

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

DISTRICT: AHMEDABAD

SPECIAL CIVIL APPLICATION NO.        OF 2018

In the matter under the Article 226 of  
the Constitution of India, 1950;

And

In the matter under the Article 14,  
Article 19(1)(g), Article 265, Article 300A  
and other relevant articles of the  
Constitution of India, 1950;

And

In the matter for seeking quashing of  
press release dated 18.10.2018 to the  
extent that its para 3 purports to clarify  
that the last date for availing input tax  
credit relating to the invoices issued  
during the period from July, 2017 to  
March, 2018 is the last date for the  
filing of return in form GSTR-3B under  
Section 16 (4) of CGST/GGST Act and  
Rule 61 of CGST/GGST Rules,2017;

And

In the matter between

Aap & Co., Chartered Accountants,

Partnership firm through its authorised partner,

L 16-17, Agrasen Point,  
Near Maharaja Agrasen Bhawan ,  
City Light Road, Surat  
Through Mrs. Anchal Avinash Poddar

**...Petitioner**

**Versus**

1. Union of India,  
Through The Ld. Secretary,  
Ministry of Finance  
(Department of Revenue) No.137,  
North Block, New Delhi-110001.
  
2. The Goods and Service Tax Council (GST Council)  
Through The Ld. Secretary,  
Office of the GST Council Secretariat,  
5th Floor, Tower II,  
Jeevan Bharti Building,  
Janpath Road,  
Connaught Place, New Delhi-110 001.
  
3. The State of Gujarat  
Notice to be served upon  
The Ld. Chief Secretary,  
Finance Department,  
Sachivalaya, Gandhinagar.
  
4. Central board of Indirect Taxes and Customs,  
Department of Revenue,  
Ministry of Finance,  
North Block, New Delhi 110 001.

To,  
The Hon'ble Chief Justice  
And the other companion judges  
of the High Court of Gujarat.

The humble Petition of the Petitioner above named;

**MOST RESPECTFULLY SHOWETH THAT:-**

1. The present Petition under Articles 226 of the Constitution of India is being filed by the Petitioner to seek quashing and setting aside of press release dated 18.10.2018 to the extent that its para 3 purports to clarify that the last date for availing input tax credit relating to the invoices issued during the period from July, 2017 to March, 2018 is the last date for the filing of return in form GSTR-3B, on the grounds inter alia that the said clarification is contrary to the Section 16(4) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the CGST Act) and the Section 16(4) of the Gujarat Goods and Services Tax Act, 2017(hereinafter referred to as the GGST Act), read with Section 39(1) of the CGST Act/ GGST Act, read with Rule 61 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the CGST Rules), and Rule 61 of the Gujarat Goods and Services Tax Rules, 2017 (hereinafter referred to as the GGST Rules), and is therefore without authority of law, unreasonable, illegal and void.

2. The brief facts leading to the filing of the present Petition are stated as under:-

2.1. The petitioner state that the petitioner is a citizen of India and is a practicing Chartered Accountant having GST registration no 24AARFA8951B1ZF

2.2. The petitioner state that the 1<sup>st</sup> respondent is the Union of India, represented through the Ministry of Finance, Department of Revenue and is responsible for notifying the Central Goods and Services Tax Act, 2017 and Central Goods and Services Tax Rules, 2017 to be made there under.

2.3. The petitioner state that the 2<sup>nd</sup> respondent is a constitutional body which is constituted as per Article 279A of the Constitution of India to decide all the issues relating to GST and make recommendation to the Union and the States on items mentioned under article 279A(4) of the Constitution of India.

2.4. The petitioner state that the 3<sup>rd</sup> Respondent is the State of Gujarat represented through the Finance Department and is responsible for notifying and implementing the GGST Act and GGST Rules.

2.5. The petitioner state that the 4<sup>th</sup> respondent is part of the Department of Revenue under the Ministry of Finance, Government of India dals with the tasks of formulation of policy concerning levy and collection of indirect taxes and Customs and administration of matters relating to indirect taxes and Customs.

The Board is the administrative authority for its subordinate organizations.

- 2.6. The petitioner state that the cause of action in the instant case has arisen within the territorial jurisdiction of this Hon'ble Court.
- 2.7. The petitioner state that Section 16(4) of the CGST Act / GGST Act provides that a registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or invoice relating to such debit note pertains or furnishing of the relevant annual return, whichever is earlier.
- 2.8. The relevant provision of the Section 16(4) of the CGST Act / GGST Act is set out below:

**SECTION 16(4)**

*“(4) A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or invoice relating to such debit note pertains or furnishing of the relevant annual return, whichever is earlier.”*

2.9. The petitioner state that it would be evident from the bare perusal of Section 16(4) of the CGST Act/GGST Act that last date for taking input tax credit in respect of any invoice or debit note pertaining to a financial year is due date of furnishing of the return under section 39 for the month of September following the end of financial year or furnishing of the relevant annual return, whichever is earlier.

2.10. The petitioner state that Section 39 (1) of the CGST Act/GGST Act provides that every registered person except few categories of persons shall furnish a monthly return ***in such form and manner as may be prescribed.***

2.11. Section 39 of the CGST Act / GGST Act relating to furnishing of the returns is set out below:

***“39. Furnishing of returns. — (1) Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52 shall, for every calendar month or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, of inward and outward supplies of goods or services or both, input tax credit availed, tax payable, tax paid and such other particulars as may be prescribed, on or before the twentieth day of the month succeeding such calendar month or part thereof.***

***(2) A registered person paying tax under the provisions of section 10 shall, for each quarter or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, of turnover in the State or Union territory, inward supplies of goods or services or both, tax payable***

*and tax paid within eighteen days after the end of such quarter.*

*(3) Every registered person required to deduct tax at source under the provisions of section 51 shall furnish, in such form and manner as may be prescribed, a return, electronically, for the month in which such deductions have been made within ten days after the end of such month.*

*(4) Every taxable person registered as an Input Service Distributor shall, for every calendar month or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, within thirteen days after the end of such month.*

*(5) Every registered non-resident taxable person shall, for every calendar month or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, within twenty days after the end of a calendar month or within seven days after the last day of the period of registration specified under sub-section (1) of section 27, whichever is earlier.*

*(6) The Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing the returns under this section for such class of registered persons as may be specified therein :*

*Provided that any extension of time limit notified by the Commissioner of State tax or Union territory tax shall be deemed to be notified by the Commissioner.*

*(7) Every registered person, who is required to furnish a return under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (5), shall pay to the Government the tax*

*due as per such return not later than the last date on which he is required to furnish such return.*

*(8) Every registered person who is required to furnish a return under sub-section (1) or sub-section (2) shall furnish a return for every tax period whether or not any supplies of goods or services or both have been made during such tax period.*

*(9) Subject to the provisions of sections 37 and 38, if any registered person after furnishing a return under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (4) or sub-section (5) discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars in the return to be furnished for the month or quarter during which such omission or incorrect particulars are noticed, subject to payment of interest under this Act :*

*Provided that no such rectification of any omission or incorrect particulars shall be allowed after the due date for furnishing of return for the month of September or second quarter following the end of the financial year, or the actual date of furnishing of relevant annual return, whichever is earlier.*

*(10) A registered person shall not be allowed to furnish a return for a tax period if the return for any of the previous tax periods has not been furnished by him.”*

2.12. The petitioner state that Form and manner of submission of monthly return is provided in Rule 61 of the CGST/GGST Rules.



2.13. The petitioner state that the Sub-rule (1) of the CGST/GGST Rules provides that every registered person except a few categories of persons shall furnish a return specified under sub-section (1) of section 39 in FORM GSTR-3 electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner.

2.14. The petitioner state that Sub-rule (5) of Rule 61 of the CGST/GGST Rules, provides that where the time limit for furnishing of details in FORM GSTR-1 under section 37 and in FORM GSTR-2 under section 38 has been extended and the circumstances so warrant, the Commissioner may, by notification, specify the manner and conditions subject to which the return shall be furnished in FORM GSTR-3B electronically through the common portal, either directly or through a Facilitation Centre notified by the Commissioner.

2.15. **Rule 61** of the CGST/GGST Rules relating to the form and manner of submission of monthly return is set out below:-

**“61. Form and manner of submission of monthly return.**-(1) *Every registered person other than a person referred to in section 14 of the Integrated Goods and Services Tax Act, 2017 or an Input Service Distributor or a non-resident taxable person or a person paying tax under section 10 or section 51 or, as the case may be, under section 52 shall furnish a return specified under sub-section (1) of section 39 in FORM GSTR-3 electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner.*

(2) Part A of the return under sub-rule (1) shall be electronically generated on the basis of information furnished through FORM GSTR-1, FORM GSTR-2 and based on other liabilities of preceding tax periods.

(3) Every registered person furnishing the return under sub-rule (1) shall, subject to the provisions of section 49, discharge his liability towards tax, interest, penalty, fees or any other amount payable under the Act or the provisions of this Chapter by debiting the electronic cash ledger or electronic credit ledger and include the details in Part B of the return in FORM GSTR-3.

(4) A registered person, claiming refund of any balance in the electronic cash ledger in accordance with the provisions of sub-section (6) of section 49, may claim such refund in Part B of the return in FORM GSTR-3 and such return shall be deemed to be an application filed under section 54.

(5) Where the time limit for furnishing of details in FORM GSTR-1 under section 37 and in FORM GSTR-2 under section 38 has been extended and the circumstances so warrant, the Commissioner may, by notification, specify the manner and conditions subject to which the return shall be furnished in FORM GSTR-3B electronically through the common portal, either directly or through a Facilitation Centre notified by the Commissioner.

(6) Where a return in FORM GSTR-3B has been furnished, after the due date for furnishing of details in FORM GSTR-2—

(a) Part A of the return in FORM GSTR-3 shall be electronically generated on the basis of information furnished through FORM GSTR-1, FORM GSTR-2 and based

*on other liabilities of preceding tax periods and PART B of the said return shall be electronically generated on the basis of the return in FORM GSTR-3B furnished in respect of the tax period;*

*(b) the registered person shall modify Part B of the return in FORM GSTR-3 based on the discrepancies, if any, between the return in FORM GSTR-3B and the return in FORM GSTR-3 and discharge his tax and other liabilities, if any;*

*(c) where the amount of input tax credit in FORM GSTR-3 exceeds the amount of input tax credit in terms of FORM GSTR-3B, the additional amount shall be credited to the electronic credit ledger of the registered person.”*

2.16. The petitioner state that it is obvious from bare perusal of the Rule 61 of the CGST/GGST Rules that the return prescribed in terms of Section 39 is a return required to be furnished in FORM GSTR-3 and not GSTR-3B.

2.17. The petitioner further state that notification No. 10 /2017 – Central Tax dated the 28<sup>th</sup> June, 2017 was issued wherein it was provided in terms of Sub-rule (5) of Rule 61 of the CGST Rules that where the time limit for furnishing of details in FORM GSTR-1 under section 37 and in FORM GSTR-2 under section 38 has been extended and the circumstances so warrant, return in FORM GSTR-3B, in lieu of FORM GSTR-3, may be furnished in such manner and subject to such conditions as may be notified by the Commissioner. A copy of the aforesaid notification is annexed hereto and marked with **Annexure A**. An analogous notification No. 10/2017-State Tax(Rate) dated, 30th June, 2017

was also issued by the Government of Gujarat under the GGST Rules.

2.18. The petitioner state that Sub-rule (5) of the Rule 61 of the CGST Rules was retrospectively amended, with effect from 01.07.2017, vide Notification No. 17/2017 – Central Tax dated the 27th July, 2017, to omit the wordings return in FORM GSTR-3B being in lieu of FORM GSTR-3. A copy of the aforesaid notification is annexed hereto and marked with **Annexure B**. An analogous notification No. 17/2017-State Tax dated, the 27th July, 2017, was also issued by the Government of Gujarat under the GGST Rules.

2.19. The petitioner state that it would be obvious from a conjoint reading of Rule 61(1) of the CGST/GGST Rules and Rule 61(5) of the CGST/GGST Rules and aforesaid notification that a return required to be furnished in FORM GSTR-3B is not a return in lieu of *a return specified under sub-section (1) of section 39* required to be furnished *in FORM GSTR-3*. The Central and the State Government has consciously omitted reference to return required to be furnished in FORM GSTR-3B being in lieu of Form GSTR-3 through Notification no. 17/2017 – Central Tax dated the 27th July, 2017.

2.20. The petitioner state that Notification No. 17/2017 – Central Tax dated the 27th July, 2017, added after sub-rule (5), the following sub-rule in Rule 61:-

*“(6) Where a return in FORM GSTR-3B has been furnished, after the due date for furnishing of details in FORM GSTR-*

*2—*

*(a) Part A of the return in FORM GSTR-3 shall be electronically generated on the basis of information furnished through FORM GSTR-1, FORM GSTR-2 and based on other liabilities of preceding tax periods and PART B of the said return shall be electronically generated on the basis of the return in FORM GSTR-3B furnished in respect of the tax period;*

*(b) the registered person shall modify Part B of the return in FORM GSTR-3 based on the discrepancies, if any, between the return in FORM GSTR-3B and the return in FORM GSTR-3 and discharge his tax and other liabilities, if any;*

*(c) where the amount of input tax credit in FORM GSTR-3 exceeds the amount of input tax credit in terms of FORM GSTR-3B, the additional amount shall be credited to the electronic credit ledger of the registered person.”*

2.21. The petitioner state that it is obvious from bare perusal of the clause (c) of sub rule (6) of Rule 61 of CGST/SGST Rule that if any input tax credit is taken after filing of GSTR-3B return and it is reflected in return filed in form GSTR-3 than the same will have to credited to the electronic credit ledger of the registered person. Further, discrepancies, if any, in discharge of his tax and other liabilities can also be rectified through return filed in form GSTR-3.

2.22. The petitioner further state that decision to add return in form GSTR-3B was taken in 18<sup>th</sup> GST Council held on 30<sup>th</sup> June, 2017 on account of the reason stated as “shorter return for first two months of roll out”. It has not been introduced as a return in substitute of return to be filed in form GSTR-3. Therefore, it is quite obvious that return in form GSTR-3B is only a temporary stop gap arrangement till due date of filing return in form GSTR-

3 is notified in the GSTN portal. A copy of the minutes of 18<sup>th</sup> GST Council held on 30<sup>th</sup> June, 2017 is annexed hereto and marked with **Annexure C**.

2.23. The petitioner therefore state that, it is quite obvious that return to be filed in the form GSTR-3 is the final return for taking additional input tax credit as well as discharging of additional tax liabilities after filing of return in the form GSTR-3B. It is therefore submitted that last date for availing input tax credit relating to the invoices issued during the period from July, 2017 to March, 2018 is the last date for the filing of return in form GSTR-3 and not GSTR 3B.

However, Para 3 of the press release dated 18.10.2018 says that

*“With taxpayers self-assessing and availing ITC through return in FORM GSTR-3B , the last date for availing ITC in relation to the said invoices issued by the corresponding supplier(s) during the period from July, 2017 to March, 2018 is the last date for the filing of such return for the month of September, 2018 i.e. October 20, 2018.”*

A copy of the press release dated 18.10.2018 is annexed hereto and marked with **Annexure D**.

3. In the aforesaid background, the Petitioner being aggrieved by Para 3 of the press release dated 18.10.2018 beg to move this Petition under Article 226 of the Constitution of India before this Hon’ble Court on the following grounds which are urged in the alternative and without prejudice to each other.

### **G R O U N D S**

- A. For that, the Petitioner most humbly submit, Para 3 of the press release dated 18.10.2018 being contrary to the Section 16(4) CGST Act/ GGST Act, read with Section 39(1) of the CGST Act/ GGST Act, read with Rule 61 of the CGST Rules/ GGST Rules, is without authority of law, unreasonable, illegal and void and is therefore liable to be quashed and set aside.
- B. For that, the Petitioner most humbly submit, last date for taking input tax credit in terms of Section 16(4) of the CGST Act / GGST Act in respect of any invoice or debit note pertaining to a financial year is due date of furnishing of the return under Section 39 for the month of September following the end of financial year or furnishing of the relevant annual return, whichever is earlier. Rule 61 of the CGST/GGST Rules provides that return prescribed in terms of Section 39 is a return required to be furnished in FORM GSTR-3. It is submitted that return in form GSTR-3B is not a return in substitute of return to be furnished in form GSTR-3B. Return to be filed in form GSTR-3B is only a temporary arrangement and therefore last date for availing input tax credit relating to the invoices issued during the period from July, 2017 to March, 2018 is the last date for the filing of return in form GSTR-3 or annual return whichever is earlier.
- C. For that it is submitted that Notification No. 17/2017 – Central Tax dated the 27th July, 2017, omitted the reference to return in FORM GSTR-3B being in lieu of FORM GSTR-3.
- D. For that it is submitted that 18<sup>th</sup> GST Council held on 30<sup>th</sup> June, 2017 has introduced GSTR-3B return only as temporary arrangement.
- E. For that, the Petitioner most humbly submit, an interpretation that the last date for availing input tax credit relating to the

invoices issued during the period from July, 2017 to March, 2018 is the last date for the filing of return in form GSTR-3B will render Rule 61(1) of the CGST/IGST Rules, which requires filing of return in form GSTR-3, as nugatory. It is an established principle of law that any interpretation which leads to redundancy of any portion of a statute is impermissible. Reliance in this regard is placed on the judgment of Hon'ble Supreme Court in the case of Chief Information Commissioner Versus State of Manipur reported in 2012 (286) E.L.T. 485 (S.C.).

- F. For that the Petitioner most humbly submit, Press release was issued on 18.10.2018 in the evening, which provided 25th October 2018 as the last date for availing input tax credit for the period referred above, i.e. only 2 days prior to the last date. This caused severe undue hardship and anxiety to all the registered tax payers to reconcile the input tax credit for the entire period from July 2017 to March 2018 within 2 days. Subsequently, though last date for filing GSTR-3B was extended to 25<sup>th</sup> October, 2018 giving 7 days in total to reconcile.
- G. For that, the Petitioner most humbly submit, the following notifications were issued which extended the due date of filing of Form GSTR – 1, from time to time, since the implementation of Goods and Services Tax in India i.e. 1<sup>st</sup> July 2017.

<b>S. No</b>	<b>Notification No</b>	<b>Date of Notification</b>
1	Notification No. 18/2017 – Central Tax	8th August, 2017
2	Notification No. 57/2017 – Central Tax	15th November, 2017



3	Notification No. 58/2017 – Central Tax	15th November, 2017
4	Notification No. 17/2018 – Central Tax	28th March, 2018
5	Notification No. 18/2018 – Central Tax	28th March, 2018
6	Notification No. 32/2018 – Central Tax	10th August, 2018
7	Notification No. 33/2018 – Central Tax	10th August, 2018
8	Notification No. 43/2018 – Central Tax	10th September, 2018
9	Notification No. 44/2018 – Central Tax	10th September, 2018

- H. For that in all the above referred notifications, the last para provided as follows:

*“The time limit for furnishing the details or return, as the case may be, under sub-section (2) of section 38 and sub-section (1) of section 39 of the said Act, for the months of July, 2017 to March, 2019 shall be subsequently notified in the Official Gazette.”*

A copy of the latest notification no. 44/2018 – Central Tax and 44/2018 – Central both dated the 10th September, 2018 are collectively annexed hereto and marked with **Annexure E**.

- I. For that, the Petitioner most humbly submit, there was legitimate expectation on part of the petitioner that the Government will notify the time limit for furnishing return in

Form GSTR – 3, for the months of July, 2017 to March, 2018 in due course of time. Therefore, petitioner had reason to believe that once the time limit for filing of the return under section 39(1) i.e. form GSTR-3 is notified, that date will be the date for availment of input tax credit as per Section 16(4) of the Central Goods and Services Tax Act 2017. The para 3 of the press release dated 18.10.2018 has therefore created a panic in the trade and industry and has baffled and shocked the professional fraternity as well. The principle underlying legitimate expectation which is based on Article 14 and the rule of fairness was referred to in the judgment of Hon'ble Supreme Court in para 38 of its judgment in the case of *MRF LTD. Versus ASSISTANT COMMISSIONER (ASSESSMENT) SALES TAX reported in 2006 (206) E.L.T. 6 (S.C.)*, wherein it was observed that person may have a 'legitimate expectation' of being treated in a certain way by an administrative authority even though he has no legal right in private law to receive such treatment. The expectation may arise either from a representation or promise made by the authority, including an implied representation, or from consistent past practice. The doctrine of legitimate expectation has an important place in the developing law of judicial review.

- J. For that, the Petitioner most humbly submit, due to the technical glitches and issues of GSTN or any other reason not known to the petitioner, Form GSTR -2 (form in which the registered person was supposed to submit the statement of inward supplies) and Form GSTR – 3 (monthly/periodical return), were deferred by the Government and are not notified till date. But it is being regularly notified by the Government that date for Form GSTR – 2 and Form GSTR -3 shall be notified subsequently.

- K. For that, the Petitioner most humbly submit, the due date of filing Form GSTR -1, for the period July 2017 to September 2018, has been extended upto 31<sup>st</sup> October 2018 in all cases and to 31<sup>st</sup> December in cases where the taxpayer has obtained the GST number in terms of Notification No 31/2018- Central Tax dated 06.08.2018.
- L. For that, the Petitioner most humbly submit, Form GSTR -1 is the statement of outward supplies of goods or services or both. Unless this statement is filed, the credit in Form GSTR – 2A will not get reflected and unless the credit is Form GSTR -2A gets reflected it shall not be possible for the tax payer to calculate the amount of credit for the purpose of availment. Further Form GSTR -2A has been given due cognizance in Form GSTR – 9, i.e. Annual Return, also.
- M. For that, the Petitioner most humbly submit, for availing the input tax credit, the statement of outward supplies of goods or services or both in Form GSTR -1, shall be uploaded by the supplier prior to the due date of filing of Form GSTR – 3B. Hence, due date of filing of Form GSTR – 3B cannot be prior to filing of Form GSTR – 1.
- N. For that in terms of Article 279A (4) of the Constitution of India, Goods & Services Tax Council, which is a constitutional body, is empowered to make recommendations to the Union and State Government on formulation of law related to Goods and Service Tax. It is submitted that decision to add return in form GSTR-3B was taken in 18<sup>th</sup> GST Council held on 30<sup>th</sup> June, 2017 only for the first two months of roll out and therefore requirement to file return in form GSTR-3B subsequent to first two months is beyond the recommendations of the GST council in this respect.

- O. For that a press release issued by the Central Government and of the State Government merely represent their understanding of the statutory provisions. It cannot lay down the law which does not exist. Reliance in this regard is placed on the judgment of Hon'ble Supreme Court in the case of *The Commissioner of Income Tax & Anr. Vs S.V. Gopala Rao & Ors in civil appeal no. 4901/2010* wherein it was held that legislative provisions cannot be amended by issuing a circular.
- P. For that, the Petitioner craves leave to urge further grounds at the time of hearing of the case which are not taken herein.
- Q. For that, the Petitioner submit that it has no other equally efficacious adequate alternate remedy than to approach this Hon'ble Court under Article 226 of the Constitution of India. The remedy by way of writ(s), direction(s) and/or order(s) as prayed for herein, if granted will be adequate and complete.
- R. For that, the subject matter out of which this writ application arises including the grounds as mentioned herein above, were never before this Hon'ble Court in any manner whatsoever.
- S. For that, this petition is made *bonafide* and in the interest of justice.
- T. For that, this petition is made *bonafide* and in the interest of natural justice.
4. Petitioner has not filed any other petition with regard to present subject matter before any other Court of law including this Hon'ble Court and Hon'ble Supreme Court except present petition.

**PRAYERS**

5. In the aforesaid circumstances, the Petitioner most humbly pray before your Lordship:

- a. To issue writ of or in the nature of a mandamus or any other appropriate writ, order or direction to quash and set aside the press release dated 18.10.2018 to the extent that its para 3 purports to clarify that the last date for availing input tax credit relating to the invoices issued during the period from July, 2017 to March, 2018 is the last date for the filing of return in form GSTR-3B;
- b. To issue necessary writ(s), direction(s), and/or pass necessary order(s) directing the Respondents to allow / consider taking input tax credit relating to the invoices issued during the period from July, 2017 to March, 2018 till the due date for the filing of return in form GSTR-3 or annual return whichever is earlier;
- c. To issue writs(s) and/or direction(s) in the nature of prohibition commanding the Respondents, their servants agents and/or subordinates from resorting to any coercive measure during the pendency of the writ petition before this Hon'ble Court;
- d. To issue order(s), direction(s), writ(s) or any other relief(s) as this Hon'ble Court deems fit and proper in the facts and circumstances of the case and in the interest of justice;
- e. To issue Rule Nisi in terms of prayers (a) to (g) above;
- f. To Grant ad-interim reliefs in terms of prayers above;
- g. To award Costs of and incidental to this application be paid by the Respondents;

And for this act of kindness, the Petitioner shall, as in duty bound, ever pray.

Place: Ahmedabad

Date:

**[Vishal J. Dave, Avinash Poddar & Nipun Singhvi]**

Advocates for the Petitioner

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

DISTRICT: AHMEDABAD

SPECIAL CIVIL APPLICATION NO. OF 2018

M/s Aap & Co., Chartered Accountants .....**Petitioners****Versus**Union of India & Ors. ...**Respondents****AFFIDAVIT**

I, Mrs. Anchal Avinash Poddar Age:37, Occupation: Profession, Authorized Representative of the Petitioner, having its Office at: L 16-17, Agrasen Point Opp. Maharaja Arcade, City Light, Surat do hereby solemnly affirm on oath and state that:-

1. That after having understood the contents of the petition in vernacular language I ink my signature on the memo of the petition.
2. That what is stated in Para 1 to 2 are true to my knowledge and belief and I believe the same to be true and correct.
3. That what is stated in Para 3 and 8 are based on legal advice and I believe the same to be true and correct.
4. That what is stated in Para 4 to 7 is requirement of law.
5. That Para 9 is the prayer clause.
6. The Annexures are true copies of the original. Nothing material is suppressed thereof.

Solemnly affirmed on Saturday, December 04, 2018 at Surat,

Identified by me.

Advocate

Deponent