSIS & OPINION :

6. We have heard the learned advocates appearing for the respective parties at length and perused the materials placed on record.

7. At the outset, we may mention that, the availability of alternative efficacious remedy of filing an appeal under the provisions of Section 107 of the Act against the impugned order was pointed out to learned advocate Mr.Harjai. However, he nevertheless argued the matter on merits and sought to demonstrate writ petition can be entertained since there is violation of Rule 138B of the CGST Rules.

7.1 Rule 138B of the CGST Rules provides for verification of documents and conveyance by the Commissioner or by a proper officer empowered by him. It is contended on behalf of the petitioner, that in the present case, the proper officer is not empowered by the Commissioner. We have carefully examined the provisions of Rule 138B of the CGST Rules. Upon examination of the documents on record, we find that there is no violation of the said provisions, as the physical verification of the conveyance was carried out by the proper officer authorised by

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the Commissioner. In the writ petition filed by the petitioner, being Special Civil Application No.9250 of 2020, and the group of allied writ petitions, this Court, in the CAV judgment dated 11.12.2025, examined the similar contention raised by the petitioner, and in paragraph 59, while examining the such contention in light of Rule 138B of the CGST Rules, it is held thus:

> *"58. An examination of the details as mentioned hereinabove, it is evident that on an interception of a vehicle/conveyance under Section 68 of the CGST Act, after the issuance of FORMMOV-NO.4 (physical verification report), and MOV-6(Release Order), MOV-7(for Tax and Penalty), the authorities have issued MOV-10 (for confiscation). It is also noticed that after the seizure of vehicle and the goods, the authorities have also undertaken search/inspection at the premises of the dealers, and thereafter issued MOV-10 to the Driver since the premises are found closed. Even after the release of goods by issuing MOV-6, MOV-10 has been issued, which is permissible in cases of evasion of tax. Under sub-section(3) of section 129, the proper officer has to issue notice within a period of seven days of detention and seizure of the foods or conveyance, and necessary orders have to be passed within seven days under clause (a) or (b) of Section 129(1), i.e, issue MOV-7. It appears from the aforementioned details, that the proper officer or the authorised officers has not adhered to the time line as specified in the section. The Scheme and the pattern in which the FORM-MOV s are arraigned will make us understand that release of conveyance and goods, which are confiscated is provided in MOV-5 on payment of tax, penalty, fine in lieu of confiscation of goods and conveyance. We may refer to Rules 138B and 138C of the CGST Rules, 2017, which govern the verification of documents and conveyances.*
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> *Rule 138B - Verification of documents and conveyances*
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> *(1) The Commissioner or an officer empowered by him in this behalf may authorize the proper officer to intercept any conveyance to verify the e-way bill in physical or electronic form for all inter-State and intra State movement of goods.*
> *(2) The Commissioner shall get Radio Frequency Identification Device readers installed at places where the verification of movement of goods is required to be carried out and verification of movement of vehicles shall be done through such device readers where the eway bill has been mapped with the said*

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device.

(3) The physical verification of conveyances shall be carried out by the proper officer as authorised by the Commissioner or an officer empowered by him in this behalf:

Provided that on receipt of specific information on evasion of tax, physical verification of a specific conveyance can also be carried out by any other officer after obtaining necessary approval of the Commissioner or an officer authorised by him in this behalf.";

Rule 138C - Inspection and verification of goods

(1) A summary report of every inspection of goods in transit shall be recorded online by the proper officer in Part

A of FORM GST EWB-03 within twenty four hours of inspection and the final report in Part B of FORM GST EWB-03 shall be recorded within three days of such inspection.

Provided that where the circumstances so warrant, the Commissioner, or any other officer authorised by him, may, on sufficient cause being shown, extend the time for recording of the final report in Part B of FORM EWB-03, for a further period not exceeding three days. 1Explanation.- The period of twenty four hours or, as the case may be, three days shall be counted from the midnight of the date on which the vehicle was intercepted.

(2) Where the physical verification of goods being transported on any conveyance has been done during transit at one place within the State or Union territory or in any other State or Union territory, no further physical verification of the said conveyance shall be carried out again in the State or Union territory, unless a specific information relating to evasion of tax is made available subsequently."

59. Rule 138B of the CGST Rules, 2017, stipulates of physical verification of documents and conveyance by the Commissioner or an officer empowered by him after the interception of conveyance in case of evasion of tax. Sub-rule (3) further provides for physical verification of conveyance by the authorised officer or an officer empowered by the Commissioner. The proviso to Rule 138B brings in the element of evasion of tax. It is prescribed that in case any specific information relating to the "evasion of tax" is received, the physical verification of a specific conveyance can also be carried out by any other officer after obtaining necessary approval of the Commissioner or an officer authorised by him in

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this behalf. Thus, an officer, who intercepts a vehicle/conveyance on receiving an information on evasion of tax, can carry out physical verification, and it can also be done any other officer as authorised by the Commissioner. However, it has to be done by an officer after obtaining necessary approval from the Commissioner or an officer authorised on his behalf. As per the Circular No.3/3/2017 dated 5th July 2017, the proper officer to take action under Section 130(6) and (7) is the Deputy or Assistant Commissioner of Central Tax, whereas as per the Order dated 23rd June, 2017 issued by the Commissioner of State Tax, Gujarat State, Ahmedabad, by invoking powers under sub-section(1) of Section 5 read with Clause(91) of Section (2) of the Gujarat Goods and Service Tax Act, 2017, the jurisdictional proper officer to carry necessary function under 130(1) to (7) is Assistant Commissioner of State Tax Officer. Thus, the action taken under FORM MV-10 and 11 for confiscation of goods or penalty other than the Officer having jurisdiction as mentioned herein above will be without authority and illegal."

After examining the scheme of the provisions of Section 68 of the CGST Act, governing the issuance of Form GST MOV-04 (physical verification report), Form GST MOV-06 (detention order), Form GST MOV-07 (notice for tax and penalty), and Form GST MOV-10 (notice for confiscation), as well as the provisions of Sections 129 and 130 of the CGST Act, this Court has set aside the orders issued in Form GST MOV-10 and directed the respondent authority to pass fresh orders in light of the observations made in the said judgment. Pursuant to the aforesaid order, the proper officer issued a fresh MOV-10,show-cause notice on 15.01.2026, and the petitioner was accordingly asked to remain physically present for a personal hearing on 22.01.2026. Along with the show cause notice, the proper officer supplied the documents of spot visit of M/s.N.K.Trading, M/s.A.S.Construction, and statement of driver of the conveyance. However, he did not choose to do so and instead filed a reply on 09.02.2026. After considering the aforesaid reply,

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the respondent authority issued the impugned order in Form GST MOV-11, ordering confiscation under Section 130 of the CGST Act read with Section 20 of the Integrated Goods and Services Tax Act, 2017 (IGST Act). The respondent-authority after threadbare investigation has concluded that the dealers M/s.N.K.Trading, and M/s.A.S Construction were carrying out illegal trading by receiving invoices from fake dealers without actual supply of goods. The order cancelling the registration of these dealers were also supplied to the petitioner.

8. At this stage, we may refer to the order passed by the Supreme Court in the case of ***Commercial Steel Ltd. (supra***), wherein the Supreme Court, while examining the provisions of Section 107 of the CGST Act, held as follows :

> *"11. The respondent had a statutory remedy under section 107. Instead of availing of the remedy, the respondent instituted a petition under Article 226 of the Constitution. The existence of an alternate remedy is not an absolute bar to the maintainability of a writ petition under Article 226 of the Constitution. But a writ petition can be entertained in exceptional circumstances where there is:*
>
> > *(i) a breach of fundamental rights;*
> > *(ii) a violation of the principles of natural justice;*
> > *(iii) an excess of jurisdiction; or*
> > *(iv) a challenge to the vires of the statute or delegated legislation.*
>
> *12. In the present case, none of the above exceptions was established. There was, in fact, no violation of the principles of natural justice since a notice was served on the person in charge of the conveyance. In this backdrop, it was not appropriate for the High Court to entertain a writ petition. The assessment of facts would have to be carried out by the appellate authority. As a matter of fact, the High Court has while doing this exercise proceeded on the basis of surmises. However, since we are inclined to relegate the respondent to the pursuit of the alternate statutory remedy under section*

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107, this Court makes no observation on the merits of the case of the respondent."

9. Thus, a writ petition may be entertained under Article 226 of the Constitution of India, in exceptional circumstances referred to in the aforesaid decision. So far as the present matter is concerned, none of the four exceptions are attracted. We do not find any breach of fundamental rights, violation of the principles of natural justice, excess of jurisdiction, or challenge to the *vires* of the statute. As mentioned hereinabove, in the earlier round of litigation, the orders were quashed and set aside, and the matters were remanded. Thereafter, the petitioner was issued a show-cause notice, was asked to remain present, and, after considering the petitioner's reply, the respondent authorities passed a detailed order. Thus, there is neither a breach of fundamental rights nor a violation of the principles of natural justice or an excess of jurisdiction. It is the case of the petitioner that the relevant documents were not supplied along with the show-cause notice and that there was a violation of the principles of natural justice. However, we find that the requisite orders in Forms GST MOV-04 and MOV-06 were supplied to the person in charge of the conveyance, and thereafter, Form GST MOV-10 was also issued and supplied to the petitioner. The documents relating to the cancellation of the registration of the party with whom the petitioner was transacting business were also supplied.

10. At this stage, we may also refer to the decision of the Delhi High Court in the case of ***Powerline Air Express (supra***), wherein the Delhi High Court, after considering the case of the assessee who had challenged the Order-in-Original and while

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referring to the provisions of Section 107 of the Act, held as follows:

> *"16. It is evident, upon a careful consideration of the goods urged in the present petition, that none of them, in substance, takes the matter beyond the scope of the statutory appellate remedy. The grievances raised by the petitioner with regard to the alleged non supply of the RUDs delayed service of the summons dated 10.02.2025, alleged non-service of the subsequent summons dated 04.03.2025, the recording in the proceedings that no documents had been furnished, the alleged non-consideration of the reply dated 21.10.2025 and the contention that the impugned OIO substantially reproduces the SCN, are all matters arising from the adjudicatory record itself. Their determination would necessarily require an examination of the SCN the correspondence exchanged between the parties, the service record, the documents stated to have been furnished by the petitioner, the reply submitted by it, and the reasoning contained in the impugned order.*
>
> *17. These are not issues, which by their very nature, fall outside the appellate framework. On the contrary, they are matters which have already been considered by the adjudicating authority while passing the impugned OIO. If, according to the petitioner, such consideration is erroneous or legally unsustainable the statute provides a specific and efficacious remedy by way of an appeal before the competent appellate authority. Mere dissatisfaction with the manner in which the adjudicating authority has dealt with the record cannot, by itself, furnish a ground to bypass the statutory remedy and invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution."*

11. The Special Leave Petition being Special Leave Petition (Civil) No.11496 of 2026 against the said decision was dismissed by the Supreme Court vide order dated 02.04.2026. Thus, we have no hesitation in adopting the aforesaid observations made by Delhi High Court. The Delhi High Court has held that the issue or grievance of non-supply of relied upon documents (RUDs) will fall within the appellate frame work.

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12. In view of the aforesaid observations, the present writ petition stands ***dismissed***. The petitioner has an alternative remedy of filing an appeal before the appellate authority. The judgments cited on behalf of the petitioner do not lay down any proposition of law that would warrant a different conclusion; in any event, and hence, the same are not applicable to the facts of the present case.

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

sd/-
(VAIBHAVI D. NANAVATI,J)

Radhika/1

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