

IN THE HIGH COURT OF GUJARAT
AT AHMEDABAD

R/Special Civil Application No. 7318 of 2019

M/s MAHALAXMI REXINE AND METAL TRADERS

Vs

STATE TAX OFFICER (2)

Harsha Devani & Bhargav D Karia, JJ

Dated: April 18, 2019

Appellant Rep. by: Mr D K Trivedi (5283)

Respondent Rep. by: Mr Utkarsh Sharma, Asst Govt Pleader

GST - A perusal of the original file in relation to the proceeding which has culminated into an order of confiscation u/s 130 of the Act reveals that the noting sheet is totally blank - There is nothing on record to indicate relevant dates on which the proceedings took place - Considering the fact that this is a file maintained by a Government authority, it is difficult to understand as to how there are no notings with regard to the proceedings undertaken by the officer concerned - Matter to stand over to 24th April, 2019 to enable the respondents to file an affidavit-in-reply - respondent to inform High Court the practice of making notings of the proceedings conducted by the State Tax Officers: High Court [para 4, 5]

Matter posted

JUDGEMENT

Per: Harsha Devani:

1. Leave to amend the cause title by impleading the State of Gujarat, through the Commissioner of Commercial Tax, Rajya Kar Bhavan, Ashram Road, Ahmedabad as the second respondent.

2. On 12.4.2019, this court passed an order in the following terms:

*"1. Mr. D. K. Trivedi, learned advocate for the petitioners inter alia submitted that initially the petitioners were called for hearing in respect of the notice under section 130 of the **Central Goods and Services Tax Act, 2017** read with the relevant provision of the other statutes on 5.4.2019. The attention of the court was invited to Annexure-G to point out that the petitioners had filed their reply dated 4.4.2019 which was duly received by the authority on 5.4.2019. It was submitted that however, the concerned authority was not available on that date, and hence, the matter could not be heard. It was submitted that the petitioners were told that the hearing would take place on 8.4.2019, however, the impugned order has been passed on 5.4.2019 in breach of the principles of natural justice.*

2. Having regard to the submissions advanced by the learned advocate for the petitioners, Issue Notice and Notice as to interim relief, returnable on 15th April, 2019. On the returnable date, the respondents shall state as to on what date, an opportunity of hearing in connection with the notice under section 130 of the CGST Act was granted to the petitioners.

Direct service is permitted today."

3. Heard Mr. D. K. Trivedi, learned advocate for the petitioner and Mr. Utkarsh Sharma, learned Assistant Government Pleader for the respondents.

4. A perusal of the original file of the concerned officer in relation to the proceeding which has culminated into an order of confiscation under section 130 of the Central Goods and Services Tax Act / Gujarat Goods and Services Tax Act, 2017 reveals that the noting sheet is totally blank. There is nothing on record to indicate relevant dates on which the proceedings took place. Considering the fact that this is a file maintained by a Government authority, it is difficult to understand as to how there are no notings with regard to the proceedings undertaken by the concerned officer. Under the circumstances, stand over to 24th April, 2019 to enable the respondents to file an affidavit-in-reply.

5. Notice be issued to the newly added respondent, returnable on 24th April, 2019. On the returnable date, the second respondent shall inform this court about as to what is the practice of making notings of the proceedings conducted by the State Tax Officers.

Direct Service is permitted today.

A copy of this order be furnished to the learned Assistant Government Pleader for doing the needful in the matter.