IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 1344 of 2026
With
R/SPECIAL CIVIL APPLICATION NO. 1351 of 2026

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M/S FORD INDIA PRIVATE LIMITED
Versus
UNION OF INDIA & ANR.

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Appearance:
MR MIHIR JOSHI, SENIOR ADVOCATE WITH MANISH MISHRA, ANKUR MITTAL, SAMEER SAMAL, DHWANI VYAS FOR J SAGAR ASSOCIATES (8162) for the Petitioner(s) No. 1
MS HETVI H SANCHETI(5618) for the Respondent(s) No. 1,2

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

Date : 03/09/2026
COMMON ORAL ORDER
(PER : HONOURABLE MR. JUSTICE A.S. SUPEHIA)

1. In the present writ petitions, the petitioner has assailed impugned show-cause notices and Orders-in-original issued under section 74 of the Central Goods and Services Tax (CGST) Act, 2017 (for short “the CGST Act”).

2. Learned Senior Advocate Mr.Joshi, while pointing out the impugned show-cause notices and Orders-in-original, has submitted that the adjudicating authority has failed to derive its conclusion on the material supplied by the petitioner, pursuant to the show-cause notices, by observing that the data mentioned in the e-way bills for the Financial Year 2018-19 is difficult to understand as no mechanism is provided. He has further submitted that the petitioner has

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supplied all the details, which are incorporated in paragraph No.15.3 of the impugned Orders-in-original however, the same are brushed aside by observing that it was not possible to ascertain in what manner these supplies have been effected in the respective returns.

3. Learned Senior Advocate Mr.Joshi has further pointed out that in fact, the show-cause notices and Orders-in-original emanate from the Audit Query of the Director General of Audit (Central) Ahmedabad dated 14.06.2023, 15.06.2023 and 03.08.2023, wherein it was alleged that there was suppression in taxable value in comparison with e-way bills. He has submitted that as per section 61 of the CGST Act, various returns filed by the taxpayers have to be scrutinized by the proper officer to verify the correctness of the returns and suitable action has to be taken on any discrepancies or inconsistencies reflected in the returns and the proper officer designated by the audit was the Range Officer, and he was also requested to identify the inconsistencies after ascertaining from the petitioner and wherever applicable under section 61 of the CGST Act, verify the details and check whether such action can be taken or not.

4. It is submitted by learned Senior Advocate Mr.Joshi that pursuant to the aforesaid Audit

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Query, the petitioner supplied various documentary evidence to the Range Officer and thereafter, they only said "*There is a discrepancy*". It is submitted that no procedure under section 61 of the CGST Act has been followed, and the petitioner was only intimated about the alleged discrepancies. He has also contended that on the very same Audit Query, the show-cause notices for alleged wrongful availment of the Input Tax Credit has been issued invoking the provision of section 74 of the CGST Act. It is also contended that the power has been exercised in the extended period of five years as provided under Explanation 2 to section 74 of the CGST Act however, there is no suppression by the petitioner, and it is the only aspect regarding the detailed scrutiny and analysis of the e-way bills and the invoices which were supplied to the adjudicating authority.

5. It is further submitted by the learned Senior Advocate that the petitioner was never called upon to supply additional invoices or e-way bills, and an exorbitant demand of Rs.4,57,61,572/- (in SCA No.1344/2026) and Rs.19,36,67,23,154/- (in SCA No.1351/2026). He has further submitted that there is no allegation referred in the impugned show-cause notices about the evasion of any tax liability, mentioned in the e-way bills generated by the petitioner.

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6. Opposing the present writ petition, learned Senior Standing Counsel Ms.Sancheti has submitted that the writ petitions may not be entertained as despite having given opportunity to the petitioner, it did not supply the details of e-way bills and invoices, and whatever documents were supplied, on a close scrutiny, it was found that there was discrepancies in such e-way bills. She has referred to the provision of section 155 of the CGST Act, and has submitted that burden lies on the petitioner to explain that he has not wrongly availed the Input Tax Credit in excess of its entitlement. She has also referred to the provision of section 61 of the CGST Act read with Rule 99 of the Goods and Services Tax (GST) Rules, 2017 and has contended that in fact, it is not necessary or incumbent upon the respondent authorities to follow the procedure of section 61 of the CGST Act before invoking the provision of section 74 of the CGST Act, and the exercise conducted under the provision of section 54 of the CGST Act by the respondent authority is appropriate. She has also referred to the various observations made in the impugned Orders-in-original.

7. After hearing the learned advocates appearing for the respective parties, we are of the opinion that the matter requires consideration.

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8. *Prima facie*, we are of the opinion that the impugned Orders-in-original depict the inability of the adjudicating authority in closely analyzing the details of delivery channels, corresponding e-way bills, invoices, etc., as he himself has expressed his inability to undertake such exercise, as there is no mechanism to understand this. In paragraph No.15.11 of the Orders-in-original, while examining the invoices, which are submitted in MS Excel format by the petitioner, it is recorded that *"on analysis of this data, containing more than 2,000 entries for Financial Year 2018-19 alone, it is not possible to ascertain as to which particular invoices were affected by this error and subsequently how these have been reconciled in the relevant returns"*. Similarly, he has expressed his inability for reconciliation of the supporting documents of the Books of Accounts, which include purchase registers and others.

9. The petitioner was never called upon to supply any additional material by the adjudicating authority, and as informed to us, there are almost 4.5 lakhs e-way bills and 2.5 lakhs invoices, which would suggest that there was no intention of the petitioner to suppress or evade the liability of payment of the GST.

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10. Issue ***RULE.*** Learned Senior Standing Counsel Ms.Sancheti waives service of notice of rule for and on behalf of the respondent.

11. We are of the considered opinion that, looking to the complexity of the amounts involved and the analysis of the invoices and e-way bills, the initial action, which was resorted to by the audit, was necessary. Hence, the ad-interim relief granted by this Court vide order dated 05.02.2026 shall remain in operation till the final disposal of the petitions.

Registry to place a copy of this order in the connected matter(s).

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

Sd/-
(VAIBHAVI D. NANAVATI,J)

NVMEWADA/36,37

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