NEUTRAL CITATION
2026:GUJHC:35241-DB

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO.7854 of 2024

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE A.S. SUPEHIA
and
HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI

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Approved for Reporting	Yes	No
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AMMANN INDIA PRIVATE LIMITED
Versus
ASSISTANT COMMISSIONER OF INCOME TAX

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Appearance:
MR DHINAL A SHAH(12077) for the Petitioner(s) No. 1
AADITYA D BHATT(8580) for the Respondent(s) No. 1

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CORAM:**HONOURABLE MR. JUSTICE A.S. SUPEHIA**
and
HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI

Date : 09/06/2026

ORAL JUDGMENT

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

1. With consent the matter is taken up for final hearing.

2. In the present writ petition, the petitioner has assailed the notice and the order dated 26.03.2024 issued by the Revenue passed under Section 148A(d) of the Income Tax Act, 1961 (hereinafter referred to as “the Act”).

BRIEF FACTS

2.1. The petitioner is a Company registered under the provisions of the Companies Act, 1956, involved in the business of manufacturing and selling of road construction equipment. The assessee e-filed its

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return of income for the Assessment Year (for short, "AY") 2017-18 on 30.11.2017 declaring its total income of Rs. 73,65,88,600/-. The return of the income filed by the petitioner was taken for reassessment and reopening by the revenue and accordingly, the notice under Section 148A(b) of the Act was issued on 06.03.2024 by alleging that the assesse had claimed deduction of Rs. 3,80,21,349/- on account of provision for warranties from its profit and loss account for Financial Year (for short, "FY") 2016-17. However, the actual expenditure incurred by the petitioner with regard to warranties was Rs.3,21,80,595/- and hence, the only expenditure which has been actually incurred by the petitioner in an allowable expenditure as per the provisions of the Act and the provision for warranty created on scientific basis by the petitioner is not an allowable expenditure as it is in the nature of unascertained liability.

2.2. The petitioner - assessee received an order dated 26.03.2024 under Section 148A(d) of the Act for the AY 2017-18 of the Act objecting to the reassessment made by the Assessing Officer by suggesting that the income chargeable to tax has escaped assessment within the meaning of Section 147 of the Act. Accordingly, the Revenue proposed to reassess the difference between the warranty expenditure actually incurred and provision for warranty amounting to Rs. 58,40,754/-. Thus in a nutshell, the Revenue case is that the petitioner claimed excess deduction of Rs. 58,40,754/- on claim of deduction of provision of warranties. There is another aspect which is considered by the Revenue for reopening the assessment, that the petitioner – assessee had forfeited security deposits taken against "C" Form amounting to Rs. 65,45,962/- during FY 2016-17 which has not been offered for taxation.

2.3. With these allegations, the Revenue proposed to reopen the assessment for AY 2017-18. The petitioner accordingly, filed a detailed

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reply on 14.03.2024 explaining the provisions for warranty expenditure which was created on scientific basis as per the requirement of accounting standards which was also accepted by the Auditors of the petitioners. With respect to the forfeitures of deposits taken for C-Form, the petitioner duly explained that the said deposits were collected from the customers only to safeguard itself from additional sales tax liability which would arise if the customers do not provide Form-C at a later period. The submissions/explanations filed by the petitioner was not accepted by the Revenue and accordingly, an impugned order dated 26.03.2024 was passed under Section 148A(d) of the Act.

SUBMISSIONS ON BEHALF OF ASSESSEE

3. Learned Advocate, Mr. Dhinal A. Shah appearing for the petitioner, at the outset has submitted that the Assessing Officer at the time of filing his original return has precisely considered all these aspects and so far as the allegations about the expenditure by declaration of warranties is concerned, the reopening is illegal and is not warranted, more particularly, when the petitioner has claimed deduction of provisions for warranty on scientific basis under Section 37 of the Act and it cannot be said there is any escapement of income. While referring to the impugned notice and order dated 26.03.2024 passed under Section 148 and Section 148A(d) of the Act as well as the notice dated 06.03.2024, it is submitted that the reopening is only premised on its own aspect that the provisions for expenditure of warranty is not allowable expenditure as it is in the nature of "unascertained liability".

3.1. It is submitted that the Revenue has failed to consider that the provisions of warranty is generally made when the product is sold or services are provided and the amount of provision is based on

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historical experience of cost to be incurred for warranty claims and the estimate of such warranty cost is revised annually. It is submitted that the provisions for warranty is made on scientific basis based on the requirement of applicable accounting standard matter which the respondent – Assessing Officer has failed to appreciate.

3.2. It is submitted that this issue is squarely covered by the decision of the Supreme Court in the case of Rotork Controls India Private Limited Vs. Commissioner of Income Tax, Chennai, [2009] 180 Taxman 422 (SC). While referring to the said decision, he has also simultaneously invited our attention to the provisions of Income Computation and Disclosure Standard (relating to provisions, contingent liabilities and contingent assets), (for short, "ICDS") and the definitions supplied under Provision 4(1) of ICDS which under clause(a), (b), (c) and (d) defines "Provision", "liability", "obligating event", "contingent liability" respectively. It is submitted that these standards are mandatory to be complied with as required under the provision of Sub-Section (2) of Section 145 of the Act. It is contended that the Assessing Officer has failed to appreciate these provisions while dealing with the reply tendered by the petitioner. It is submitted that the judgment of the Supreme Court in the case of **Rotork Controls India Pvt. Ltd. (supra)** was also pointed out in the reply filed by the petitioner, however, the same was ignored.

3.3. Learned Advocate, Mr. Dhinal Shah has further contended that the petitioner has been filing his returns from the year 2013-14 and in none of the returns which has been filed for these years and subsequent to the assessment year in question, i.e., 2017-18, such objections has been raised and the deductions of provision of warranty has been denied. In this regard, he has referred to the communication dated 20.02.2021 written by the petitioner for the year 2018-19 and a query raised pertinently questioning the

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provisions of warranty and the claim deduction therein and it is submitted that the explanation tendered by the petitioner was accepted and the deductions were allowed. It is thus considered that the respondent authority has failed to consider all these aspects and in fact the operation of warranty provisions and how it operates on the claims by estimating the goods that will be sold during the relevant year which is based on the level of repairs and returns and also considering the materials, employee's cost and employee's family cost.

3.4. It is contended that all these facets were pointed out by the petitioner and the same has been disclosed in the original returns. Thus, it is urged that the impugned reopening is required to be quashed and set aside on the ground of non-application of mind on the legal aspects as well as the law enunciated by the Supreme Court in the case of **Rotork Controls India Pvt. Ltd. (supra).**

3.5. With regard to the issue of forfeited security deposits taken against C-Form is concerned, it is contended that though the Assessing Officer in his impugned order has referred to the reply/submissions dated 09.02.2021 filed by the assessee, he has failed to consider the facts which are highlighted in the same, hence the reopening premised on this facet is required to be quashed and set aside as it is nothing but a change of opinion. It is submitted that the petitioner in his original return had declared the forfeiture of the security deposits where the respondent has failed to consider that the C-Form amount which was forfeited during the assessment year had been deposited with Sales Tax Authorities towards the payment of sales tax and the money forfeited had been used to pay the sales tax in relation to the customers who had not supplied the C-Form and thus, it is a Revenue neutral exercise which the respondent has failed to appreciate. It is submitted that the petitioner through details of customers, Central Sales Tax ledger along with challans have

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produced showing that the payment of sales tax but the respondent has failed to appreciate such evidence and as the reopening on this account is nothing but a change of opinion and hence, is required to be quashed.

SUBMISSIONS ON BEHALF OF REVENUE

4. Responding to the aforesaid submissions, the learned Senior Standing Counsel Mr. Aaditya Bhatt has urged that at this stage, the reopening of the assessment may be sustained as all these aspects can be pointed out by the petitioners during the assessment proceedings. While referring to the contents of the affidavit-in-reply, it is submitted that as per the provisions of Section 37 of the Act, which mentions about the declaration of any expenditure, the expenditure which is shown by the petitioner does not fall within the purview of the business expenditure unless the petitioner establishes the cogent material that such expenditure represents an ascertained liability incurred wholly and exclusively for the purpose of business.

4.1. It is submitted that in the present case, the petitioner has claimed excess deduction amounting to Rs. 58,40,754/- on account of claim of provisions of warranties which can only be ascertained on production of necessary material which was not done by the petitioner and the Assessing Officer while analyzing the original return should have disallowed the claim of the assessee. It is also submitted that the relevance placed on the judgment of Supreme Court in the case of **Rotork Controls India Pvt. Ltd. (Supra)** will not came to the rescue of the petitioner and it will not apply to the facts of the case.

4.2. So far as the forfeiture of the security deposits against the Form-C is concerned, it is contended that the petitioner has forfeited security deposits against Form-C the amount of Rs. 65,45,962/- during the FY 2016-17 and he should have offered these forfeitures of

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income for AY 2017-18 and since he has not offered the same as income in its competent loss account for FY 2016-17, the forfeited amount remains undisclosed and escaped from the tax liability which the Assessing Officer ought to have added to the income of the assessee and hence, it is heard that on this account also, the reopening of the assessment may not be disturbed.

OPINION AND CONCLUSION

5. We have heard the learned advocates appearing for the respective parties. The aforementioned facts about the filing of the return by the petitioner for AY 2017-18 on 30.11.2017 declaring its total income of Rs. 73,65,88,600/- is not in dispute. The respondent authority doubted the declared income and it was selected for company's scrutiny through Computer Aided Scrutiny Selection (CASS) and accordingly, the impugned notice and order has been issued for reopening the assessment.

5.1. As mentioned hereinabove there are two facets on which the reopening of the assessment is premised: (1) regarding the difference between the warranty expenditure actually incurred and the provision for warranty amounting to Rs. 58,40,754/- is a disallowable expenditure as it is unascertainable liability, and (2) that the petitioner had forfeited security deposits taken against C-Form amounting to Rs. 65,45,962/- during FY 2016-17 which has not been offered for taxation.

5.2. It is not in dispute and is established from the record that the petitioner in his detailed reply had pointed out that the deductions of the provision for warranty has been claimed by adopting a scientific method based under Section 37 of the Act.

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5.3. At this stage, we may refer to the observations of Supreme Court in the case of **Rotork Controls India Pvt. Ltd. (supra)** wherein, the Supreme Court on the identical issue after analyzing the provisions of Section 37 of the Act and the nature of the provision relating to warranty has observed thus:

> *"10. What is a provision? This is the question which needs to be answered. A provision is a liability which can be measured only by using a substantial degree of estimation. A provision is recognized when: (a) an enterprise has a present obligation as a result of a past event; (b) it is probable that an outflow of resources will be required to settle the obligation; and (c) a reliable estimate can be made of the amount of the obligation. If these conditions are not met, no provision can be recognized.*
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> *11. Liability is defined as a present obligation arising from past events, the settlement of which is expected to result in an outflow from the enterprise of resources embodying economic benefits.*
>
> *12. A past event that leads to a present obligation is called as an obligating event. The obligating event is an event that creates an obligation which results in an outflow of resources. It is only those obligations arising from past events existing independently of the future conduct of the business of the enterprise that is recognized as provision. For a liability to qualify for recognition there must be not only present obligation but also the probability of an outflow of resources to settle that obligation. Where there are a number of obligations (e.g., product warranties or similar contracts) the probability that an outflow will be required in settlement, is determined by considering the said obligations as a whole. In this connection, it may be noted that in the case of a manufacture and sale of one single item the provision for warranty could constitute a contingent liability not entitled to deduction under section 37 of the said Act. However, when there is manufacture and sale of an army of items running into thousands of units of sophisticated goods, the past event of defects being detected in some of such items leads to a present obligation which results in an enterprise having no alternative to settling that obligation. In the present case, the appellant has been manufacturing and selling Valve Actuators. They are in the business from assessment years 1983-84 onwards. Valve Actuators are sophisticated goods. Over the years appellant has been manufacturing Valve Actuators in large numbers. The statistical data indicates that every year some of these manufactured Actuators are found to be defective. The statistical data over the years also indicates that being sophisticated item no customer is prepared to buy Valve Actuator without a warranty.*

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Therefore, warranty became integral part of the sale price of the Valve Actuator(s). In other words, warranty stood attached to the sale price of the product. These aspects are important. As stated above, obligations arising from past events have to be recognized as provisions. These past events are known as obligating events. In the present case, therefore, warranty provision needs to be recognized because the appellant is an enterprise having a present obligation as a result of past events resulting in an outflow of resources. Lastly, a reliable estimate can be made of the amount of the obligation. In short, all three conditions for recognition of a provision are satisfied in this case.

13. In this case we are concerned with Product Warranties. To give an example of Product Warranties, a company dealing in computers gives warranty for a period of 36 months from the date of supply. The said company considers following options : (a) account for warranty expense in the year in which it is incurred; (b) it makes a provision for warranty only when the customer makes a claim; and (c) it provides for warranty at 2% of turnover of the company based on past experience (historical trend). The first option is unsustainable since it would tantamount to accounting for warranty expenses on cash basis, which is prohibited both under the Companies Act as well as by the Accounting Standards which require accrual concept to be followed. In the present case, the Department is insisting on the first option which, as stated above, is erroneous as it rules out the accrual concept. The second option is also inappropriate since it does not reflect the expected warranty costs in respect of revenue already recognized (accrued). In other words, it is not based on matching concept. Under the matching concept, if revenue is recognized the cost incurred to earn that revenue including warranty costs has to be fully provided for. When Valve Actuators are sold and the warranty costs are an integral part of that sale price then the appellant has to provide for such warranty costs in its account for the relevant year, otherwise the matching concept fails. In such a case the second option is also inappropriate. Under the circumstances, the third option is most appropriate because it fulfills accrual concept as well as the matching concept. For determining an appropriate historical trend, it is important that the company has a proper accounting system for capturing relationship between the nature of the sales, the warranty provisions made and the actual expenses incurred against it subsequently. Thus, the decision on the warranty provision should be based on past experience of the company. A detailed assessment of the warranty provisioning policy is required particularly if the experience suggests that warranty provisions are generally reversed if they remained unutilized at the end of the period prescribed in the warranty. Therefore, the company should scrutinize the historical trend of warranty provisions made and the actual expenses incurred against it. On this basis a sensible estimate should be

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made. The warranty provision for the products should be based on the estimate at year end of future warranty expenses. Such estimates need reassessment every year. As one reaches close to the end of the warranty period, the probability that the warranty expenses will be incurred is considerably reduced and that should be reflected in the estimation amount. Whether this should be done through a pro rata reversal or otherwise would require assessment of historical trend. If warranty provisions are based on experience and historical trend(s) and if the working is robust then the question of reversal in the subsequent two years, in the above example, may not arise in a significant way. In our view, on the facts and circumstances of this case, provision for warranty is rightly made by the appellant-enterprise because it has incurred a present obligation as a result of past events. There is also an outflow of resources. A reliable estimate of the obligation was also possible. Therefore, the appellant has incurred a liability, on the facts and circumstances of this case, during the relevant assessment year which was entitled to deduction under Section 37 of the 1961 Act. Therefore, all the three conditions for recognizing a liability for the purposes of provisioning stands satisfied in this case. It is important to note that there are four important aspects of provisioning. They are - provisioning which relates to present obligation, it arises out of obligating events, it involves outflow of resources and lastly it involves reliable estimation of obligation. Keeping in mind all the four aspects, we are of the view that the High Court should not to have interfered with the decision of the Tribunal in this case."

5.4. The aforenoted observations of Supreme Court exposit that a provision is a liability which can be measured only by using the substantial degree of estimation and it is recognized when an enterprise has a present obligation as a result of a past event and it is probable that an outflow of resources will be required to settle the obligation and a reliable estimation can be made on the amount of obligation. The petitioner is in the business of dealing with varieties of road construction business like Asphalt Plants, Drum Mix plants, Sensor Pavor, Mechanical Pavor etc. The petitioner provides warranty of 12 to 14 months from the date of sale of products to the customers. Accordingly, the petitioner claimed a net warranty provision of Rs.3,80,21,349/- in respect of expected claim for expenditure to be incurred for replacement of damaged goods against the sales made during the year under consideration. Accordingly, the petitioner,

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has made the reliable estimation by adopting a scientific method which is based on the level of repairs and also considering materials, employees cost and employees traveling cost expecting that these costs will be incurred in the next financial year. The estimation is made on the basis of past experience of the level of repairs considering the said factors. The scientific method adopted by the petitioner as per Accounting Standards-AS 29 “Provisions, Contingent Liabilities, Contingent Assets”. The petitioner had duly disclosed the said provision in the audited financial statements. The Supreme Court has held that the past event that leads to present obligation is called an obligating event and an obligating event that creates an obligation which results in an outflow of resources. While referring to the provision of Section 37 of the Act, it is observed that where there are a number of obligations, probability that the outflow will be required in settlement is determined by considering the said obligation as a whole and that manufacture and sell of one single item, the provision for warranty could constitute a contingent liability not entitled to deduction under Section 37 of the Act, however, when the manufacture and sale of numerous items is concerned and the past event of defects being detected in such items, this leads to a present obligation which results in an enterprise having no alternative to settle that obligation. All these aspects are required to be examined on the basis of statistical data over the years and therefore, warranty becomes integral part of the sale price which in other words the warranty stood attached to the sale price of the product. This was the specific contention which was raised by the petitioner in his reply, however, the Assessing Officer has ignored the same and the reopening is premised on the basis of an unascertained liability. The Assessing Officer has not examined that in some cases, the actual expenses incurred towards warranty claim may be greater than the warranty provision, whereas in other cases, the actual expenses may

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be lesser than the warranty claims. It is not disputed by the Assessing Officer that the petitioner has offered to tax the excess provision of warranty by reversing in subsequent years after completion of warranty period, and if the actual amount exceeds amount of provision of warranty, such amount is directly charged to statement of Profit or Loss.

5.5. We may mention that the Supreme Court in this regard has observed that the warranty provision for the products should be based on the estimate at year end of future warranty expenses and such estimates need reassessment every year and as one reaches close to the end of the warranty period, the probability that the warranty expenses will be incurred is considerably reduced and that should be reflected in the estimation amount. All these aspects are required to be considered and *pro rata reversal* or otherwise would require assessment of historical trend.

5.6. The petitioner in the present case, as mentioned above has filed a return on the basis of scientific data which is not doubted and hence, the reliable estimate of the obligation which has been made by the petitioner is possible and since the petitioner is incurred the liability, is entitled deduction under Section 37 of the Act for the assessment year.

6. At this stage, it would be apposite to refer that the respondent authority has also ignored the fact that the provision of the warranty and deductions thereof were allowed for the prior years of the assessment year in question, i.e., 2017-18 and scrutiny was undertaken for the AY 2012-13 to 2017-18. However, it is also pertinent to note that the respondent has allowed the deduction for the subsequent AY 2018-19. The petitioner has been issued a show-cause-notice in relation to the provision of warranty for the FY 2017-

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18 as well by accepting the deductions claimed by the petitioner for subsequent AY 2018-19. Thus, the revenue on the one hand has accepted and allowed the deduction for subsequent AY 2018-19, the Assessing Officer was required to apply his mind to the assessment order accepting the returns and allowing the deductions on the provisions of warranty prior to AY 2017-18 and subsequent thereto also. It is trite that principles of *res judicata* do not apply to the taxing statute, however, at the same time, the revenue is required to consider and apply its mind on the acceptance of the return on the very same issue prior to the assessment year in question and subsequent also. The fundamental aspect of the deduction on the provisions of warranty was common in all the years and the Assessing Officer was atleast expected to consider the returns filed by the petitioner by allowing the deductions on the provisions of warranty prior to the assessment year in question and subsequent thereto.

6.1. We may also mention that the provisions of the ICDS as mentioned herein-above and the definitions mentioned in Provision 4 of the ICDS from clause-(a) to (d) are *pari materia* to the observations of the Supreme Court. Thus, the reopening of the assessment by the respondent only, for the reason that the expenditure on the provisions of warranty is not an allowable expenditure as it is in the nature of unascertained liability, is required to be quashed in view of the ICDS and also the law enunciated by the Supreme Court. The Assessing Officer has failed to consider the definitions of liability, obligating event and contingent liability as mentioned in ICDS more particularly in Provision 4 clause-(b) to (d) which categorically mentions that the obligating event is an event that creates an obligation that results in a person having no realistic alternative towards settling that obligation and the liability on such obligation is a present obligation of a person arising from past event. Thus, on this count, since the reopening is

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premised on the ignorance of the law enunciated by the Supreme Court and the provisions of ICDS and also non-consideration of the material which was already available with the Assessing Officer at the time of filing the return, the reopening of the assessment calls for interference.

6.2. As far as the second aspect of reopening of the assessment is concerned regarding forfeited security deposits taken against C-Forms, it is noticed by us that the impugned order dated 26.03.2024 passed under provision of Section 148A(d) of the Act mentions about Annexure-6, i.e., the submissions dated 09.02.2021 made by the petitioner explaining the forfeited security deposits taken against C-Form amounting to Rs. 65,45,962/- during FY 2016-17. It is alleged that the petitioner has not offered the same for taxation and hence, the reopening of the assessment is necessitated. We have noticed that the petitioner in his submission dated 09.02.2021 has categorically, in detail pointed out the forfeiture of the amount of Rs. 65,45,962/- which was offered by the petitioner in his original assessment with customers names which runs into 334 entities. All these material was already available with the Assessing Officer at the time of filing the original returns and also along with the reply filed by the petitioner dated 09.02.2021 which has been referred in the impugned order, however, the same is not appropriately appreciated.

6.3. Thus, in our considered opinion, the reopening of the assessment is premised on the change of opinion only as the petitioner in his original return have in detail explained the forfeiture of security deposits taken against C-Forms.

6.4. It is not in dispute that the respondent has ignored the aforesaid explanation and also the aspect that the forfeited amount has been deposited by the petitioner with sales tax authority towards

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payment of sales tax and the same has been used in relation to those customers who had not provided the C-Forms subsequently. The non-supply of C-Forms by the customers, results into additional sales tax liability on the petitioner, and to safeguard its interest, the petitioner collects security deposit from such customers who promise to provide C-Form, and in case subsequently, if such customers supply the C-Form then such deposit is refunded to them. The security deposited with the authorities amounting to Rs. 62,55,737/- has been substantiated by the petitioner through details of customer, Central Sales Tax ledger along with the challans evidencing the payment of sales tax before the Assessing Officer at the time of filing the original return and hence, the subsequent reopening on its aspect is nothing but change of opinion and hence, on this count also, the action of reopening of the assessment for AY 2017-18 calls for interference.

7. Hence, on an overall appreciation of the facts and law, the present writ petition is ***allowed***. The impugned notice as well as the order dated 26.03.2024 is required to be quashed and set aside and the same is hereby, quashed and set aside.

(A. S. SUPEHIA, J)

(VAIBHAVI D. NANAVATI,J)

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