

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/SPECIAL CIVIL APPLICATION NO. 17445 of 2025****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR. JUSTICE A.S. SUPEHIA****and****HONOURABLE MR. JUSTICE PRANAV TRIVEDI**

Approved for Reporting	Yes	No
		✓

**TRILLION LEAD FACTORY PRIVATE LIMITED**

Versus

**THE STATE TAX OFFICER - ENF DIV-2 & ANR.**

Appearance:

MR SAHIL J RAO(13319) for the Petitioner(s) No. 1

MS POOJA ASHAR, AGP for the Respondent(s) No. 1,2

**CORAM:HONOURABLE MR. JUSTICE A.S. SUPEHIA****and****HONOURABLE MR. JUSTICE PRANAV TRIVEDI****Date : 08/01/2026****ORAL JUDGMENT****(PER : HONOURABLE MR. JUSTICE A.S. SUPEHIA)**

1. Heard learned advocate Mr.Sahil J. Rao for the petitioner and learned Assistant Government Pleader Ms.Pooja Ashar for the respondents.
2. **RULE** returnable forthwith. Learned Assistant Government Pleader Ms.Pooja Ashar waives service of notice of rule on behalf of the respondents. Sine a short issue is involved in the present writ petition, the same is taken up for final hearing today itself.
3. Learned advocate Mr. Sahil J. Rao for the petitioner at the outset has submitted that the impugned Order-in-Original dated 25.08.2025 at Annexure-A and the show cause notice dated 27.09.2025 are required to be quashed and set aside since the respondents has passed the order beyond the period of limitation of seven days as prescribed under the provision of Section 129 of the Goods and Services Tax Act, 2017 (for short "GST

Act”).

4. Pursuant to the notice issued by this Court, the respondent - State Tax Officer-3, Mobile Squad, Shamlaji has filed an affidavit-in-reply dated 06.01.2026. Learned Assistant Government Pleader Ms. Pooja Ashar appearing for the respondents pointed out the averments made in paragraphs 6 and 7 of the affidavit-in-reply and has submitted that when the owner of the goods came forward to pay the penalty on 25.08.2025, there was no necessity to pass the order within a period of seven days and the order dated 25.08.2025 in Form GST MOV-09 was uploaded on the portal on 27.09.2025.

5. Further, from the affidavit-in-reply filed by the respondents, it is noticed by us that the same is blissfully silent with regard to the limitation period prescribed under Section 129 of the GST Act, of communicating the order in Form GST MOV-09 within the period of seven days. It is not in dispute and established from the pleadings that the conveyance was intercepted on 19.08.2025, and the goods and conveyance were detained on 22.08.2025 under FORM GST-06. The petitioner paid the tax and penalty, of Rs.43,32,434/ on 25.08.2025, and accordingly, the goods and conveyance were ordered to be released. However, no show cause notice under section 129(3) of the GST Act was issued, and hence, the petitioner while placing reliance on the judgement of the Supreme Court in the case of *ASP Traders vs. State of Uttar Pradesh, (2025) 176 taxmann.com 782(SC)*, vide communication dated 03.09.2025, requested to issue the same in FORM MOV-7. The petitioner also requested that the notice and the order has not been uploaded on the temporary registration number, and requested to do the needful. It appears that the Form GST MOV-07 was issued on 25.08.2025, but was not served, neither to the petitioner nor to the driver of the conveyance. This fact emerges from the affidavit of the transporter dated 23.10.2025, in which it is stated that signatures were taken on the blank papers. We have noticed from the FORM MOV-1 dated

19.08.2025, MOV-06 dated 22.08.2025, MOV-05 dated 25.08.2025 that they all bear the signature of the transporter/person in charge, above the stamp /acknowledgment “ Signature of the Owner/person in charge”, whereas on MOV-7, though there is the signature of person in charge at page-65 of the petition, which is oddly placed, there is no stamp/acknowledgment of “Signature of the Owner/person in charge”, as specified under the sample FORM MOV-7 under section 129(3) of the GST Act. The FORM MOV-7 at page -65 does not reconcile with the sample FORM-7 as prescribed in the Act. The FORM MOV-9 does not bear any signature of the transporter/person in charge. Thus, the issuance of FORM MOV-7 and MOV-9 on 25.08.2025 appears to be doubtful, in wake of the declaration made by the transporter, that his signatures were taken on blank papers. Be that as it may, it is the case of the respondent that the MOV-7 was served upon the person in charge of the conveyance, and it was served to him on 25.08.2025, but was uploaded on the portal on 27.09.2025. It is admitted in the affidavit in reply, that no opportunity of hearing was offered to the petitioner while passing the order under section 129(3) of the GST Act dated 25.08.2025, and the same was uploaded on 27.09.2025. Rule 142(5) of the GST Rules, 2017 mandates that the order passed under section 129 of the GST Act and FORM GST 07 is required to be uploaded on the portal. Thus, no explanation is tendered for belatedly uploading the notice and order dated 25.08.2025 after a period of one month on 27.09.2025. At this stage we may refer to the provision of Section 129(3) of the GST Act which reads as under :-

***“Section 129. Detention, seizure and release of goods and conveyances in transit.-***

*(3) The proper officer detaining or seizing goods or conveyance shall issue a notice within seven days of such detention or seizure, specifying the penalty payable, and thereafter, pass an order within a period of seven days from the date of service of such notice, for payment of penalty under clause (a) or clause (b) of sub-section (1).”*

6. There is another facet in favour of the petitioner with regard to the

non-granting of personal hearing to the petitioner. Under the circumstances, in light of the aforesaid fact on the short issue, the impugned order as well as the notice are required to be quashed and set aside.

7. Thus, the show cause notice FORM MOV-7 and FORM MOV-9 are set aside on two counts, firstly, no explanation is tendered about belatedly uploading the order after a period of one month. Thus, the passing of the order and notice on 25.08.2025 appears to be doubtful, and secondly, no personal hearing has been afforded to the petitioner before passing the Order-in-Original and the same is issued *ex-parte*. **In wake of the peculiar fact of the case, we are not inclined to remand the matter to the respondent authorities.**

8. The impugned show cause notice and the order is quashed and set aside. The present writ petition stands allowed. Rule is made **absolute**. No order as to costs.

*It applies Strictly  
without any exception,  
discretion or flexibility.* (A. S. SUPEHIA, J)

(PRANAV TRIVEDI, J)

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