ITEM NO.30 COURT NO.4 SECTION III-B

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 15992-15994/2023

[Arising out of impugned final judgment and order dated 06-06-2023 in SCA No. 5978/2023 06-06-2023 in SCA No. 5979/2023 06-06-2023 in SCA No. 5980/2023 passed by the High Court of Gujarat at Ahmedabad]

RHC GLOBAL EXPORTS PRIVATE LIMITED & ORS. Petitioner(s)

VERSUS

UNION OF INDIA & ORS. Respondent(s)

Date : 09-12-2025 These petitions were called on for hearing today.

CORAM : HON'BLE MRS. JUSTICE B.V. NAGARATHNA
HON'BLE MR. JUSTICE R. MAHADEVAN

For Petitioner(s) : Ms. Nidhi Jaswal, AOR

For Respondent(s) : Ms. Manisha Lavkumar, Sr. Adv.
Ms. Deepanwita Priyanka, AOR
Ms. Priyal Sheth, Adv.

Mr. Aniruddha Joshi, Sr. Adv.
Mr. Siddharth Dharmadhikari, Adv.
Mr. Aaditya Aniruddha Pande, AOR
Mr. Shrirang B. Varma, Adv.

UPON hearing the counsel the Court made the following
O R D E R

List on 17.03.2026.

(B. LAKSHMI MANIKYA VALLI)
COURT MASTER (SH)

(DIVYA BABBAR)
COURT MASTER (NSH)

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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 5978 of 2023
With
R/SPECIAL CIVIL APPLICATION NO. 5979 of 2023
With
R/SPECIAL CIVIL APPLICATION NO. 5980 of 2023

FOR APPROVAL AND SIGNATURE:
HONOURABLE MR. JUSTICE ASHUTOSH SHASTRI Sd/-
and
HONOURABLE MR. JUSTICE J. C. DOSHI Sd/-

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?	**YES**
2	To be referred to the Reporter or not ?	**YES**
3	Whether their Lordships wish to see the fair copy of the judgment ?	**NO**
4	Whether this case involves a substantial question of law as to the interpretation of the Constitution of India or any order made thereunder ?	**NO**

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RHC GLOBAL EXPORTS PRIVATE LIMITED
Versus
UNION OF INDIA

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Appearance:
MR SAURABH N SOPARKAR, SENIOR ADVOCATE with MR ABHISHEKKUMAR C MALVI(9941) for the Petitioner(s) No. 1,2,3
MR MAULIK VAKHARIYA(6628) for the Petitioner(s) No. 1,2,3

MS. MANISHA LAVKUKAR SHAH, GOVERNMENT PLEADER with MR CHINTAN DAVE, AGP for Respondent State Authority
MR DEVANG VYAS, ASG for the Respondent(s) No. 1
NOTICE SERVED BY DS for the Respondent(s) No. 1,3,4,5,6

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CORAM:**HONOURABLE MR. JUSTICE ASHUTOSH SHASTRI**
and
HONOURABLE MR. JUSTICE J. C. DOSHI

Date : 06/06/2023

COMMON CAV JUDGMENT
(PER : HONOURABLE MR. JUSTICE ASHUTOSH SHASTRI)

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1. By way of these petitions, respective petitioners have assailed basically the action of respondent Nos.4, 5 and 6 who initiated proceedings under Section 67 read with Section 70(1) of GGST Act, 2017 and CGST Act, 2017 and sought consequential reliefs. Since common question of law and facts have arisen, learned advocates have requested to deal with petitions conjointly, as a result of this, Special Civil Application No.5978 of 2023 is treated as a lead matter since the issues are identical.

2. In Special Civil Application No.5978 of 2023, petitioner has submitted that petitioner is a company incorporated on 24.1.2019 and has its head office and special economic come operations at the address shown in the cause title of petition. Petitioner Nos.2 and 3 are Directors of the company since they are substantially interested and material affected in the conduct and business of petitioner company and as such has submitted this lead petition.

3. According to petitioners, petitioner company is a well-established SEZ Unit in SURSEZ administered under the control

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and directions of respondent No.3, i.e. Development Commissioner, SEZ, Surat. Petitioner company was granted approval to operate SEZ unit in SURSEZ by respondent No.3 vide LOP No.SSEZ/II/03/2019-20/140 on 1.5.2019. Petitioner is in specific area within SURSEZ which is located for Gem and Jewelry activity and Unit of the petitioner is to be treated as foreign territory for its business operations and as such they are 'Tax Neutral' or 'Revenue Neutral' entity with respect to levy and collection of custom duties, GST and other indirect taxes. In respect of this business, petitioner has obtained Registration-cum Membership Certificate from Export Promotion Council for EOUS & SEZ Unit as well as Registration cum-Membership Certificate from Gem & Jewelry Export Council, Surat in the context of Clause (xvi) of LOP. Further, in compliance of Clause (xvii) of LOP, petitioner also obtained GSTIN certificate bearing No.24AAJCR3808D1ZM and as such petitioner is a tax neutral in terms of GST registration. According to petitioner, even GST registration of company is indicating tax entity as 'SEZ Unit' and is covered under first proviso to Rule 8 of the Central Goods and Services Tax Rules, 2017 which indicates as "PROVIDED

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that a person having a unit(s) in a Special Economic Zone or being a Special Economic Zone Developer shall make a separate application for registration as a business vertical distinct from his other units located outside the Special Economic Zone". For the purpose of facilitating measure for the vendors to the petitioner's SURSEZ unit, IGST registration number is also taken since they supply goods and services to the petitioner in SURSEZ and for facilitating importers from DTA area for goods/ services taken out from petitioner in SURSEZ to enable importers to identify petitioner's unit. It is the case of petitioner that in both instances, incidence of IGST is not borne by the petitioner. So far as petitioner's unit is concerned, same is 'Zero Rated Supply' and as such a tax neutral / revenue neutral and petitioner is filing nil IGST returns and only declares value of imports and Exports from its SEZ unit at SURSEZ. Petitioner also additionally obtained a Legal Entity Identifier India Limited Certificate and this LEI provides security for international transactions, shortcuts KYC processes and boosts transparency throughout the global financial system. LEI is also a valuable tool for validating identity and gives the petitioner an instant

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credibility boost. Petitioner contended that this LEI is a sort of a legal identity to transact globally and same is granted only to credible and fully KYC and PMLA compliant entities.

4. It is the case of petitioner that some ostensible oral communication from an officer of Enforcement Directorate, petitioner company was subjected to search and seizure operation and premises of the petitioner company were sealed vide a sealing memo dated 3.3.2023 by respondent No.4 at around 3.00 p.m. Sealing memo according to petitioner does not reflect any due process followed by respondent No.4 and same is carried out without arriving at any satisfaction as required under Section 67(1) of GST Act. Premises of petitioner were sealed as all employees were before the office of DRI Surat for recording of statements and as such respondent No.4 has sealed business premises, as indicated above. Simultaneously, respondent No.4 issued summons under Section 70 of CGST/ GST Act, 2017 and directed the Directors of petitioner company to appear before respondent No.4 for recording of statements and for production of books of accounts on 4.3.2023. On very same day, i.e. on 3.3.2023, under some cause of action, another

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officer of State Tax, i.e. respondent No.5 subjected the residential premises of petitioner for search and seizure operation and sealed the said residential premise on 3.3.2023. According to petitioner, said search operations were carried out under the provisions of Section 67 of the GST Act and again without arriving at any satisfaction, as required under said provisions. Petitioner No.1 was not available at his residence as he was staying with his relatives and as such respondent No.5 has sealed the residential premises and simultaneously, respondent No.4 issued summons on 3.3.2023 to appear on 10.3.2023 and pasted said summons on the wall of residential premise. Yet another agency, i.e. respondent No.6, also took up a parallel proceedings under the said cause of action initiated by respondent No.4 and also searched the petitioner's business premises in Mumbai with Panchas (witnesses) and seized books of accounts under Form GST INS-2 and passed an order of seizure on 4.3.2023 for the receipt for seized documents. Re No.6 after said search proceedings had also issued various summons under Section 70 of GST Act to the directors of the company and employees of the company respectively on

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3.3.2023 as well as on 4.3.2023 for the statement or proceedings and this according to petitioners was merely a roving inquiry, tantamounts to be a colourable exercise of power and as such according to petitioner, is inconsistent, perverse and ex-facie illegal and respondent Nos.4 to 6 are acting without authority of law and went on harassing the petitioner which has constrained the petitioners to approach this Court by way of present petition under Article 226 of the Constitution of India and reliefs which are sought in the petition are set out hereunder:-

A. This Hon'ble Court may be pleased to issue the writ of mandamus or any other appropriate writ, order or direction in the nature of mandamus, quashing and setting aside the proceedings Initiated by Respondent no. 4.0. Assistant Commissioner of State Tax (4), Surat, Respondent No.5/1.0. Assistant Commissioner of State Tax (1), Ahmedabad and 6 l.e. Assistant Commissioner of State Tax, Mumbai against the Petitioners u/s.67 read with section 70(1) of the GGST Act, 2017 and CGST Act 2017 along with the consequential proceeding. and/or Orders passed therein, as the said proceedings are absolutely illegal, unlawful, contrary the provisions of the Act, abuse of process of law, against the facts and evidence on record with consequential relief;

B. Pending the admission, hearing and final disposal of this petition, this Hon'ble Court may be pleased to stay the impugned proceedings initiated by Respondent no. 4 i.e. Assistant Commissioner of State Tax (4), Surat, Respondent No.5 i.e. Assistant Commissioner of State Tax (1), Ahmedabad and 6 i.e. Assistant Commissioner of State Tax, Mumbai against the Petitioners and be further pleased to direct Respondent no. 4 i.e. Assistant Commissioner of State Tax (4), Surat, Respondent No.5 i.e. Assistant Commissioner of State Tax (1), Ahmedabad and 6 i.e. Assistant Commissioner of State Tax, Mumbai not to take any

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coercive steps against Petitioners pursuant to impugned inquiry proceedings;

C. An ex-parte ad-interim relief in terms of prayer "B" above may kindly be granted; and

D. Grant such other and further relief/s as may be deemed fit and proper in the interest of justice.

5. Insofar as Special Civil Application No.5979 of 2023 is concerned, almost similar is the circumstance stated by petitioner and aggrieved by the action of respondent Nos.4 to 6 have contended that entire proceedings initiated by respondent is without authority of law and thereby sought a relief for quashing and setting aside the proceedings initiated by respondent Nos.4 and 5 against the petitioners under Section 67 and 70(1) of GGST Act, 2017 as well as CGST Act, 2017 and sought consequential reliefs.

6. Same is the case with Special Civil Application No.5980 of 2023, wherein also, aggrieved by an action of respondent Nos. 4 and 5, a request is made to set aside the proceedings which are initiated by an authority against the petitioner on the similar line, but one additional prayer in this petition is to the effect that action initiated under Section 73 of GGST Act as well as CGST Act, 2017 also may be quashed and set aside. Since

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mainly lead matter is argued by counsel appearing for petitioners as well as countered by learned advocates, as per the request of learned advocates, facts and contentions taken in the lead matter are treated as contentions raised in other two petitions of present group as not separately argued and as such the Court has heard learned senior counsel Mr. S.N. Soparkar assisted by Mr. Abhishekkumar C. Malvi for petitioners and learned Government Pleader Mrs. Manisha L. Shah, assisted by learned Assistant Government Pleader Mr. Chintan Dave for the State- respondents, and since long drawn hearing had taken place and on 5.5.2023 being a last half working day of ensuing vacation, order is kept reserved and since pleadings have been completed, these three petitions have been requested to be dealt with as limited issue with regard to lake of authority of respondent Nos.4,5 and 6 is tried to be agitated.

7. Learned senior advocate Mr. Saurabh Soparkar appearing for petitioners has submitted that since petitioner’s Unit is within the area earmarked and is SURSEZ unit which is a distinct foreign territory and as such, are tax neutral/ revenue neutral area and hence outside the ambit of provision of CGST

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Act, 2017 or SGST Act, 2017, particularly from Chapter-IX, X, XII, XIII, XIV, XV, XVI and XIX of CGST Act and accordingly, action initiated by respondent Nos.4, 5 and 6 is beyond jurisdiction, hence relief deserves to be granted. The main substantial issue which has been raised by learned senior counsel is that by virtue of provisions contained in SEZ Act, State authorities are not empowered to initiate any action since every SEZ unit is tax neutral zone. According to Mr. Soparkar, supplies to the petitioners SURSEZ Unit are considered as Zero Rated Supply under the provisions of IGST Act, 2017 and as such they are not subjected to provisions relating to levy, collection, evasion or otherwise of GST in the unit. It has been submitted that in both cases, whether it is an input supply to SEZ unit or is an outward supply by SEZ unit, SEZ unit does not suffer any tax incidence on supply either way. Insofar as incidence of GST Laws are concerned, petitioner’s unit will be governed under Integrated Goods and Services Tax (IGST) as it is not to be considered as a part of India. Preamble to IGST Act itself is making it clear that petitioners are not subjected to the domain of any of the respondent authorities, i.e. respondent

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Nos.4, 5 and 6 and as such, even if proceedings are initiated by respondent Nos.4, 5 and 6, assumed to be sanctioned under Chapter XVI by way of any coercive proceedings, same will not have any sanction at all and as such since entire proceedings initiated by respondents against petitioners being without authority, or jurisdiction, there is hardly any reason to allow said proceedings to be concluded. By referring to certain provisions of SEZ Act, particularly 2nd Proviso of Section 22 read with Clause (2) of Section 21 of SEZ Act 2005 which authorizes only ADG of DRI or ADG of DGCEI as Authorized Officers for the purposes of enforcement of provisions of the Customs Act, Central Excise Act and Finance Act and for no other Statute. Even offences under CGST Act, 2017, SGST Act, 2017, UTGST, 2017 or even IGST Act, 2017 are not notified offices under the provisions of Section 21(1) of SEZ Act and as such there is a serious act on the part of respondent authorities without jurisdiction. Further, entire proceedings launched against petitioners are devoid of any 'due process' doctrine and for that purpose, learned senior counsel Mr. Soparkar has drawn attention of the Court to Section 67 of the Act, which

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indicates sufficient safeguards before launching proceedings against any person and therefore, concept of 'due process' which has been clearly stipulated in Section 67, activities undertaken by respondent Nos.4 to 6 are nothing but mere fishing and roving inquiry and that inquiry or process being without jurisdiction, relief prayed for deserves to be granted.

8. Learned senior counsel Mr. Soparkar has also pointed out clear hardship which has been meted out to the petitioners on account of such unauthorized action and then by referring to notifications, it has been tried to be analyzed that authorities are acting beyond the scope of their jurisdiction. It has been contended that by referring to page 51 Annexure-K, page- 52 Annexure-L and page-53 Annexure-M for indicating that single enforcement officer or agency specified for notified offences under Customs, Central Excise and Service Tax and thereby authorization is to be extended by Central Government. For this purpose, an attention is drawn to page-51 and then indicated that by virtue of sub-section (1) of Section 21 of SEZ Act, 2005, Central Government notifies offences contained in the Sections which are mentioned in a tabular form in respect of Customs

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Act, 1961, Central Excise Act, 1944 and Finance Act, 1994 and by virtue of sub-section (2) of Section 21 and second proviso to Section 22 of SEZ Act, 2005, Central Government has authorised Additional Director Genera, Directorate of Revenue Intelligence for offences under Customs Act and Additional Director General, Directorate General of Central Excise Intelligence for offences under Central Excise Act, 1944 and Finance Act, 1994 to be an enforcement officer in respect of any notified offence or offences committed or likely to be committed in a Special Economic Zone and by referring to these notifications, which are at page 52 and 53 of petition compilation, a contention is reiterated that action of respondent Nos.4, 5 and 6 is beyond the scope of their authority, as such same is not sustainable in the eye of law.

9. Yet another submission is made that there are guidelines also issued for investigating/ visiting or to inspect or search or seizure SEZ and said guidelines which are framed is indicated in a communication dated 1.3.2021 at Annexure-N and even that has not been observed by an authority while taking or dealing with present petitioners and as such, when entire exercise is

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undertaken without the authority of law, relief prayed for deserves to be granted in the interest of justice. No other submissions have been made.

10. As against this, learned Government Pleader Mrs. Manisha Shah appearing on behalf of respondent Nos.4,5 and 6 has pointed out detailed circumstance which has constrained the authority to initiate action against petitioners and relevant narration has been made with regard to factual background of petitioners from the affidavit-in-reply and a contention is raised that this is not a fit case to exercise extraordinary equitable jurisdiction and has submitted that authority has acted well within the scope of authority. To substantiate this, learned Government Pleader Mrs. Shah has drawn attention to relevant provisions of SEZ Act, 2005 as well as GGST Act, 2017 and also notifications issued by the Central Government and thereby submitted that it is absolutely within the domain of respondents authority to proceed against petitioners when such shocking factual background is that of the present petitioners. Mrs. Shah has contended that a bare reading of provisions contained under Section 22 of SEZ Act, 2005 would clearly indicate that any

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officer or agency who is authorized by Central Government may carry out search and seizure, investigation or inspection in any Special Economic Zone or unit as the case may be, without even prior intimation or approval of Development officer and to further strengthen her submission, Mrs. Shah has also drawn attention to Section 6 of GGST Act which also deals with authorization of officers of Central Tax as proper officer in certain circumstances and thereby by referring to two provisions, namely Section 22 of SEZ Act read with Section 6 of GGST Act, a contention is raised that respondent authorities are empowered to carry out proceedings in SEZ since Central Government has already authorized the officers vide notification dated 5.8.2016 since by virtue of Section 2 of GGST Act, an order passed under CGST Act shall also be construed to have been passed under GGST Act and as such it is ill-founded for the petitioners to contend that there is no jurisdiction with respondent authorities. Apart from that, circular dated 5.7.2017 has also been pointed out to indicate that functions of proper officers which are defined under CGST Act and has submitted that Section 6(2) of GGST Act is with regard to cross-

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empowerment and once Central Govt has notified functions of proper officers by virtue of circular dated 5.7.2017, same will also be applicable for officers under GGST Act and there is no reason for petitioners to contend that action initiated is beyond the scope of authority. In fact, according learned Government Pleader Mrs. Shah, petitioners have conveniently loss sight of the fact that provisions contained under Section 1 of the Integrated Goods and Services Tax Act, 2017, i.e. IGST Act, said provision indicates that IGST Act is applicable to whole of India and Section 7 of IGST Act determines inter-state supply. Sub-section (5) of Section 7 of the Act indicates that supply of goods or services or both to or by the SEZ unit shall be treated to be a supply of goods or services or both in the course of inter-state trade or both and as such, petitioners are under erroneous belief that once business of petitioners is carried out through SEZ, respondents cannot initiate any proceedings. If this meaning which is tried to be canvassed by petitioners is introduced, then very purpose of the Act or provision would be defeated and same would give license to SEZ unit or to keep themselves away from the rigors of the provisions. Hence, in the

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absence of any apparent inconsistency between SEZ Act, 2005 and GST Act, 2017, no case is made out by petitioners and here in the instant case, before initiating action, Development Commissioner, SEZ had been duly intimated before search and seizure by departmental officers while carrying out process under Section 67 of the GGST Act, 2017.

11. Learned Government Pleader Mrs. Shah has then invited attention of the Court to circular issued by Assistant Commissioner of Sales Tax Unit-62, Surat dated 3.3.2023 and has referred to Section 72 of the Act and has indicated that this petitioner's unit is under jurisdiction of Development Commissioner and hence requested to cooperate in the proceedings under Section 67(2) of the aforesaid petitioner's dealers/ suppliers. By further drawing attention to Article 246A of the Constitution of India, which is prescribing special provision with respect to goods and services tax and then has contended that enforcement agencies are notified for exercising power conferred under sub-section (1) of Section 21 of SEZ Act, 2005 by drawing attention to page 51 of the petition compilation and has also indicated page 52 and in connection with that, a

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circular dated 5.7.2017 at page 81 is also brought to the notice of this Court to indicate that respondent authorities, precisely respondent Nos.4, 5 and 6, are acting well within the scope of their authority. It has been submitted that if interpretation as canvassed by petitioners to the effect that Special Economic Zone shall be deemed to be a territory outside the custom territory of India and to be considered an area outside India, such interpretation would lead to a situation where specific economic zone would not be subjected to any laws whatsoever and object of SEZ Act 2005 would be frustrated and therefore there is hardly any justification for petitioner to contend that there is no scope with respondent Nos.4, 5 and 6 to proceed ahead against petitioners in any form.

12. Additionally, learned Government Pleader Mrs. Shah has also submitted that apart from this hyper technicality of lack of authority which is not sustainable, even facts on hand are revealing certain shocking figures of the irregularities which have taken place at the behest of petitioners and for that purpose, paragraph 7 of the affidavit-in-reply is specifically brought to the notice of the Court as to in what manner,

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petitioners have tried to indulge in activity and just by contending hyper-technicality tried to shield such activity which is impermissible and as such apart from the point of jurisdiction which is otherwise not available to the petitioners, facts are of such nature, which require the petitioners rather to desist from invoking extraordinary equitable jurisdiction of this Court, hence contended that petition being merit-less deserves to be dismissed with costs.

13. In rejoinder, learned senior advocate Mr. Soparkar has reiterated his submissions and then denied the stand of respondent authorities and has objected to the words which are used in affidavit that transaction is bogus and fictitious and petitioner is engaged in any wrong doing. These words which are used are stoutly objected by learned counsel for petitioners and it has been submitted that if authorities have no jurisdiction, they cannot apply any coercive method against petitioners. In fact, according to Mr. Soparkar, as on the date of rejoinder, offences under GST Act, i.e. CGST Act, IGST Act, GGST Act are notified offences as per Section 21(1) of the Act. Hence, since entire exercise is undertaken without application

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of mind and is a premeditated act, which since not recognized under law, deserves to be quashed, hence requested to grant the reliefs as prayed for in the petition.

14. At this stage, learned Government Pleader Mrs. Shah has pressed into service three decisions for the purpose of strengthening her stand:-

(1) Decision in the case of Essar Steel Limited v. Union of India reported in 2009 (0) AIJEL-HC-222966;

(2) Decision in the case of Union of India v. Oswal Agricomm Pvt. Ltd. reported in 2010 SCC OnLine Guj 6618;

(3) Decision in the case of Indo International Tobacco Ltd. v. Vivek Prasad and others reported in 2022 SCC OnLine Del 90.

15. Having heard learned advocates appearing for the parties and having gone through the provisions coupled with factual details which are provided, we may indicate that in which background of facts, Court has to examine point of jurisdiction as canvassed by petitioners and as such we deem it proper to quote hereunder uncontroverted factual details provided in the affidavit-in-reply by learned Government Pleader, precisely

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paragraph 7 thereof, which is mentioned hereunder:-

> **7**. The attention of this Hon'ble Court is now drawn to certain factual aspects that compelled the respondent authorities to initiate search proceedings in case of the petitioner.
>
> **7.1. Analytics and Intel Inputs:** State Tax Department of Gujarat is extensively using system based analysis and GST Analytics and Intelligence Network (GAIN) and various such technological tools through which actionable inputs of tax evaders are generated. Such analysis and discreet inquiry revealed that the parties namely (Rudraksh Gems and Jewels (GSTN: 24FOVPR3628H1ZB), Ashtmangal Gems and Jewels Having GSTN: 24AFHPJ0991H1ZH) were *prima facie* fictitious and non-existent. It appears that prima facie that further investigation revealed that these parties were showing majority of its outward supply (sales) of goods to **one entity namely SAGAR EMPIRE JEWELS PRIVATE LIMITED is engaged into the business of Diamond**. This inquiry lead to a group of 3 group companies (petitioners).These three companies are namely Sagar Diamond limited, RHC Global Exports limited and Sagar Empire Jewels Private Limited. Detailed analysis of all the purchases of the group of companies revealed that, they have shown voluminous inward supply (purchases) transactions from entities most of which are fictitious.
>
> **7.2. It appears that prima facie of the Quantum of bogus transactions and Input tax credit involved:**
>
> **Table: 1**
> **Bogus purchases shown by Group companies**

Sr. No.	Company	Suspected Bogus Purchase (Rs.)	Suspected Bogus ITC (Rs.)
1	(SAGAR DIAMONDS LIMITED) 27AAWCS0068B1Z8	3534,64,12,369/-	9,14,05,377/-
2	(RHCGLOBAL EXPORTS PRIVATE LIMITED) 27AAJCR3808D1ZG	736,63,03,058/-	1,86,66,818/-
3	(SAGAREMPIRE JEWELS PRIVATE LIMITED) 27ABFCS6904A1ZK	447,73,51,023/-	6,61,67,749/-
Total		4716,98,05,667/-	17,62,39,943/-

> **Table: 2**

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Details of business verticals of the group companies (Petitioners)

Sr. No.	Company	DTA Unit	SEZ Unit
1	SAGAR DIAMONDS LIMITED	**27AAWCS0068B1Z8** 903, Embassy Chamber, MUMBAI, NARIMAN POINT, 400021	**24AAWCS0068B1ZE**PLOT NO 266-B, SEZ DIAMOND PARK, SACHIN, SURAT, Surat, Gujarat, 394230
2	RHCGLOBAL EXPORTS PRIVATE LIMITED	**27AAJCR3808D1ZG**604, THE EMBASSY CENTER PREMISES CHS LTD, MUMBAI, NARIMAN POINT,400021	**24AAJCR3808D1ZM(i)**UNIT NO. 146 ON PLOT NO. 255, SURAT SPECIAL ECONOMIC ZONE, SACHIN, SACHIN, Surat, Gujarat, 394230 **(ii)** PLOT NO 278-B, SURAT SPECIAL ECONOMIC ZONE, SACHIN, SURAT, Surat, Gujarat, 394230
3	SAGAREMPIRE JEWELS PRIVATE LIMITED	**27ABFCS6904A1ZK**903,Embassy Chamber,Mumbai| Nariman Point,Jamnalala Bajaj Marg,400021	**24ABFCS6904A2ZP** PLOT NO-219 AND 220 BLOCK 340,341/P, SEZ Diamond Park, Sachin, Surat, Surat, Gujarat, 394230

7.3. It appears that prima facie based on the above state analytics and intel inputs and system based verification, concrete **reasons to believe** were arrived at and proposal for search u/s 67 (2) was submitted. Looking to the gravity of the matter, a massive multi state operation including Search and seizure u/s section 67 of the CGST and SGST Act and physical verification u/s 25 and also proceedings u/s 70 were planned and executed with prescribed permission of competent Authority across**98 entities and 138 locations** including Sagar Diamond limited, RHC Global Exports limited, Sagar Empire Jewels Private Limited on**3rd of**

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March, 2023. Since the whole scam was very huge and well planned, and a part of it was executed from Maharashtra, **the State GST authorities of Maharashtra were intimated** and were coordinated with. Thereby parallel searches at the business and residential premises of Sagar Diamond limited, RHC Global Exports limited, Sagar Empire Jewels Private Limited were organised in Mumbai and the search operation was then jointly executed.

7.3.1. It appears that prima facie **Total 172 entities were identified as a part of this operation out of which 98 entities were found to be registered in Gujarat state while rest 74 entities were found to be registered outside Gujarat state.** Spot verifications u/s 25 and proceedings summons u/s 70 were conducted at the registered places of business of above mentioned **98 entities registered in Gujarat which revealed that 74 firms of them are fictitious** i.e. **Either these firms are found non-existent at its registered business place or owners are not traceable or firms are in the name of the persons of no means and owners are not aware of what business activities are going on in the firms which are registered in their names**. Significantly, it was also verified that Sagar Diamond limited, RHC Global Exports limited, Sagar Empire Jewels Private Limited are the ultimate beneficiaries of input tax credit passed on by these bogus firms.

7.3.3. **Bogus purchases from Gujarat based fictitious firms shown by the petitioners and confirmed to be bogus (non-existent)by Spot Verifications conducted u/s 25:**

Sr. No	Company	Suspected Bogus Purchase	Suspected Bogus ITC Availed
1	(SAGAR DIAMONDS LIMITED) 27AAWCS0068B1Z8	5,42,38,97,991	1,67,85,606
2	(RHCGLOBAL EXPORTS PRIVATE LIMITED)	5,23,68,12,636	1,30,59,383,

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	27AAJCR3808D1ZG		
3	(SAGAREMPIRE JEWELS PRIVATE LIMITED) 27ABFCS6904A1ZK	2,08,72,36,704	3,08,45,863
Total		**12,74,7947,331**	**6,06,90,852**

7.3.3. It appears that prima facie during various search proceedings and consequent investigation have pointed towards the possibility that present petitioners namely Sagar Diamond limited, RHC Global Exports limited, Sagar Empire Jewels Private Limited and promoters of the companies with the help of other persons have planned and executed this massive scam of availing and passing on fraudulent and ineligible Input Tax Credit to their companies.

7.3.4. It appears that prima facie the promoters/ directors of Sagar Diamond Limited, RHC Global Exports limited, Sagar Empire Jewels Private Limited carefully planned the scam by **creating 2 verticals within each company one in DTA (Domestic Tariff Area - an area within India that Is outside the Special Economic Zones) and the other in SEZ (SEZ- is a dedicated zone wherein businesses enjoy simpler tax and easier legal compliances.** SEZs are located within a country's national borders) Both of these vertical are two parts the same company. They have single common bank account and common balance sheet.

7.4. It appears that prima facie during the search & based on pre-search scrutiny, it was found out that in DTA Vertical Sagar Diamond limited, RHC Global Exports limited, Sagar Empire Jewels Private Limited have shown inward supplies from above fictitious firms and obtained fake bills only, without any underlying supplies of goods or services from them. The taxpayer has availed bogus input tax credit on the strength of these bogus bills and utilized this input tax credit towards the payment of output tax liabilities on GSTN Portal. By availing &utilizing such ineligible input tax credit, the taxpayer has contravened the provision of section 16 of the act. It is found *prima facie* that **no payments** in respect of

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such domestic purchase bills has been made to settle the account**(Value of such purchases amounting to Rs. 4716 Crores and fraudulent ITC amounting to 17.62 Crores).**

7.5. It appears that prima facie, it is found that all the suppliers of above-mentioned companies have no establishment of Diamond, RubyStone or precious stone and such firms are suspected to be created by the operators of Sagar Diamond limited, RHC Global Exports limited, Sagar Empire Jewels Private Limited for wrongful availment and passing of input tax credit. Such input tax credit availed by Sagar Diamond limited, RHC Global Exports limited, Sagar Empire Jewels Private Limited is passed on to other bogus firms situated at of Surat, created in the name of Poor people, who are completely unknown about these transactions. (E.g. M/s Shri Ram Trading, M/s Khodal Sales, M/s Finn Enterprises etc.).

7.6. It appears that prima facie, it is found that Sagar Diamond limited, RHC Global Exports limited, Sagar Empire Jewels Private Limited have received thousands of crores of rupees by showing sales to bogus firms through GSTR-1 Form without any movement of goods for merely passing on Input Tax Credit and receiving unaccounted money/proceeds of crime/Bogus billing money/ unaccounted/ black money from these companies to their Bank accounts. (Violation of Section 16 and Attracting Penalty U/s 122 of GGST Act, 2017).

7.7. It appears that prima facie, above mentioned bank receipts has been used by Sagar Diamond limited, RHC Global Exports limited, Sagar Empire Jewels Private Limited in their second vertical i.e. Surat SEZ having same Bank Accounts by showing import of goods without payment of import duty and IGST. Export shown against such imports by Sagar Diamond limited, RHC Global Exports limited, Sagar Empire Jewels Private Limited do not have any corresponding receipts in terms of **foreign remittance** against the so-called exports shown by them. It is further observed that Sagar Diamond limited, RHC Global Exports limited, Sagar Empire Jewels Private Limited has sold goods imported to DTA (Domestic Tarrif Area) without payment of Tax in grey market. Government exchequer has incurred huge loss of revenue in the form of Goods and Services Tax. Tax rate of GST in the case of Jewellery 3% wherein Diamonds/Ruby Stone are fall in 0.25% slab.

7.8. It appears that prima facie below mentioned table is showing export shown by these Companies without receiving any

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corresponding payment in inward foreign remittances:

Sr. No.	GSTN	Firm Name	Export from Sachin SEZ Surat (Amt. in Cr)
1	24AAWCS0068B1ZE	SAGAR DIAMONDS LIMITED	12,761.78
2	24AAJCR3808D1ZM	RHCGLOBAL EXPORTS PRIVATE LIMITED	11,869.70
3	24ABFCS6904A2ZP	SAGAREMPIRE JEWELS PRIVATE LIMITED	5724.51
Total			**30,355.99**

7.9. **Quantum of Tax Evasion:** It appears that prima facie as tabulated in Table-1**,** fraudulent ITC of Rs. 17.64 crs from bogus firms was availed and IGST on Imports amounting to Rs. 75 Crores (approx.) was evaded by importing (duty free) in SEZ unit and disposing the same in DTA units without invoices.

16. In the background of aforesaid factual details, if we peruse the relevant provisions to examine whether respondent Nos.4,5 and 6 have lack of any authority or not. The bone of contention of petitioners is that business premises of petitioners is situated in Special Economic Zone and as such, to be treated as foreign territory and not subjected to provisions whereby respondent authorities, i.e. State authorities No.4, 5 and 6 have no jurisdiction to carry out any search proceedings at the premises of the petitioners.

17. Now, for this purpose, we may refer to Section 22 of the

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SEZ Act which deals with investigation, inspection or search or seizure, same reads as under:-

> *"**22. Investigation, inspection and search or seizure**:*
>
> *The agency or officer, specified under section 20 or section 21, may, with prior intimation to the Development Commissioner concerned, carry out the investigation or search or seizure in the Special Economic Zone or in a Unit if such agency or officer has reasons to believe (reasons to be recorded in writing) that a notified offence has been committed or is likely to be committed in the Special Economic Zone:*
>
> *Provided that no investigation, search or seizure shall be carried out in a Special Economic Zone by any agency or officer other than those referred to in sub-section (2) or sub-section of section 21 without prior approval of the Development Commissioner concerned.*
>
> *Provided further that any officer of agency, if so authorised by the Central Government, may carry out the investigation, inspection, search or seizure in the Special Economic Zone or Unit without prior intimation or approval of the Development Commissioner."*

Reading of the aforesaid provisions would suggest that any officer or agency who is authorized by Central Government may carry out search or seizure or investigation or inspection in the special economic zone or units situated therein and it also suggests that authorized officer of Central Government is empowered to carryout such process without any prior approval or intimation. So, moment authorization is reflecting, such measure can be

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undertaken against special economic zone or unit. Section 6 of the GGST Act in this context is also relevant to the issue which deals with authorization of the officer of Central Tax as proper officer in certain circumstances, which reads as under:-

"Section 6: Authorisation of officers of central tax as proper officer in certain circumstances.

(1) Without prejudice to the provisions of this Act, the officers appointed under the Central Goods and Services Tax Act are authorised to be the proper officers for the purposes of this Act, subject to such conditions as the Government shall, on the recommendations of the Council, by notification, specify.

(2) Subject to the conditions specified in the notification issued under sub-section (1),-

(a) where any proper officer issues an order under this Act, he shall also issue an order under the Central Goods and Services Tax Act, as authorised by the said Act under intimation to the jurisdictional officer of central tax;

(b) where a proper officer under the Central Goods and Services Tax Act has initiated any proceedings on a subject matter, no proceedings shall be initiated by the proper officer under this Act on the same subject matter.

(3) 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."

18. A close perusal of above-stated provisions indicates that respondent authorities are empowered to carry out proceedings in SEZ. Their jurisdiction is unquestionable as Central

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Government has already authorized those officers by virtue of notification dated 5.8.2016. Sub-section (2) of Section 6 of GGST Act indicates that where any proper officer issues an order under this Act, he is also issuing an order under CGST Act as authorized by Act or under intimation to jurisdictional officer of Central Government and as such it appears that respondents are empowered to carry out search proceedings in SEZ. Therefore, it cannot said that they were acting without the authority of law or jurisdiction. Further, by virtue of circular dated 5.7.2017, functions of proper officers under CGST Act are also defined. Hence, once Central Government has notified the functions of proper officers, said functions shall also be applicable to be carried out by the officers under CGST Act and hence it cannot be said that there was any lack of authority on the part of respondents, as contended.

19. Additionally, provisions of IGST Act, 2017 are applicable to whole of India and undisputedly, petitioner has got its registration under IGST Act, which is precisely mentioned in paragraph 4.6 of the petition. Provision contained under Section 7 of IGST Act, determines inter-State supply and sub-section (5)

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indicates that supply of goods or services of both, to or by a SEZ unit shall be treated to be a supply of goods or services or both in the course of inter-State trade or commerce and therefore, petitioner appears to be under mistaken belief that once business of petitioner is carried out through and within SEZ, they are outside the purview of authority of respondents and hence these SEZ units are not exempted from any investigation or inspection. If submission of petitioners is accepted that they are SEZ units and as such not subjected to such rigors of investigation or inspection, same would defeat the very purpose of the Act and apart from this, there appears to be no visible inconsistency in both the Acts i.e. SEZ Act 2005 or GST Act, 2017 and here, undisputedly, it has been stated that Development Commissioner, SEZ had already been duly intimated before search and seizure by departmental officer while initiating proceedings under Section 67 of the CGST Act and that being so, submission made by petitioners appearing to be not worthy of acceptance.

20. In addition to this, uncontroverted facts which are stated in the affidavit and volume of such would also be one of the

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considerations which cannot be ignored while exercising equitable jurisdiction and once authorities are empowered, there is hardly any reason for this Court to intercept this process which is going against the petitioners right from March 2023. It appears that action was initiated by an authority by seizing the premises from 3.3.2023 and then it appears that under the guise of this petition, now an attempt is being made to avoid proceedings by conveying to the authorities that since notices have been issued, petitioners would like to wait for orders and directions of the Court which clearly reflects from the reply which has been given by petitioners in response to the summons. So, when the conduct on the part of petitioners is also such in this peculiar background of facts, even otherwise we are not inclined to exercise our extraordinary equitable jurisdiction and conjoint reading of the provisions coupled with factual backgrounds, we feel that this is not a fit case in which we may allow the petitioners to invoke extraordinary jurisdiction.

21. At this stage, out of few decisions which are tried to be relied upon by learned Government Pleader, we may observe

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from one of the decisions in the case of Essar Steel Limited (supra) issued by the Coordinate Bench of this Court, wherein provisions of SEZ Act are analyzed to some extent, of-course in background of said facts, but to our conclusion, few observations contained in paragraphs 41.3.2, 41.3.3 and 41.3.4 are of assistance and as such, we quote the same hereunder:-

> 41.3.2 The movement of goods from the Domestic Tariff Area to the Special Economic Zone has been treated as export by a legal fiction created under the SEZ Act, 2005. A legal fiction is to be restricted to the statute which creates it. Reference is made to the decisions of the Apex Court in the case of State of West Bengal V/s. Sadan K. Bormal and another, (2004) 6 SCC 59, Meghraj Biscuits Industries Limited V/s. Commissioner of Central Excise U.P., (2007) 3 SCC 780, MORIROKU UT INDIA (P) LIMITED V/s. State of Uttar Pradesh and others, (2008) 4 SCC 548. Moreover, such legal fiction should be confined to the purpose for which it has been created. Reference is made to the decisions of the Apex Court in the case of State of Karnataka V/s. K. Gopalakrishna Shenoy and antoher, (1987) 3 SCC 655; Mancheri Puthusseri Ahmed and others V/s. Kuthiravattam Estate Receiver, (1996) 6 SCC 185. As stated above, such movement has been treated as export under the SEZ Act 2005 for the purpose of making available benefits as in the case of actual exports like duty drawback, DEPB benefits, etc. to the Special Economic Zone Unit / Developer or the Domestic Tariff Area supplier at their option. Construing this movement of goods as entailing a liability of payment of duty runs absolutely counter to the purpose of the legal fiction created under the SEZ Act, 2005.
>
> 41.3.3 Section 51 of the SEZ Act, 2005 providing that the Act would have overriding effect does not justify adoption of a different definition in the Act for the purposes of another statute. A non-obstante clause only enables the provisions of the Act containing it to prevail over the provisions of another enactment in case of any conflict in the operation of the Act containing the non-obstante clause. In other

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words, if the provision/s of both the enactments apply in a given case and there is a conflict, the provisions of the Act containing the non-obstante clause would ordinarily prevail. In the present case, the movement of goods from the Domestic Tariff Area into the Special Economic Zone is treated as an export under the SEZ Act, 2005, which does not contain any provision for levy of export duty on the same. On the other hand, export duty is levied under the Customs Act, 1962 on export of goods from India to a place outside India and the said Act does not contemplate levy of duty on movement of goods from the Domestic Tariff Area to the Special Economic Zone. Therefore, there is no conflict in applying the respective definitions of export in the two enactments for the purposes of both the Acts and therefore, the non-obstante clause cannot be applied or invoked at all.

41.3.4 Similarly, reliance on Section 53 of the SEZ Act 2005 to contend that a Special Economic Zone is a territory outside India, is misconceived. Section 53 provides that the Zone would be deemed to be a territory outside the customs territory of India for the purposes of undertaking the authorized operations. The term 'customs territory' cannot be equated to the territory of India and in fact, such term has been defined in the General Agreement of Tariffs & Trade, to which India is a signatory, to mean an area subject to common tariff and regulations of commerce and that there could be more than one customs territory in a country. Moreover such an interpretation would lead to a situation where a Special Economic Zone would not be subject to any laws whatsoever. The entire SEZ Act 2005 would be rendered redundant since it is stated to extend the whole of India. In any case, various provisions of the SEZ Act would be rendered redundant and unworkable if the Special Economic Zone was to be considered an area outside India. This is apart from the fact that such a declaration would be constitutionally impermissible.

So from aforesaid discussion and perusal of provisions, as indicated above, we are satisfied that respondent Nos.4, 5 and 6 authorities are acting not beyond their authorities and facts are such in which we are of the considered opinion that this is not a

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fit case in which we may exercise our extraordinary jurisdiction, which is equitable in nature, and as such, petition being merit less, deserves to be dismissed.

22. Since facts in other two petitions connected with lead matter are also similar and for that, no separate arguments were canvassed and submissions of both the sides have been made in the lead petition, present order would govern the connected Special Civil Applications as well.

23. In fact, we find that this is an attempt on the part of petitioners by filing these kind of petitions to thwart and belay the legal proceedings which are initiated by respondent authorities and as such this move of petitioners appears to be an abuse of process of law looking to the manner in which the irregularities alleged to have been committed. Such attempt on the part of petitioners deserves to be dealt with firmly so that litigants may not take disadvantage of situation by bringing such kind of litigation. Record has indicated that after issuance of notice, petitioners appear to have started not cooperating and have indicated to wait for orders from the Court. This conduct

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on the part of petitioners is not appreciable and as such we find it proper to impose costs upon the petitioners to have adopted such course of action.

24. At this stage, we remind ourselves to one of the salutary observations which have been made by Hon'ble Apex Court in paragraphs 13 and 14 in the case of Dnyandeo Sabaji Naik v. Pradnya Prakash Khadekar reported in (2017) 5 SCC 496), which read as under :-

> *"13. This Court must view with disfavour any attempt by a litigant to abuse the process. The sanctity of the judicial process will be seriously eroded if such attempts are not dealt with firmly. A litigant who takes liberties with the truth or with the procedures of the Court should be left in no doubt about the consequences to follow. Others should not venture along the same path in the hope or on a misplaced expectation of judicial leniency. Exemplary costs are inevitable, and even necessary, in order to ensure that in litigation, as in the law which is practised in our country, there is no premium on the truth.*
>
> *14. Courts across the legal system - this Court not being an exception – are choked with litigation. Frivolous and groundless filings constitute a serious menace to the administration of justice. They consume time and clog the infrastructure. Productive resources which should be deployed in the handling of genuine causes are dissipated in attending to cases filed only to benefit from delay, by prolonging dead issues and pursuing worthless causes. No litigant can have a vested interest in delay. Unfortunately, as the present case exemplifies, the process of dispensing justice is misused by the unscrupulous to the detriment of the legitimate. The present case is an illustration of how a simple issue has occupied the time of the courts and of how*

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> *successive applications have been filed to prolong the inevitable. The person in whose favour the balance of justice lies has in the process been left in the lurch by repeated attempts to revive a stale issue. This tendency can be curbed only if courts across the system adopt an institutional approach which penalizes such behavior. Liberal access to justice does not mean access to chaos and indiscipline. A strong message must be conveyed that courts of justice will not be allowed to be disrupted by litigative strategies designed to profit from the delays of the law. Unless remedial action is taken by all courts here and now our society will breed a legal culture based on evasion instead of abidance. It is the duty of every court to firmly deal with such situations. The imposition of exemplary costs is a necessary instrument which has to be deployed to weed out, as well as to prevent the filing of frivolous cases. It is only then that the courts can set apart time to resolve genuine causes and answer the concerns of those who are in need of justice. Imposition of real time costs is also necessary to ensure that access to courts is available to citizens with genuine grievances. Otherwise, the doors would be shut to legitimate causes simply by the weight of undeserving cases which flood the system. Such a situation cannot be allowed to come to pass. Hence it is not merely a matter of discretion but a duty and obligation cast upon all courts to ensure that the legal system is not exploited by those who use the forms of the law to defeat or delay justice. We commend all courts to deal with frivolous filings in the same manner."*

25. Thus, in view of the aforesaid peculiar background of facts and in view of the overall circumstances prevailing on record, we deem it proper to dismiss the petitions with costs of Rs.10,000/- (Rupees Ten Thousand only) for each petition to be paid to Gujarat State Legal Service Authority within TEN DAYS from today.

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26. Accordingly, petitions stand DISMISSED with aforesaid amount of costs and it is clarified that non-payment of such costs would be recoverable as arrears of land revenue. Notices stand discharged. Interim relief, if any, stands vacated forthwith.

Sd/-
(ASHUTOSH SHASTRI, J)

Sd/-
(J. C. DOSHI,J)

OMKAR

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