

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 23279 of 2019**

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SURESHBHAI GADHECHA PROPRIETOR OF M/S ANMOL TRADERS**Versus****STATE OF GUJARAT**

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Appearance:**MR SN SOPARKAR, SENIOR ADVOCATE with MS NIYATI K SHAH(2935)**
for the Petitioner(s) No. 1**for the Respondent(s) No. 2,3,4****ADVANCE COPY SERVED TO GOVERNMENT PLEADER/PP(99) for the**
Respondent(s) No. 1

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CORAM: HONOURABLE MS.JUSTICE HARSHA DEVANI**and****HONOURABLE MS. JUSTICE SANGEETA K. VISHEN****Date : 27/12/2019****ORAL ORDER****(PER : HONOURABLE MS.JUSTICE HARSHA DEVANI)**

1. Mr. S.N. Soparkar, Senior Advocate, learned counsel with Ms. Niyati Shah, learned advocate for the petitioner invited the attention of the court to the provisions of sections 5 and 6 of the Gujarat Goods and Services Tax Act, 2017. Referring to clause (b) of sub-section (2) of section 6 of the Gujarat Goods and Services Tax Act, it was pointed out that the same provides that where a proper officer under Central Goods and Services Tax Act has initiated any proceedings on a subject matter, no proceedings shall be initiated by the proper officer under that Act on the same subject matter. Reference was made to section 6 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "the CGST Act"), to point out that clause (b) of sub-section (2) thereof is similarly worded

and provides that where a proper officer under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act has initiated any proceedings on a subject matter, no proceedings shall be initiated by the proper officer under that Act on the same subject matter.

2. Reference was made to the D.O.F. No.CBEC/20/43/01/2017-GST (Pt.) dated 5.10.2018 issued by the Central Board of Indirect Taxes and Customs, wherein it has been clarified that if an officer of the Central tax authority initiates intelligence based enforcement action against a taxpayer administratively assigned to State tax authority, the officers of the Central tax authority would not transfer the said case to its State tax counterpart and would themselves take the case to its logical conclusions. Adverting to the facts of the present case, it was pointed that investigation has been commenced by the officers under the CGST Act. It was pointed out that the authorities under the SGST Act have issued summons to the petitioner under section 70(1) of the Goods and Services Tax Acts dated 29.8.2019 followed by another summons dated 5.12.2019. It was pointed that in the statement of the petitioner recorded by the State authorities, question No.6 put to the petitioner was as to what was the status of the search carried out at the petitioner's business premises by the CGST Department and the second question was as to which books of accounts had been seized by the CGST Department, in answer to which, the petitioner had replied that all their account books and other record of their business have been seized by the CGST Department. It was submitted that, therefore, the authorities under the SGST Act are well aware that the authorities under the CGST Act are

investigating the matter. It was submitted that there cannot be two parallel investigations under the State Act as well as the Central Act.

3. Having regard to the submissions advanced by the learned counsel for the petitioner, **Issue Notice** returnable on 23rd January, 2020. By way of ad-interim relief, the respondents are restrained from taking any coercive action against the petitioner pursuant to the impugned inquiry proceedings.

Direct service is permitted.

(HARSHA DEVANI, J)

(SANGEETA K. VISHEN, J)

Z.G. SHAIKH

