



**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/SPECIAL CIVIL APPLICATION NO. 9271 of 2024**

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AMIT TRADERS THRO AMITKUMAR ARVINDBHAI PATEL
Versus
UNION OF INDIA & ORS.

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Appearance:

ASHVA LEGAL ADVISORS LLP(13473) for the Petitioner(s) No. 1
MR.AVINASH PODDAR(9761) for the Petitioner(s) No. 1
MS ANCHAL A PODDAR(13386) for the Petitioner(s) No. 1
MS HETAL G PATEL(11032) for the Respondent(s) No. 1,2,3,4

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CORAM: HONOURABLE MR. JUSTICE BHARGAV D. KARIA
and
HONOURABLE MR. JUSTICE NIRAL R. MEHTA

Date : 20/09/2024

ORAL ORDER

(PER : HONOURABLE MR. JUSTICE BHARGAV D. KARIA)

1. Heard learned advocate Mr.Avinash Poddar for the petitioner and learned AGP Ms.Hetal G.Patel for the respondents.

2. Learned advocate Mr.Avinash Poddar submitted that the impugned show-cause cum demand notice dated 12.02.2024 was issued in contrary to the provision of Section 74(5) of the CGST/GGST Act, 2017 (for short "the Act"), as the respondent authorities have not issued any notice in Form GST DRC-01A as contemplated under Rule 42(1A) of the CGST/GGST Rules, 2017.



3. It was submitted that though the requirement of issuance of the pre-consultation notice in Form-DRC-01A is not compulsory as per the amendment brought on the statute with effect from 15th October, 2020, the word "may" is required to be read as "shall" otherwise, Subsection (5) of Section 74 of the Act would become redundant.

4. Considering the above submissions, issue **Notice** returnable on **16th October, 2024**. By way of ad-interim relief, the petitioners shall continue to cooperate in the adjudication process of the impugned show-cause notice, however the respondents shall not pass the final order during the pendency of this petition. Direct service through e-mail is permitted.

(BHARGAV D. KARIA, J)

(NIRAL R. MEHTA, J)

URIL RANA