

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/SPECIAL CIVIL APPLICATION NO. 6483 of 2024

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE A.S. SUPEHIA

and
HONOURABLE MR. JUSTICE PRANAV TRIVEDI

Approved for Reporting	Yes	No
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SHREE GURUKRUPA TRADELINK PRIVATE LIMITED
 Versus
 STATE OF GUJARAT & ANR.

Appearance:

MR ASHUTOSH S DAVE(8865) for the Petitioner(s) No. 1
 MS. POOJA ASHAR,ASSISTANT GOVERNMENT PLEADER/PP for the
 Respondent(s) No. 1
 DS AFF.NOT FILED (N) for the Respondent(s) No. 1
 NOTICE SERVED BY DS for the Respondent(s) No. 2

CORAM: HONOURABLE MR. JUSTICE A.S. SUPEHIA
and
HONOURABLE MR. JUSTICE PRANAV TRIVEDI

Date : 18/03/2026
ORAL JUDGMENT

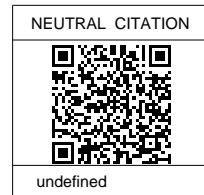
(PER : HONOURABLE MR. JUSTICE PRANAV TRIVEDI)

1 Rule. Since the issue involved in the present writ petition is in narrow compass, the matter is taken up for final hearing and final disposal today.

2 On 13.03.2026, this Court had passed the following order:

"1. Today, learned AGP has tendered the documents of the proceedings. The same are ordered to be taken on record.

2. On perusal of the said documents, it appears that the petitioner has been afforded opportunities of hearing however, he has chosen not to remain present. It is also noticed that the incorrect statement has been made in the writ petition and hence,



the same is required to be dismissed with exemplary cost however, in order to give one more chance to the petitioner, the matter is kept on 18.03.2026. A copy of the documents of the proceedings to be supplied to the learned advocate for the petitioner for taking appropriate instructions."

3 However, on perusal of the documents which were provided before this Court, i.e. the Rojnama recording the proceedings, we find that the petitioner has been granted the opportunity of hearing for one time only.

3.1 However, learned AGP Ms.Pooja Ashar has submitted that looking to the order sheet, the show-cause notice in Form GST DRC-01 was issued on 16.10.2023 and the date of hearing was fixed on 06.11.2023 at 11 a.m. While replying to the show-cause notice by filing Form GST DRC-06 dated 21.10.2023, the petitioner has taken option of personal hearing as "No". Despite such option taken by the petitioner, the authority has though it fit to keep one date of personal hearing on 06.11.2023 and when the petitioner did not remain present on that date, the impugned order is passed.

3.2 However, it was categorically accepted by learned AGP Ms.Pooja Ashar that three personal hearing as envisaged under the provisions of Section 75(4) of the Gujarat Goods and Service Tax Act, 2017 (for short "the GST Act") were not provided provided to the petitioner. The stand taken by the learned Assistant Government Pleader cannot be countenanced, inasmuch as, the option of no personal hearing taken by the petitioner, cannot override the effect of mandate given by the statutory provision in Section 75(4) of the Act.



3.3 In the instant case, the authority had not accepted the submissions made by the petitioner in the reply filed in Form GST DRC-06. If that was the case, the authority ought not to have decided the matter on the very first date of personal hearing. It was incumbent upon the authority to follow the mandate of Section 75(4) of the Act and grant opportunity of further hearing. This Court in the decision in the case of M/s. Yadav Traylor Transport Co. Vs. Union of India And Ors., rendered in *Special Civil Application No. 3027 of 2025*, has held as under:

*“ 9.1 It has been categorically observed by this Court in the case of **Regent Overseas Pvt Ltd (supra)**, that when three dates had been granted, it would tantamount to adjournments. However, the provisions of Sub-section (2) of Sec.33A of the Act provides for three adjournments, therefore, that would amount to 4 days and 3 adjournments. For ready reference, the observations made by this Court in the case of **Regent Overseas Pvt Ltd (supra)**, are reproduced:*

“12. Another aspect of the matter is that by the notice for personal hearing three dates have been fixed and absence of the petitioners on those three dates appears to have been considered as grant of three adjournments as contemplated under the proviso to sub-section (2) of section 33A of the Act. In this regard, it may be noted that sub-section (2) of section 33A of the Act provides for grant of not more than three adjournments, which would envisage four dates of personal hearing and not three dates, as mentioned in the notice for personal hearing. Therefore, even if by virtue of the dates stated in the notice for personal hearing it were assumed that adjournments were granted, it would amount to grant of two adjournments and not three adjournments, as grant of three adjournments would mean, in all four dates for personal hearing.

13. As discussed hereinabove, in view of the fact that the notice for personal hearing was not served upon the petitioners in accordance with law, no one could remain present for personal hearing on behalf of the petitioners on the dates specified in the notice and the adjudicating authority has proceeded on the footing that three adjournments have been granted and has passed the impugned ex parte order. Such order is, therefore, clearly in breach of the principles of natural justice warranting interference by this court in exercise of powers under Article 226 of the Constitution of India.”



9.2 *In wake of such submissions, the Order-in-Original is passed against the settled legal position and in breach of principles of natural justice.*

9.3 *It is not in dispute that the petitioner was not heard before passing of the Assessment Order. It is fundamental proposition of law that other side should be heard before any order is passed. The maxim of Audi Alteram Partem is broad enough to include the rule against bias since a fair hearing is must for it to be unbiased hearing. The essential ingredients of fair hearing is that a person should be served with a proper notice and should be given a right to hearing.*

10 *For the foregoing reasons, the impugned Order-in-Original dated 31.03.2023 passed under the Finance Act, 1994, as well as the Order-in-Appeal dated 25.06.2024 is hereby quashed and set aside and the matter is remanded back to the Adjudicating Authority to de novo hear the petition and decide the same in accordance with law after affording adequate opportunity of hearing to the petitioner. Such exercise shall be completed within a period of 12 weeks from the date of receipt of copy of this order.*

It is clarified that this Court has not gone into merits of the matter.

Rule is made absolute to the aforesaid extent. No order as to costs."

4 As per the provisions of Section 75(4) of the Act, the respondents are supposed to grant three opportunities of personal hearing before passing any adverse orders. Hence, the stand remains uncontroverted.

5 Accordingly, the writ petition is allowed. The impugned order is hereby quashed and set aside. The matter is remanded back to the respondent authorities to pass a fresh order within a period of 12 weeks. Rule is made absolute. No order as to costs.

(A. S. SUPEHIA, J)

(PRANAV TRIVEDI, J)

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