

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/SPECIAL CIVIL APPLICATION NO. 496 of 2019**

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M/S NORTH WESTERN CARRYING CORPORATION , NIKUNJ BHARAT  
KASERA  
Versus  
UNION OF INDIA & ANR.

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## Appearance:

MR ANAND NAINAWATI(5970) for the Petitioner(s) No. 1

MS PRUTH D. BHAVSAR FOR

MR ANKIT SHAH(6371) for the Respondent(s) No. 1,2

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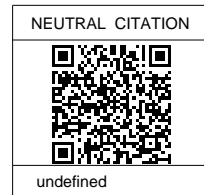
CORAM:**HONOURABLE MR. JUSTICE A.S. SUPEHIA**

and

**HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI****Date : 10/06/2026****ORAL ORDER****(PER : HONOURABLE MR. JUSTICE A.S. SUPEHIA)**

1. At the outset, learned advocate Mr.Anand Nainawati, appearing for the petitioner, has very fairly submitted that the issue raised in the present writ petition i.e. the challenge to the impugned Show Cause Notice dated 13.03.2018 issued under Section 73(1) of the Finance Act, 1994 (for short, "the Act"), already stands concluded by the judgment and order dated 29.01.2020 passed by a Coordinate Bench of this Court in Special Civil Application No.20748 of 2018 and allied matters in the case of Sahitya Mudranalaya Pvt. Ltd. Vs. Additional Director General, 2021 (46) G.S.T.L. 245 (Guj.). It is submitted that the petitioner may be relegated to face the adjudication proceedings.

2. In the present writ petition, the petitioner has prayed for the following relief:-



*“17. (a) that this Hon'ble Court be pleased to issue appropriate writ, order or direction to quash Show Cause Notice dated 13.03.2018 issued under F. No. XIV/108/2017 by Respondent No. 2, whereby the Petitioner has been asked to Show Cause as to why the specified amount of Service Tax, interest and penalties should not be demanded and recovered from it.”*

3. The petitioner has assailed the show cause notice dated 13.03.2018 issued under Section 73(1) of the Act.

4. While issuing notice in the present matter, vide order dated 18.01.2019, this Court had recorded the submission that, since the provisions relating to service tax contained in the Finance Act, 1994 have been repealed by virtue of Section 173 of the Central Goods and Services Tax Act, 2017 (for short, “the CGST Act”), hence, the impugned show cause notice is without jurisdiction.

5. At this stage, it would be apposite to refer to the observations made by the Coordinate Bench in the case of **Sahitya Mudranalaya Pvt. Ltd. (supra)**, which read thus:—

*“7.7 Thus, by virtue of Section 173 of the CGST Act, Chapter V of the Finance Act, 1994 stands omitted. Sub-section (2) of Section 174 of the CGST Act provides that the amendment of Finance Act, 1994 shall not "(e) affect any investigation, inquiry, verification (including scrutiny and audit), assessment proceedings, adjudication and any other legal proceedings or recovery of arrears or remedy in respect of any such duty tax, surcharge, penalty, fine, interest, right, privilege, obligation, liability, forfeiture or punishment, as aforesaid, and any such investigation, inquiry, verification (including scrutiny and audit), assessment proceedings, adjudication and other legal proceedings or recovery of arrears or remedy may be instituted, continued or enforced, and any such tax, surcharge, penalty, fine, interest, forfeiture or punishment may be levied or imposed as if these Acts had not been so amended or repealed.*

*7.8 Thus, clause (e) of sub-section (2) of Section 174 of the CGST Act provides for institution of investigation, inquiry, verification,*



*assessment proceedings, adjudication and other legal proceedings as if the Finance Act, 1994 has not been so amended. Therefore, even after the omission of Chapter V of the Finance Act, 1994, by virtue of clause (e) of sub-section (2) of Section 174 of the CGST Act, the authority is authorised to institute any legal proceeding under the said Act. The contention that the authority does not have authority to initiate fresh proceedings after the omission of Chapter V of the Finance Act, therefore, does not merit acceptance.”*

6. Thus, the Coordinate Bench, after examining the provisions of Sections 173 and 174 of the CGST Act, categorically held that the respondent-authorities are duly empowered to institute and continue legal proceedings notwithstanding the enactment of the CGST Act, and rejected the contention raised on behalf of the assessee regarding lack of jurisdiction.

7. In view of the aforesaid judgment and order passed by the Coordinate Bench, the present writ petition does not merit consideration and is accordingly dismissed. It is, however, clarified that the respondent-authorities shall not treat the dismissal of the present writ petition, as detrimental to the interests of the petitioner and shall complete the adjudication proceedings independently in accordance with law. Rule is discharged.

Sd/-

**(A. S. SUPEHIA, J)**

Sd/-

**(VAIBHAVI D. NANAVATI, J)**

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