

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/SPECIAL CIVIL APPLICATION NO. 15713 of 2025

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE A.S. SUPEHIA *sd/-*
and

HONOURABLE MR. JUSTICE PRANAV TRIVEDI *sd/-*

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Approved for Reporting	Yes	No
		✓

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MEGHAAARIKA ENTERPRISES PRIVATE LIMITED & ANR.

Versus
STATE OF GUJARAT & ANR.

Appearance:

MR ABHAY Y DESAI(12861) for the Petitioner(s) No. 1,2
MS SHRUNJAL SHAH ASSISTANT GOVERNMENT PLEADER for the
Respondent(s) No. 1,2

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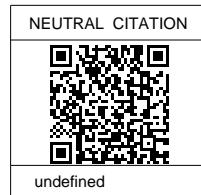
CORAM:HONOURABLE MR. JUSTICE A.S. SUPEHIA
and
HONOURABLE MR. JUSTICE PRANAV TRIVEDI

Date : 18/12/2025

ORAL JUDGMENT

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

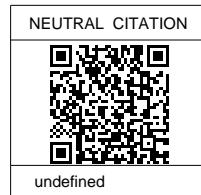
1. Heard learned advocate Mr. Abhay Desai for the petitioners and learned Assistant Government Pleader Ms. Shrunjal Shah for the respondents.
2. Rule returnable forthwith. Learned Assistant Government Pleader Ms. Shrunjal Shah, waives service of notice of rule on behalf of the respondents. With the consent of the parties, the matter is taken up for final hearing today itself.
3. By way of this petition, the petitioners have prayed to quash and set aside the deficiency memo issued in Form GST RFD 03 dated 15.07.2025.



4. The brief facts of the case are that the petitioner is a private limited company. It appears that the petitioner had assigned the leasehold rights in the Gujarat Industrial Development Corporation (GIDC) plot to M/s. Tatva Chintan Pharma Chem Ltd., by an assignment deed dated 22.12.2021. It is the case of the petitioner that the said plot of land was originally leased out by GIDC to the petitioner and subsequent the petitioner has transferred the leasehold rights granted by the GIDC to M/s. Tatva Chintan Pharma Chem. Ltd., by execution of assignment deed dated 22.12.2021.

4.1. Thereafter the Assistant Commissioner of State Tax (4) (Enforcement), Division-6, Vadodara issued a summons dated 13.02.2023, 03.04.2023 and 26.09.2023 under Section 70(1) of the Goods and Services Tax Act, 2017 (for short "GST Act") to the petitioner to tender the statement and provide the details of the leasehold rights in the GIDC plot assigned to M/s. Tatva Chintan Pharma Chem Ltd., It appears that the petitioner submitted the necessary details/documents to the the Assistant Commissioner of State Tax (4) (Enforcement), Division-6, Vadodara and based on the information submitted by the petitioner, the Assistant Commissioner of State Tax (4) (Enforcement), Division-6, Vadodara vide calculation sheet dated 17.04.2023 informed the petitioner to pay the GST amount for the assignment of the leasehold rights in GIDC plot vide assignment deed dated 22.12.2021 along with interest at the rate of 18% per annum on the said amount for the period from the due date of GSTR 3B to the date of actual payment.

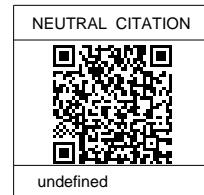
4.2. It is the case of the petitioner that since with regard to GST is leviable on the transfer of assignment rights or not, the petitioner paid the interest amount through four Form DRC-03 on the tax paid and adjusted through cash ledger under protest. It is further the case of the petitioner that this Court in case of Gujarat Chamber of Commerce v. Union of



Indian reported in 2025 SCC Online Guj. 225 has held that the assignment by sale and transfer of leasehold rights of the plot allotted by GIDC to the lessee in favour of the third party assignee for a consideration shall be an assignment/sale/transfer of benefits arising out of “immovable property” by the lessee-assignor in favour of the third party assignee would become the lessee of GIDC in place of the original allottee-lessee. Thus, in such circumstances, the provisions of Section 7(1)(a) of the Central Goods and Services Tax Act, 2017 (For Short “GST Act”) providing for scope of supply read with Section 5(b) of Schedule II and clause 5 of Schedule III would not be applicable to such transaction of assignment of leasehold rights of land and building and the same would not be subject to levy of GST as provided under Section 9 of the GST Act. Thereafter, the petitioner filed refund application in Form GST RFD-01 under the head “Any other” on 14.07.2025 under Section 54(8) read with Section 54(1) of the GST Act claiming refund of the interest amount paid under protest along with necessary documents.

4.3. However, respondent no. 2 issued the impugned deficiency memo in Form GST RFD-03 dated 15.07.2025 under Rule 90(3) of the Goods and Services Tax Rules, 2017 indicating that there is no notification, circular published by the GST Council regarding refund and rejected the refund application of the petitioner. Being aggrieved by the said action of the respondent authorities, the petitioner is constrained to prefer this writ petition.

5. At the outset, learned Assistant Government Pleader Ms. Shrunjal Shah appearing for the respondents on instructions from Mr. Sandip Rana, Deputy Commissioner, Range 14, Bharuch has submitted that the Deficiency Memo reflecting on page 96 of the petition compilation dated 15.07.2025 may be quashed. She has further submitted that the respondent authorities will consider the application and pass a fresh order on the application filed by the petitioner.



6. Under the circumstances, the impugned deficiency memo dated 15.07.2025 is quashed and set aside. The application dated 14.07.2025 preferred by the petitioner claiming refund shall stand revived. After revival of the said application, the respondent authorities shall pass necessary orders within a period of **three weeks** from the date of receipt of such application in accordance with law.

7. With the aforesaid observation and direction, the present petition stands disposed of accordingly. Rule is made absolute to the aforesaid extent.

sd/-

(A. S. SUPEHIA, J)

sd/-

(PRANAV TRIVEDI, J)

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