

IN THE HIGH COURT OF GUJARAT

AT AHMEDABAD

R/Special Civil Application No. 13207 Of 2019

**SANJAY TRADING COMPANY
THROUGH PROPRIETOR SANJAYKUMAR
AMBADAN GADHAVI**

Vs

STATE OF GUJARAT

J B Pardiwala & A C Rao, JJ

Dated: August 01, 2019

Appellant Rep by: Mr Gautam H Gadhavi(3656), Mr YH
Motiramani(3720)

Respondent Rep by: Ms Maithlili Mehta Asstt. Govt.
Pleader/pp(99)

GST - Writ applicant is a proprietary concern engaged in the business of metal scrap - The writ-applicant is duly registered in the State of Gujarat under the provisions of the GST Act - Writ applicant had placed an order for metal scrap with one M/s Bhavya Steels based at Thane, State of Maharashtra and while the goods were in transit, the vehicle came to be intercepted - The vehicle, as well as the goods, came to be seized by the authorities concerned on the ground that the goods were not accompanied by E-way bill and some discrepancies were noticed in the nature of the goods mentioned in the invoice and the actual invoice in transit - respondent no.2 straightaway proceeded to issue notice for confiscation under Section 130 of the GST Act, 2017.

Held: Bench is examining a larger issue whether the authority concerned can straightaway invoke Section 130 of the Act, without taking recourse to Section 129 of the Act - However, during the pendency of this writ-application, the writ applicant is entitled to an interim order - It is noticed that the writ-applicant has deposited an amount of Rs 2,33,154/- towards the tax liability and penalty - In such

circumstances, the respondent no.2 is directed to forthwith release the vehicle as well as the goods: High Court [para 5, 7]

Interim relief granted

JUDGEMENT

Per: J B Pardiwala:

Leave to amend.

Rule returnable on 7.8.2019. Ms. Maithili Mehta, the learned Assistant Government Pleader, waives service of notice of rule for and on behalf of the respondent no.1. Direct service to the respondent no.2.

3. It appears from the materials on record that the writ applicant is a proprietary concern engaged in the business of metal scrap. The writ-applicant is duly registered in the State of Gujarat under the provisions of the GST Act. The writ applicant had placed an order for metal scrap with one M/s Bhavya Steels based at Thane, State of Maharashtra. While the goods were in transit, the vehicle came to be intercepted. The vehicle, as well as the goods, came to be seized by the authorities concerned on the ground that the goods were not accompanied by E-way bill and some discrepancies were noticed in the nature of the goods mentioned in the invoice and the actual invoice in transit.

4. It appears that the respondent no.2 straightaway proceeded to issue notice for confiscation under Section 130 of the GST Act, 2007.

4. We are examining a larger issue whether the authority concerned can straightaway invoke Section 130 of the Act, without taking recourse to Section 129 of the Act. However, during the pendency of this writ-application, the writ applicant is entitled to an interim order.

5. We take notice of the fact that the writ-applicant has deposited an amount of Rs 2,33,154/- towards the tax liability and penalty. The payment receipt is at page 19 at Annexure C.

6. In such circumstances, referred to above, the respondent no.2 is directed to forthwith release the vehicle as well as the goods. Direct service today is permitted.

