IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 1251 of 2026

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M/S SHIVANI ENTERPRISE PROPRIETOR VIBHOR SHIVKUMAR VAID
Versus
UNION OF INDIA & ORS.
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Appearance:
PRIYANK P LODHA(7852) for the Petitioner(s) No. 1
SHASHVATA U SHUKLA(8069) for the Respondent(s) No. 1,2,3
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CORAM:**HONOURABLE MR. JUSTICE A.S. SUPEHIA**
and
HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI

Date : 18/06/2026

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

1. In the present petition, the petitioner has prayed for quashing and setting aside the order dated 30.8.2025 Order in Original vide Form GST DRC – 07 dated 11.9.2025 and the Show Cause Notice dated 29.2.2024.

2. The petitioner is engaged in the activities of trading of scrap. It appears that upon receipt of the intelligence from the Central Goods and Service Tax, Vadodara informing about the fraudulent Input Tax Credit (for short ‘ITC’) availed by the petitioner from M/s Ganpati Enterprises, a search was conducted at the declared premises of the petitioner. Thereafter, the respondent-authority issued a Show Cause Notice dated 29.2.2024 suggesting imposition of penalties under Section 122(1)(vii) and Section 122(1) (xii), (xvi), (xvii) of the Central Goods and Service Tax Act, 2017 (for short ‘the CGST Act’). The petitioner thereafter filed a reply and he was also granted an opportunity for a personal hearing by

the respondents. Ultimately, the Order in Original dated 30.8.2025 was served on the portal of the petitioner, which is subject matter of challenge before this Court.

3. Learned advocate Mr.Priyank Lodha, appearing for the petitioner, at the outset has submitted that the impugned Show Cause Notice dated 29.2.2024 consisting of only three pages was supplied to the petitioners, and as such, the same is required to be quashed and set aside.

3.1 It is also submitted that the Show Cause Notice mentions about six Relied Upon Documents (for short 'RUDs') at Table-5, out of which it was mentioned that two documents were enclosed with Show Cause Notice and the rest were available with the notice, however, none of the relied upon documents at Sr.No.s. 4 to 6 of Oct, 2021 to Dec, 2021 were provided alongwith the Show Cause Notice and accordingly, the petitioner requested vide a letter dated 9.4.2024 to supply such copies of RUDs in order to file a defense reply. Thereafter, the impugned Order in Original was passed.

3.2 Furthermore, it is submitted that on the application filed by the petitioner, the registration of the petitioner was cancelled with effect from 8.10.2020 by the order dated 16.1.2021, hence there would not be any question of the RUDs of the subsequent period referred into the Show Cause Notice.

3.3 While inviting the attention of this Court to the reply filed by the petitioner on 16.1.2021, it is submitted that the RUDs which are referred to in the Show Cause Notice relate to a much later period and since the period in question is not specified, the Show Cause Notice alongwith the

Order in Original is required to be quashed. Thus, it is urged that the impugned Show Cause Notice and the Order in Original are required to be quashed and set aside.

4. Per contra, learned Senior Standing Counsel Mr.Shashvata Shukla, appearing for the respondents has submitted that the writ-petition is not maintainable as the petitioner has a statutory remedy of filing an appeal under Section 107 of the CGST Act. So far as the incomplete issuance of the Show Cause Notice of three pages is concerned, it is submitted that the same is also incorrect as the petitioner was supplied the same vide email and thereafter he had participated in the proceedings and in none of the replies or in the personal hearings which were granted to the petitioner it was alleged that the Show Cause Notice of only three pages was supplied and as such, allegations made on the respondents are required to be rejected. So far as the period and dates of RUDs mentioned in the Show Cause Notice are concerned, while referring to the contents of paragraph No.10.1 of the affidavit, it is submitted that RUDs were inadvertently referred of the year 2021, and the period of investigation and the subsequent demand relates to October 2018 to November 2019, spanning financial years 2018-19 and 2019-20, which the petitioner was evidently aware of the same, and he was already in possession of the same. It is thus submitted that complete physical copy of the Show Cause Notice was duly dispatched at the address of the petitioner. It is thus submitted that complete physical copy of the Show Cause Notice was duly dispatched at the address of the petitioner and hence, since the petitioner has never raised such issue during the course of the hearing, the same is required to be dismissed.

4.1 It is further submitted that the details of the RUD No.1 and 2 are contained in the order in original more particularly in paragraph No.4 with specific narration of RUD No.3 in paragraph No.4.4 and RUD No.4 in paragraph No.4.5, RUD No.5 in paragraph No.4.3 and RUD No.6 in paragraph No.4.7 which discloses that the petitioner was well aware about the allegations levelled against him.

4.2 It is submitted that there is a serious allegation which pertains to dubious transactions with non-existent entities spanning from October 2018 to 2019 and it is urged that the impugned Notice as well as Order may not require to be quashed and set aside.

5. At the outset, we may record that the petitioner has an alternative efficacious remedy of filing an appeal under Section 107 of the CGST Act which is not denied. However, since the petitioner is inviting the order on merits, we are constrained to do so.

6. It is not in dispute that pursuant to the intelligence received by the respondent Department, a physical verification was conducted on the premises of the petitioner on 9.12.2020 under Section 67(1) of the CGST Act. Accordingly, a panchnama dated 9.12.2020 was also recorded and during the inspection of the principal place of business of the petitioner, it was revealed that it was only open space lacking any infrastructure. Accordingly, the petitioner was subjected to scrutiny for recovery of the fake ITC availed by the tax payer/beneficiary falling under the jurisdiction of Ahmedabad (Rural) passed by M/s Sri Ganpathi Enterprises. Accordingly, a show cause notice dated 29.2.2024 in the form of DRC-01 was issued to the petitioner. It is alleged by the

petitioner in the writ petition that the Show Cause Notice dated 29.02.2024 only consisted of three pages proposing various penalties, as narrated herein above.

7. At the outset, we may refer that after the petitioner was issued show cause notice, he was personally heard by the Department and he had also filed replies during the course of the proceedings. In none of the replies, we find that the petitioner has alleged that he has only received three pages of the show cause notice. This has been categorically denied by the respondents in filing their affidavit-in-reply and it has been asserted that, in fact, a physical copy of Show Cause Notice was duly dispatched to the address declared by the petitioner. Thus, in wake of any objection raised by the petitioner pointing out that he has only received three pages of Show Cause Notice, we are not inclined to interfere with the Show Cause Notice or the Order in Original on this count, more particularly, when this aspect will fall within the domain of appreciation of the facts, which can be done by the appellate authority.

8. With regard to the second allegation about non-receipt of the RUD's and non-mentioning of the period in question for which the allegations of fraudulent availment of ITC is concerned, the respondent in its reply has submitted that due to inadvertent mistake in the list of relied-upon documents, in the Show Cause Notice it was inadvertently mentioned as the year 2021 for the GST return, however, the period for investigation and subsequent demand relate to October 2018 to November 2019, spanning financial years 2018-19 and 2019-20. Hence, as mentioned in the show cause notice, the RUD of these years were available with the petitioner. The petitioner is trying to build out his case

on a typographical error of mentioning the year of 2021, after participating in the proceedings. In the order in original dated 30.08.2025, the RUDs at Sr.Nos. 3 to 6 of Show cause notice of period from 2018-19 and 2019-2020 are referred and dealt with. Thus, as an afterthought, the petitioner is trying to impress this Court that since his registration was cancelled w.e.f 08.10.2020 vide order dated 16.01.2021, the RUDs mentioned in show cause notice after October 2021 to Dec, 2021 were incorrectly relied upon. The petitioner was well aware in the proceedings the said RUDs pertain prior to the period of cancellation of his registration, and there was a typographical error in the show cause notice of mentioning the years. The petitioner was having the RUDs of GSTR-3B, GSTR-2B and GSTR-1M for the period 2018-19, 2019-2020 and e-way bills. All these documents were scrutinized and form part of the Order in Original. Thus, on this count also, we are not inclined to interfere with the orders or the Show Cause Notice. The petitioner has been offered sufficient opportunity of hearing by the respondent-authority. We do not find that there is any violation of principles of natural justice or statutory provisions. The appellate authority is competent to examine the facts and issues raised in the present writ petition. Hence, we restrain ourselves from interfering with the impugned show cause notice and the order in original by invoking the powers under Article 226 of the Constitution of India. Hence, the writ petition stands **rejected**.

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

Sd/-
(VAIBHAVI D. NANAVATI,J)

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