

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 18779 of 2023**

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RAJKALP MUDRANALYA PRIVATE LIMITED THRO KALPESH MANEKLAL
PATEL
Versus
SUPERINTENDENT

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Appearance:

UCHIT N SHETH(7336) for the Petitioner(s) No. 1,2
for the Respondent(s) No. 1

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CORAM: HONOURABLE MR. JUSTICE BIREN VAISHNAV
and
HONOURABLE MRS. JUSTICE MAUNA M. BHATT

Date : 26/10/2023**ORAL ORDER****(PER : HONOURABLE MR. JUSTICE BIREN VAISHNAV)**

1. Draft amendment is granted. To be carried out forthwith.
2. Heard Mr.Uchit Sheth learned advocate for the petitioners.
3. Challenge in this petition is to the order passed by the Appellate Authority under the CGST. Since, no Tribunal is constituted, the challenge is

to the order by way of the petition. Mr. Sheth also places on record a communication 04.10.2023 by which, the office of the Superintendent, AR-V, Division-VI, has initiated recovery of penalty pursuant to the order impugned in this petition.

4. The order is taken on record. Reading the order would indicate that the author of the order had opined that the petitioner should inform the authority if any appeal or stay application has been filed against the OIA dated 31.07.2023 and whether the Appellate Authority has granted stay of the order. It is the case of the authority that if no stay of recovery of dues has been granted, the petitioner is called upon to pay the dues in question.

5. On one hand, though the Tribunal is constituted, it is still not functioning and the Competent

Authorities think it fit to issue orders of recovery asking the assesseees for information whether an appeal has been filed at all. This apparently is a contradistinction between the authorities in question.

6. Issue **NOTICE** returnable on 07.12.2023.

7. The order dated 04.10.2023 initiating steps of recovery is hereby stayed till the next date of hearing.

(BIREN VAISHNAV, J)

(MAUNA M. BHATT, J)