NEUTRAL CITATION
2026:GUJHC:44995-DB

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 9269 of 2026

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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M/s JAI GANESH ENTERPRISE
Versus
UNION OF INDIA & ORS.

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Appearance:
MR SAMIR GUPTA for MR NACHIKET D MEHTA(6529) for the Petitioner(s) No. 1
MS TANUSHREE SHRIMAL, AGP for the Respondent(s) No. 3,4
MR ANKIT SHAH 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 : 13/07/2026
ORAL JUDGMENT
(PER : HONOURABLE MR. JUSTICE A.S. SUPEHIA)

1. In the present writ petition, the petitioner has assailed the confiscation order Form GST MOV-11 dated 27.03.2026 and the summary order Form GST DRC-07 dated 24.04.2026.

2. This writ petition has been filed under Article 226 of the Constitution of India, seeking quashing of the Confiscation Order dated 27.03.2026 passed in Form GST MOV-11 under section 130 of the Central Goods and Services Tax Act, 2017

(for short ‘the CGST Act’) read with section 20 of the Integrated Goods and Services Tax Act, 2017 (for short ‘the IGST Act’) vide which, demand of Rs.88,68,728/- has been confirmed in lieu of confiscation of goods and conveyance.

2.1 The petitioner is also challenging the summary order in Form GST DRC-07 dated 24.04.2026 passed by the respondent No.4 under Rule 142(5) of the Central Goods and Services Tax Rules, 2017 (for short 'the CGST Rules'). The petitioner is also challenging the cross-empowerment of the Gujarat Goods and Services Tax officers to perform the functions of proper officers under the IGST Act.

2.2 That for the sake of brevity, the Gujarat Goods and Services Tax Act, 2017 shall be referred as 'GGST Act’.

Brief facts

3. The petitioner is the buyer of the goods (Pan Masala and Tobacco) and a registered dealer under GST. The goods are being sold by M/s Ram Trading Company. It is undisputed that the petitioner and the seller are duly registered under GST. That, while the goods were in transit, the consignment was intercepted by the respondent No.4 on 25.02.2026 and statement of the driver was recorded in Form GST MOV-01. It is the case of the petitioner that at the time of interception, the driver duly furnished E-invoices and E-way bills pertaining to accompanied goods, and, after recording the statement of driver, the respondent No.4 passed the order for physical verification Form GST MOV-02 and document verification.

3.1 It is the case of the petitioner that on 27.02.2026, the respondent No.4 conducted the physical verification and prepared the report in Form GST MOV-04 wherein no discrepancy was found between the quantity of goods as per invoice and quantity of goods as per physical verification.

3.2 On 28.02.2026, the Respondent No.4 passed the Detention Order Form GST MOV-06 under Section 129(1) of the CGST Act read with section 20 of the IGST Act on the ground that the documents accompanied with the goods in question had already been used on an earlier occasion i.e. between 22.02.2026 to 23.02.2026.

3.3 On 07.03.2026, the respondent No.4 issued the show cause notice for Confiscation Form GST MOV-10 under Section 130 of the CGST Act read with Section 20 of the IGST Act wherein, the Respondent No.4 directed to show cause as to why penalty amounting to Rs.19,70,828.58/- in lieu of goods, fine amounting to Rs.49,27,071.43/- in lieu of goods and fine amounting to Rs.19,70,828.58/- shall not be recovered. After the petitioner filed reply on 27.03.2026, the respondent No.4 passed the confiscation order Form GST MOV-11 and confirm the demand of penalty and fine.

SUBMISSIONS ON BEHALF OF THE PETITIONER

4. Learned advocate, Mr.Samir Gupta appearing for the petitioner has questioned the action and powers of the respondent officers in passing the impugned orders. While referring to the provision of section 4 of the IGST Act, it is

contended that under the said provision, the officers appointed under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act are authorized to be the proper officers, subject to the exceptions and conditions as the Government on recommendations of the Council, shall by notification specify. He has also referred that a similar provision has been engrafted in the CGST Act under section 6(1) which empower the officers appointed under the said Act as authorized to be the proper officers. Thus, it is submitted that since there is cross-empowerment of the officers amid State GST and Central GST to perform the functions of proper officers, the same has to be clarified by issuance of notification, which is not done in the present case. It is submitted that though the Commissioner of State Tax had issued an order dated 23.06.2017 specifying the proper officer under the GGST Act, the same will not empower such officers as mentioned therein to pass the orders unless, there is a notification issued under section 4 of the IGST Act empowering such officers to exercise their powers.

4.1 Learned advocate, Mr.Samir Gupta has also referred that the GST Council in its 22nd meeting held on 06.10.2017, included a proposal for issuing notification on cross empowerment for ensuring single interface under GST. However, the same is not issued and hence, the functioning of the proper officer through the circular/order dated 23.06.2017 by the State officers, who are delegated the power by the Commissioner, is *dehors* the statutory scheme of the IGST Act and the State GST Act and thus, the impugned orders are required to be quashed and set aside. It is submitted that pursuant to the recommendation of the GST Council, the respondent No.1 issued notification dated 13.10.2017, to cross empower the State officers for processing and grant of refund which specifies that the officers of the State tax are authorized to be proper officers for the purposes of Section 54 or Section 55 of the said Acts and hence, until such notification has been issued under section 4 of the IGST Act by the Central Government, the State officers are not authorized or empowered to pass the impugned orders, which are passed in the present case against the petitioner. It is submitted that such officers are allowed to exercise the powers when it comes to cross empowerment, there would not be any restriction or guidance or any check on their functions which would lead to an anomalous situation of imposing penalty and confiscation of the goods on the tax payers. In support of his submission, he has placed reliance on the decision of the High Court of Andhra Pradesh in the case of *Sri Balaji Rice Company vs. Commercial Tax Officer, No.I, Nellore & Ors.*, *1983 SCC Online AP 309*.

4.2 Learned advocate, Mr.Samir Gupta has further highlighted the predicament of the present petitioner filing an appeal under section 107(1) of the CGST Act, 2017 read with section 107 of the GGST Act. It is submitted that the provision of section 107(1) of the CGST Act provides of filing an appeal before the prescribed authority against any decision or order passed under the Acts by an adjudicating authority. However, the said provision does not stipulate of filing an appeal against the decision or order passed under the IGST Act. He has referred to the provision of section 107(1) of the GGST Act and has submitted that as per the aforesaid provision of section 6 of GGST Act more particularly, sub-section (3) of section 6 of the GGST Act, any order passed by the State authority officers (proper officer) under the said Act, shall not lie before an officer appointed under the CGST Act. Thus, it is urged that the petitioner is remediless as he cannot file an appeal unless the Acts prescribed of filing an appeal against an order passed under the IGST Act. No further submissions are made.

SUBMISSIONS ON BEHALF OF THE RESPONDENTS

5. Responding to the foregoing submissions and opposing the present writ petition, learned Assistant Government Pleader, Ms.Tanushree Shrimal appearing for the respondent Nos.3 and 4 has submitted that the issue raised in the present writ petition by the writ petitioner is already laid quietus by the various judgments of the High Courts. In this context, she has referred to the judgment of the High Court of Punjab & Haryana in the case of *Bright Road Logistics vs. State of Haryana, (2023) 153 taxmann.com 353 (Punjab & Haryana)*, the High Court of Madhya Pradesh in the case of *Advantage India Logistics (P) Ltd. vs. Union of India, (2018) 98 taxmann.com 120 (Madhya Pradesh)* and the High Court of Calcutta in the case of *Jageswar Saw vs. Deputy Commissioner of Revenue, State Tax, Bureau of Investigation, (2026) 185 taxmann.com 853 (Calcutta)*. She has also referred to the provision of section 4 and section 107 of the GST Acts and has submitted that the petitioner can file an appeal against the impugned orders before the appellate authorities under the

GGST Act. Thus, she has urged that the writ petition is not maintainable.

6. Adopting the aforesaid submissions, learned Senior Standing Counsel, Mr.Ankit Shah appearing for the respondent Nos.1 and 2 has submitted that the provisions of section 4 of the IGST Act are self-explanatory and they do not require further issuance of any notification promulgating the division of powers of proper officers. It is submitted that the Commissioner of State Tax, Gujarat State, Ahmedabad, vide order dated 23.06.2017 has already prescribed the schedule of the proper officers with the corresponding entries and the sanctions and hence, the further notification is not required.

ANALYSIS AND OPINION

7. We have heard the learned advocates appearing for the respective parties at length. The entire case of the petitioner hinges on the interpretation of two statutory provisions; (i) section 4 of the IGST Act and; (ii) section 107 of the CGST Act which provides for filing an appeal against the impugned orders. Thus, it is not in dispute that the petitioner has an alternative remedy of filing an appeal against the impugned orders. However, it is the case of the petitioner that since there is no provision governing either in the CGST Act or under GGST Act of filing an appeal against any order passed by any proper officer under the IGST Act, he is unable to do so.

8. We may deal with the first part of the submission advanced on behalf of the petitioner relating to the issue of absence of any notification or any clarification issued by the

Central Government governing the provision of section 4 of the IGST Act and correspondingly, non issuance of any clarification regarding the exercise of the powers by the proper officers in relation to the respective sections/statutory provisions of the respective Acts. Section 4 of the IGST Act reads as under:

> ***"Section 4 - Authorisation of officers of State tax or Union territory tax as proper officer in certain circumstances***
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> *Without prejudice to the provisions of this Act, the officers appointed under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act are authorised to be the proper officers for the purposes of this Act, subject to such exceptions and conditions as the Government shall, on the recommendations of the Council, by notification, specify."*

8.1 A careful reading of the provision of section 4 of the IGST Act, manifests that the officers appointed under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act "are authorized to be the proper officers" for the purpose of this Act i.e. the IGST Act, subject to such exceptions and conditions as the Government shall, on the recommendations of the Council, by notification, specify. Thus, if the Central Government is of the opinion that there has to be some exceptions or conditions which are necessary to be incorporated and read into the provisions of section 4, in those cases, the Central Government on the recommendations of the Council, has to issue the notification. The powers which are to be exercised by the proper officers appointed under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, are conferred and authorized on the proper officers for the purpose of the operation of the provisions of IGST Act. Thus, there is no ambiguity in the language of the provisions of section 4 of the IGST Act, which categorically and specifically authorizes the officers appointed under the State

Goods and Services Tax Act, who are authorized to be proper officers for the purpose of operation of the statutory provisions of the IGST Act and the said authorization of the proper officers of the State Goods and Services Tax Act or the Union Territory Goods and Services Tax are subject to the exceptions and conditions which can be promulgated by the Government on the recommendations of the Council by a notification. It appears that one of such exception was in cases of governing or sanctioning the refund and accordingly, the Central Government issued a Notification No.39 of 2017, dated 13.10.2017, authorizing the proper officers for the purpose of section 54 and section 55 of the said Acts i.e. the State Goods and Services Tax Act and the Union Territory Goods and Services Tax Act. These are the circumstances which could be considered by the Central Government for issuance of the notifications as mentioned under section 4 of the IGST Act.

8.2 Thus, the language of provision of section 4 of the IGST Act indubitably prescribes that the officers who are appointed under the State Goods and Services Tax Act are authorized and empowered to carry out their powers or functions for the purpose of IGST Act. The section does not in any manner further mandates of issuance of notification by the Central Government suggesting or stipulating any division of powers by such proper officers but, it is left on the discretion of the proper officer, who is appointed by the State Government to further delegate the powers to other officers, which is already done vide order dated 23.06.2017 issued by the Commissioner of State Tax, Gujarat State, Ahmedabad, providing the schedule empowering the proper officers specified in the corresponding entries Section wise of the GGST Act. The order specifically mentions the specification of proper officers under the GGST Act right from section 10(5) of the GGST Act, which is found at item No.1 of such order, till Section 163 of the GGST Act i.e. the entry 116. The designation of proper officers are prescribed by the Commissioner of State Tax. The Schedule – A of the said order thus, prescribes the various officers, who are designated as proper officers, for the functioning of the statutory provisions under the GGST Act.

9. At this stage, we may refer to the decision of the Punjab & Haryana High Court in the case of ***Bright Road Logistics (supra).*** While dealing with an analogous situation, the Punjab & Haryana High Court after careful examination of the provisions of section 20 of the IGST Act and section 4 of the IGST Act read with the orders passed by the Excise and Taxation Commissioner of Haryana under the provisions of section 4 and section 20 of the IGST Act, has held thus:

> *"18. Since the vehicle was transporting the goods inter-State, therefore, the provisions of IGST Act, 2017 as well the provisions of GST Act, 2017 in so far applicable in view of the provisions of Section 20 of the IGST Act, are applicable to the facts of the present case. In view of the said enabling provisions under Section 20 of the IGST Act, 2017, the provisions of Chapter XIV of GST Act, 2017 which deals with inspection, search, seizure and arrest and power of inspection, search and seizure (Section 67 and 68 of CGST Act, 2017) are applicable to the inter-State supply of goods.*
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> *19. As per the provisions of Section 4 of IGST Act, 2017, the officers who are appointed under the State Goods and Services Tax Act or Union Territory Goods & Services Act are authorized to be the Proper Officers in the process of IGST Act, 2017. The said Section is reproduced as under:-*
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>> *4. Authorization of officers of State tax or Union territory tax as Proper Officer in certain circumstances- Without prejudice to the provisions of this Act, the officers appointed under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act are authorized to be the Proper Officers for the purposes of this Act,*

subject to such exceptions and conditions as the Government shall, on the recommendations of the Council, by notification, specify.'

20. Apart from the enabling provisions under the IGST Act, 2017, the Commissioner of State Tax, Haryana had issued the order dated 07.12.2017 (Annexure P-46) exercising the powers conferred under sub-section 1 of Section 5 read with clause 91 of section 2 of Haryana Goods and Services Tax Act, 2017 assigning the functions to be performed under the said Act by a Proper Officer. As per entry of Sr. No.51, 52 and 53 of the said order, the Asstt. Excise and Taxation Officer of State Tax has been assigned the functions to be performed under Section 129 (1) and (3); 129 (6); and Section 130 of the Haryana Goods and Services Tax Act, 2017. Section 129 and 130 of the said Act is having the similar provisions as under the said sections of IGST Act, 2017.

21. As such, in view of the enabling provisions of Sections 20 and Section 4 of the IGST Act; as well as the order dated 07.12.2017 (Annexure P-46) passed by the Excise & Taxation Commissioner, Haryana, assigning the functions to the Proper Officer under the Haryana Goods & Services Tax Act, 2017, we are of the considered opinion that the Asstt. Excise and Taxation Officer of State Tax is competent and authorized to exercise the powers under Section 129 and 130 of the IGST Act, 2017.

22. As such the first point for determination is accordingly, answered that the Asstt. Excise & Taxation Officer of State Tax was authorized to Act as a Proper Officer and was having the authority to act under Section 129 and 130 of the IGST Act. The decision of the appellate authority in this regard requires no interference."

9.1 The Punjab & Haryana High Court has held that the Excise and Taxation Officer of State Tax is competent and authorized to exercise the powers under section 129 and 130 of the IGST Act in light of the provision of section 20 and section 4 of the IGST Act as well as the order dated 07.12.2017 passed by the Excise and Taxation Commissioner, Haryana. In the present case, it is the order dated 23.06.2017.

10. The High Court of Calcutta in the case of ***Jageswar Saw (supra),*** has also taken a similar view after examination of section 4 of the IGST Act. The same is as under:

"27. The two sections are almost a mirror reflection of each other. Section 6 deals with authorisation of officers of the State tax or Union Territory tax as a proper officer, while Section 4 deals with authorisation of officers appointed under the State Tax Act or Union Territory Tax Act as proper officer in certain circumstances.

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28. Section 4 of the IGST Act unequivocally mandates that the officer appointed under the said Act or the Union Territory Act are authorised as the proper officer for the purpose of IGST. This authorisation is subject to exceptions and conditions as the government may, on the recommendation of the Council, specify by issuing a notification.

29. No notification has been produced or relied upon before us by any of the parties to assail the issue that persons other than those specified under Section 4 of the IGST Act are to be construed as proper officer.

30. Section 4 of the IGST Act is thus unequivocal. This all-encompassing nature of Section 4 can only be curtailed by a specific notification issued by the Government of India on consultation or on the recommendation of the Council. As no such notification or recommendation was produced or relied upon before us, there is no occasion for us to construe otherwise that an officer specified under Section 4 of the IGST Act is not a proper officer. Officers appointed under the CGST Act and the State Act (herein the West Bengal GST Act) are construed, by way of this deeming provision of Section 4 of the IGST Act, to be proper officers. This is a provision of cross empowerment which has been fostered by the authority upon much consultation and deliberation to mitigate the chances of double jeopardy and to ensure smooth and efficient functioning of the tax regime.

31. The GST law, through this principle of cross empowerment, affords a far more efficient machinery to the authorities to ensure due enforcement of the provisions of the relevant statutes. The authorities, both Union and state, while making their submission, in no uncertain terms submitted that the proper officer of the West Bengal GST was empowered and thereby had jurisdiction to detain the vehicle and inspect the documents as presented to them."

10.1 The Calcutta High Court has held that the provisions of section 4 of the IGST Act can only be curtailed by a specific notification issued by the Government of India on consultation or on the recommendation of the Council.

11. In the case of ***Advantage India Logistics (P) Ltd. (supra),*** the High Court of Madhya Pradesh has held thus:

"13. On due consideration of the arguments of the learned counsel for the parties so also the provisions of Section 4 of the IGST Act, we are of the view that officers appointed under the MPGST Act are authorized to be proper officers for the purpose of IGST and, therefore, the contention of the petitioner that no notification was issued and in absence of any notification under Section 4 of the IGST Act has no force, we cannot accept the contention of the petitioner that the action of the respondent No.4 is wholly without jurisdiction."

12. Thus, on overall appreciation of the provisions of the Acts as well as the legal precedent as set out by the other three High Courts, we do not find any merits in the submissions advanced by learned advocate, Mr.Samir Gupta. No further notification is required to be issued by the Central government clarifying the exercise of powers by proper officers under IGST, since the Section 4 of the IGST Act already takes care of the state of affairs.

13. So far as the predicament canvased by the petitioner in filing the appeal under Section 107 of the CGST Act, the same also has its roots in the aforesaid provisions of section 4 and section 20 of the IGST Act. Section 107 of the CGST Act provides for filing an appeal against an order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act. Section 4 of the IGST Act as deliberated upon by us, would inevitably create a deeming fiction of passing an order by the proper officers under the State Goods and Services Tax Act and Union Territory Goods and Services Tax Act and hence, an appeal would lie before the appellate authority under section 107 of the CGST Act if the order is passed by the proper officer exercising the powers under CGST Act. However, since in the present case, the orders have been passed by the proper officers of the State Government, the provision of section 107 of the GGST Act gets attracted. Section 6(3) of the GGST Act under which the petitioner has sought shelter, mentions that "Any proceedings for rectification, appeal and revision, wherever applicable, of any order passed by an officer appointed under this Act, shall

not lie before an officer appointed under the Central Goods and Services Tax Act." Precisely so stated, since the provisions is framed under GGST Act. This provision cannot be made an excuse of non-filing of an appeal since the appeal would only lie to the appellate authority of the State under the provision of section 107 of the GGST Act. Thus, on this count also, the writ petition cannot be entertained as the petitioner has the remedy of filing an appeal. Hence, the writ petition stands ***dismissed.***

(A. S. SUPEHIA, J)

(VAIBHAVI D. NANAVATI,J)

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