Reserved On : 12/10/2026
Pronounced On : 23/10/2026

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO.14772 of 2024

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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HUBERGROUP INDIA PRIVATE LIMITED
Versus
UNION OF INDIA & ORS.

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Appearance:
MR. S S IYER(6553) for the Petitioner(s) No. 1
MR ANKIT SHAH(6371) for the Respondent(s) No. 1,2,3,4,5
MR. ARCHIT P JANI(7304) for the Respondent(s) No. 6

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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-Company seeks to quash and set aside the eight show-cause notices dated 02/03.08.2024, along with the accompanying DRC-01 forms.

Subsequently, by filing Civil Application (for amendment) No.1 of 2026 in the present writ petition, the petitioner-Company sought to amend the prayer clause to seek a declaration that the audit undertaken by respondent Nos.3 to 6 in the year 2024 in respect of the Financial Years (F.Ys.) 2017-18 to 2019-20 was contrary to the provisions of Section 65(4) of the Central Goods and Services Tax Act, 2017 (for short, “the CGST Act”), and was consequently time-barred.

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BRIEF FACTS OF THE CASE :

(2) The petitioner-Company is engaged in the manufacturing and supplying of pigments and printing ink falling under Chapter-32, as well as other goods falling under Chapter-39 of the GST Tariff.

(2.1) On 27.06.2022, the petitioner-Company received a notice in FORM GST ADT-01 under Section 65 of the CGST Act for conducting an audit in respect of F.Ys. 2017-18 to 2019-20.

(2.2) Pursuant thereto, the Manager of the petitioner-Company appeared for a personal hearing on 12.07.2022 and submitted the relevant documents, including financial statements, audit reports, Form 26AS, cost audit report, income-tax returns, Forms 3 CD and 3 CB, GSTR-1, GSTR-3B, GSTR-9, GSTR-9C, an HSN-wise summary specifying the applicable tax rates, and the trial balance.

(2.3) Thereafter, respondent No.4 sought the documents from the petitioner-Company, which had already been submitted in physical form as well as in PDF format. Accordingly, the petitioner-Company once again forwarded the documents referred to hereinabove to respondent No.4 by email dated 09.08.2022.

(2.4) Subsequently, the petitioner-Company received another notice in FORM GST ADT-01 dated 2.11.2022 on 11.11.2022 for conducting an audit in respect of F.Ys. 2017-18 to 2019-20. The petitioner-Company appeared before the audit authorities on 30.11.2022 for a hearing and reiterated that the requisite particulars and documents had already been furnished to the audit officers.

(2.5) On 15.02.2023, the petitioner-Company submitted its Purchase Register containing details of the Input Tax Credit (ITC) claimed during

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the period from F.Y. 2017-18 to F.Y. 2019-20. It also reiterated that the other requisite particulars and documents had already been furnished by email dated 09.08.2022.

(2.6) Thereafter, another notice in FORM GST ADT-01, dated 09.02.2024, was issued to the petitioner-Company for conducting a GST audit for F.Ys. 2017-18 to 2022-23.

(2.7) In response thereto, the petitioner-Company, by email dated 15.03.2024, furnished the relevant financial statements, audit reports, Form 26AS, cost audit reports, income-tax returns, Forms-3 CD and 3 CB, GSTR-1, GSTR-3B, GSTR-9, GSTR-9C, an HSN-wise summary specifying the applicable tax rates, the trial balance, and the purchase and sales registers. The authorised representative of the petitioner-Company also personally visited the office of respondent No.4 and explained that the data had already been furnished on a pen drive. Nevertheless, the petitioner-Company once again submitted the relevant data in response to the notice dated 09.02.2024.

(2.8) During the course of the audit, the petitioner-Company continued to furnish the particulars and documents sought by respondent No.4 from time to time through emails, with the correspondence continuing until 07.07.2024. The petitioner-Company also furnished the Capital Goods Register (CGR) and the Fixed Assets Register (FAR), as requested by the audit officers.

(2.9) On 23.07.2024, the petitioner-Company received the audit findings in FORM GST ADT-01.

(2.10) According to the petitioner-Company, the officers of respondent No.4 declined to accept its written submissions in response to the audit

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observations in physical form. Consequently, the petitioner-Company forwarded its reply to the audit findings by email dated 31.07.2024 and also sought an opportunity to explain its contentions in person.

(2.11) On 02.08.2024, the petitioner-Company received, through email, the audit report prepared under Section 65(6) of the CGST Act in FORM GST ADT-02.

(2.12) Thereafter, by email dated 02.08.2024, the petitioner-Company brought to the notice of the audit authorities that it had already submitted its reply to the audit findings by email dated 31.07.2024. It further pointed out that no opportunity had been afforded to it to explain its contentions in person.

(2.13) Thereafter, respondent Nos.4 and 5 issued eight show-cause notices dated 02/03.08.2024, accompanied by eight DRC-01 forms, invoking Section 74 of the CGST Act and proposing recovery of the alleged tax dues, together with applicable interest and penalty. Aggrieved thereby, the petitioner-Company has preferred the present writ petition.

SUBMISSIONS ON BEHALF OF THE PETITIONER-COMPANY :

(3) Learned advocate Mr.Iyer, at the outset, has submitted that the impugned audit report is required to be quashed as it was prepared beyond the prescribed period of limitation of three months. It was further submitted that, in view of Section 65(4) of the CGST Act read with the Explanation thereto, the audit for F.Ys. 2017-18 to 2019-20 ought to have been completed within the prescribed period of three months from the date of commencement of the audit.

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(3.1) It is contended that the requisite documents had been furnished by 09.08.2022 and, therefore, the audit ought to have been completed within three months thereof, subject to the applicable statutory provisions. Learned advocate appearing for the petitioner-Company further submitted that the notice in FORM GST ADT-01 dated 09.02.2024 was contrary to the statutory scheme of Section 65 of the CGST Act, insofar as it again covered F.Ys. 2017-18 to 2019-20, for which the requisite records had already been furnished. It was pointed out that, by email dated 15.03.2024, the petitioner-Company had specifically informed the authorities that the records pertaining to the said financial years had already been submitted and duly acknowledged by the audit group vide its acknowledgment letter dated 15.02.2023. In the same communication, the petitioner-Company had undertaken to furnish the data pertaining to F.Ys. 2020-21 to 2022-23 shortly. It is, therefore, submitted that, in the absence of any specific identification of the documents allegedly not furnished in 2022, the respondents could not sustain a general allegation that only partial records had been submitted or that the documents furnished were insufficient for conducting the audit.

(3.2) It was thus submitted that the subsequent issuance of notices in FORM GST ADT-01 dated 02.11.2022 and 09.02.2024 could not cure the failure to complete the audit within the prescribed statutory period. It was, therefore, contended that the audit findings and the consequential show-cause notices dated 02/03.08.2024, insofar as they pertain to F.Ys. 2017-18 to 2019-20, were liable to be set aside as being contrary to the statutory scheme and barred by limitation.

(3.3) It was further submitted that the invocation of Section 74 of the CGST Act was mechanical and unsustainable, inasmuch as the

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petitioner-Company had furnished the requisite documents to the audit authorities on 12.07.2022 and again by email dated 09.08.2022. It was contended that the authorities, having failed to proceed with and complete the audit within the prescribed period, could not subsequently invoke Section 74 of the CGST Act in August 2024 by alleging deliberate misstatement or suppression of facts. On the aforesaid grounds, learned advocate urged that the petition be allowed.

SUBMISSIONS ON BEHALF OF THE RESPONDENTS :

(4) In response to the foregoing submissions and opposing the present writ petition, learned Senior Standing Counsel Mr.Archit P. Jani has submitted that the present writ petition is liable to be rejected as the audit report, as envisaged under the provisions of Section 65 of the CGST Act, was duly prepared within the prescribed period. He referred to the Explanation to Section 65 of the CGST Act and submitted that the petitioner-Company, by way of a wilful misstatement and suppression of facts, deliberately failed to furnish the requisite documents and therefore, the audit commenced at the place of business of the petitioner-Company i.e. place of business on 19.06.2024, and the final audit report was issued on 02.08.2024. It was further submitted that therefore, the audit was completed within the period of three months, as envisaged under Section 65 of the CGST Act.

(4.1) It was thus submitted by the learned Senior Standing Counsel that the petitioner-Company had failed to provide the other requisite documents necessary for conducting the audit, despite the issuance of FORM GST ADT-01. Until the audit report in FORM GST ADT-02 was issued, the petitioner-Company continued to delay the proceedings. It was, therefore, contended that the audit was completed within the period of three months prescribed under Section 65(4) of the CGST Act,

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reckoned from the commencement of the audit at the place of business of the petitioner-Company on 19.06.2024, after receipt of the requisite documents. It was submitted that owing to the willful misstatement and suppression of facts on the part of the petitioner-Company, which came to light during the audit, the provisions of Section 74 of the CGST Act were invoked by resorting to the extended period of limitation.

(4.2) It was submitted by the learned Senior Standing Counsel that the petitioner-Company took more than two years to produce the requisite documents and furnished the documents pertaining to F.Y. 2017-18 with the intention of delaying the conclusion of the audit, which commenced at the place of business of the petitioner-Company on 19.06.2024, as stated hereinabove. Thus, it was urged that the present writ petition ought not to be entertained.

ANALYSIS AND OPINION

(5) We have considered the rival submissions advanced by the learned advocates appearing for the respective parties.

(6) The facts established on record are that the petitioner received the notice in FORM GST ADT-01 dated 27.06.2022 for conducting an audit for the F.Ys. 2017-18, 2018-19 and 2019-20. Form ADT-01 dated 27.06.2022 states that the authorities proposed to conduct the audit at the petitioner's place of business on a date to be intimated after submission of the documents specified in the enclosed list. The notice also contains the following recital: "*In case of failure to comply with these notices, it would be presumed that you are not in possession of such books of accounts, and proceedings as deemed fit may be initiated as per the provisions of the Act and Rules made thereunder against you without making any further correspondence in this regard.*"

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(7) There were two annexures namely, Annexures “A” and “B”, containing the lists of documents to be furnished by the petitioner. Annexure “A” contained 13 documents, and Annexure “B” contained another 13 documents. On 12.07.2022, the representative of the petitioner-Company appeared before the respondent authority and submitted the documents. It appears that vide email dated 09.08.2022, the documents previously submitted by the petitioner-Company were once again sought. On the same date, the petitioner-Company, vide email, re-submitted the requisite documents for the financial years under consideration. A perusal of the e-mail and the documents referred to therein indicates that the said documents had already been furnished by the petitioner-Company on 12.07.2022, when its representative attended the personal hearing, and were once again attached to the email in PDF format. Upon perusal of the attached documents, it is revealed that the petitioner-Company had furnished 12 documents each for the F.Ys. 2017-18 and 2018-19, whereas eight documents were furnished for the F.Y. 2019-20. Almost three months later, the respondent authority after almost two months issued a reminder dated 02.11.2022 in Form GST ADT-01, reiterating the same contents. However, even in the reminder, the respondent again called for documents that had already been sought in the original Form GST ADT-01. By email dated 15.02.2023, the petitioner-Company specifically informed the respondent authority that the relevant details and documentary evidence had already been submitted on an earlier occasion.

(8) In the communication dated 15.02.2023, the petitioner-Company informed the Superintendent, CGST and Central Excise, that various details had been furnished through emails dated 09.08.2022 and 15.02.2023. The petitioner-Company further stated that the sales and

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purchase details for the F.Ys. 2017-18 to 2019-20 were being submitted on a pen drive, owing to the voluminous nature of the data. Thereafter, on 09.02.2024, a third notice in FORM GST ADT-01 was issued, calling upon the petitioner to furnish the documents and reiterating the earlier requirements. The only difference was that, in FORM GST ADT-01 dated 09.02.2024, the respondent authority additionally included the F.Ys. 2021-22 and 2022-23. The petitioner-Company again informed the respondent authority, through emails, that the documents pertaining to the earlier F.Ys. had already been furnished and that the documents for the newly added financial years namely, 2021-22 and 2022-23, would be submitted shortly. Thereafter, the petitioner-Company sent several communications and emails attaching the relevant documents for all the F.Ys. from 2017-18 to 2022-23. The last such e-mail was dated 12.03.2024.

(9) Ultimately, it appears that the audit at the place of business of the petitioner-Company was conducted on 19.06.2024, and the audit report was prepared and communicated on 02.08.2024.

(10) The record indicates that by email dated 31.07.2024, the respondent authority informed the petitioner-Company on the basis of the audit report dated 02.08.2024. On 02.08.2024, the petitioner-Company received the audit report under Section 65(6) of the Act in Form ADT-02 through email. It appears that on 23.08.2024, the petitioner-Company informed the respondent authority that no opportunity had been afforded to it to explain its contentions in person. Thereafter, eight show-cause notices dated 02/03.08.2024 in Form GST DRC-01 were issued by respondent Nos.4 and 5 to the petitioner-Company for F.Y. 2017-18, invoking Section 74(1) of the CGST Act and proposing the recovery of tax along with interest and the imposition of

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penalty. The said notices have been challenged by way of the present writ petition.

(11) The issue that arises for consideration before this Court in the present writ petition is whether the audit report dated 02.08.2024 was issued within the period of limitation prescribed under Section 65 of the CGST Act or not. In order to answer the issue raised before us, it would be necessary to examine the provisions of Section 65 of the CGST Act, which read as follows:

> "**65.Audit by tax authorities :-**
> *(1) The Commissioner or any officer authorised by him, by way of a general or a specific order, may undertake audit of any registered person for such period, at such frequency and in such manner as may be prescribed.*
> *(2) The officers referred to in sub-section (1) may* conduct audit at the place of business *of the registered person or in their office.*
>
> *(3) The registered person shall be* informed *by way of a* notice not less than fifteen working days prior to the conduct of audit *in such manner as may be prescribed.*
>
> *(4) The* audit *under sub-section (1) shall be* completed within a period of three months *from the date of commencement of the audit:*
>
> *Provided that where the Commissioner is satisfied that audit in respect of such registered person cannot be completed within three months, he may, for the reasons to be recorded in writing,* extend the period by a further period not exceeding six months.
>
> ***Explanation.**- For the purposes of this sub-section, the expression "commencement of audit" shall mean the* date on which the records and other documents*, called for by the tax authorities, are made available by the registered person or the* actual institution of audit *at the place of business, whichever is later.*
>
> *(5) During the course of audit, the authorised officer may require the registered person, –*
>
> *(i) to afford him the necessary facility to verify the books of account or other documents as he may require;*
>
> *(ii) to furnish such information as he may require and render assistance for timely completion of the audit.*

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> *(6) On conclusion of audit, the proper officer shall, within thirty days, inform the registered person, whose records are audited, about the findings, his rights and obligations and the reasons for such findings.*
>
> *(7) Where the audit conducted under sub-section (1) results in detection of tax not paid or short paid or erroneously refunded, or input tax credit wrongly availed or utilised, the proper officer may initiate action under section 73 or section 74 1[or section 74A].”*

Sub-section(4) of Section 65 of the CGST Act prescribes a period of three months for the completion of an audit from the date of commencement of the audit. Under sub-section (2) authorizes the tax authorities to conduct an audit at the place of business of a registered person. As per sub-section (3) of Section 65 of the CGST Act, the registered person is required to be informed of the audit by way of a notice issued not less than 15 working days prior to the conduct of the audit. The proviso to sub-section (4) of Section 65 of the CGST Act further empowers the Commissioner to extend the said period by a further period not exceeding six months, subject to recording of reasons in writing. The Explanation to Section 65 of the CGST Act further defines the expression *“commencement of audit”* to mean the date on which the records and other documents called for by the tax authorities are made available by the registered person or the actual institution of the audit at the place of business, whichever is later. Thus, the date of commencement of the audit is determined by reference to the later of these two events.

(12) In the present case, the first notice in FORM GST ADT-01 for conducting an audit at the place of business of the petitioner for the F.Ys. 2017-18 to 2019-20 was issued on 27.06.2022. It is the case of the petitioner that all the requisite documents were furnished through email and that correspondence ensued between the petitioner and the

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respondent authorities with regard to the submission of the documents. Subsequently, a second notice (reminder) in Form ADT-01 was issued on 02.11.2022, calling upon the petitioner to furnish the documents. We find that the documents sought under the reminder were identical to those called for under the original Form ADT-01 dated 27.06.2022. The petitioner again furnished the documents by email dated 15.02.2023. Finally, another notice in Form GST ADT-01 was issued on 09.02.2024, additionally calling upon the petitioner-Company to produce the relevant documentary evidence for the F.Ys. 2021-22 and 2022-23. The respondents have contended that the petitioner had not furnished all the documents called for by the respondent authorities. Ultimately, the audit commenced at the place of business of the petitioner-Company on 19.06.2024, and the final audit report was prepared by the respondent authority on 02.08.2024 and communicated to the petitioner through email as well as by speed post.

(13) The petitioner seeks to have the audit report quashed on the ground that it was prepared beyond the prescribed period of three months from the commencement of the audit, even if the last notice in FORM GST ADT-01 dated 09.02.2024 is taken into consideration. We do not subscribe to this contention for the simple reason that the Explanation to Section 65 of the CGST Act provides for two alternative events for determining the commencement of the audit, with the date of the later event being decisive. Even if the petitioner's contention that it had furnished all the requisite documents in time is accepted, the furnishing of the documents cannot override the statutory requirement of determining the commencement of the audit by reference to the later of the two events, namely, the date on which the records and other documents are made available or the date on which the audit is actually

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instituted at the place of business. The Explanation clarifies that the date of commencement of the audit is the date on which the records and other documents are made available or the audit is actually instituted at the place of business, whichever is later. Since there is a dispute of fact as to whether the petitioner-Company furnished all the requisite documents, coupled with the allegation that it deliberately prolonged the audit proceedings, the date on which the audit was actually instituted at the place of business provides an alternative basis for determining the commencement of the audit. The respondent authorities cannot be compelled to consider the date of submission of the documents as the date of commencement of the audit when there is a dispute as to whether all the documents called for under FORM GST ADT-01 were furnished. However, we are of the opinion that, where a registered person furnishes documents pursuant to a notice issued under Section 65 of the CGST Act but some documents remain outstanding, the tax authorities are required to inform the registered person of the missing or outstanding documents within a reasonable time, so that the audit can be completed at the earliest. In the instant case, the respondents issued three notices in FORM GST ADT-01 but failed to intimate the petitioner-Company about the missing or outstanding documents, which contributed to the delay in completing the audit. However, since the statute provides an alternative basis for determining the date of commencement of the audit, the Court cannot set aside the audit merely on the ground that three notices in Form ADT-01 were issued to the petitioner-Company. Hence, upon threadbare analysis of facts and the scheme of the Section 65, we are of the opinion, that the audit report is prepared within the specified of three months.

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(14) As regards the challenge to the impugned show-cause notices on merits, we are not inclined to set them aside at this stage. The petitioner-Company may respond to the notices. The petitioner-Company also has the remedy of challenging the action before the appellate authority by filing an appeal under Section 107 of the CGST Act. Hence, the writ petition ***fails***. Rule is discharged.

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

Sd/- .
(VAIBHAVI D. NANAVATI,J)

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Bhavesh-[PPS] and Radhika/*

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