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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 3196 of 2021

With

R/SPECIAL CIVIL APPLICATION NO. 2426 of 2021

With

R/SPECIAL CIVIL APPLICATION NO. 2515 of 2021

With

R/SPECIAL CIVIL APPLICATION NO. 2618 of 2021

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M/S BHUMI ASSOCIATE

Versus

UNION OF INDIA THROUGH THE SECRETARY

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Appearance:

MR.AVINASH PODDAR(9761) for the Petitioner(s) No. 1,2

DS AFF.NOT FILED (N)(11) for the Respondent(s) No. 1,2,3,4,5,6

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CORAM: HONOURABLE MR. JUSTICE J.B.PARDIWALA

and

HONOURABLE MR. JUSTICE ILESH J. VORA

Date : 16/02/2021

COMMON ORAL ORDER

(PER : HONOURABLE MR. JUSTICE J.B.PARDIWALA)

1. We have heard all the learned counsel appearing for the writ-applicants. We have also heard Mr. Devang Vyas, the learned Additional Solicitor General of India appearing for the respondents.

2. The officers of the concerned department who were asked to join the video conference did join, but at a very later stage. They were unable to witness the discussion that took place between the Court and Mr. Vyas. We propose to pass an interim order issuing the following directions.

“The Central Board of Indirect Taxes and Customs as well as the Chief Commissioner of Central/ State Tax of the State of Gujarat

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are hereby directed to issue the following guidelines by way of suitable circular/instructions:

(1) No recovery in any mode by cheque, cash, e-payment or adjustment of input tax credit should be made at the time of search/inspection proceedings under Section 67 of the Central/Gujarat Goods and Services Tax Act, 2017 under any circumstances.

(2) Even if the assessee comes forward to make voluntary payment by filing Form DRC-03, the assessee should be asked/ advised to file such Form DRC-03 on the next day after the end of search proceedings and after the officers of the visiting team have left the premises of the assessee.

(3) Facility of filing complaint/ grievance after the end of search proceedings should be made available to the assessee if the assessee was forced to make payment in any mode during the pendency of the search proceedings.

(4) If complaint/ grievance is filed by assessee and officer is found to have acted in defiance of the afore-stated directions, then strict disciplinary action should be initiated against the concerned officer.”

3. Mr. Devang Vyas, the learned Additional Solicitor General of India has taken the pains to address this Court from the hospital room. Mr. Vyas is not well and has been hospitalized. Mr. Vyas may respond day after tomorrow to the aforesaid directions, which we propose to issue. We direct all officers to once again join the video conference day-after tomorrow, but this time, they should join well in time.

Post all the matters on **18/02/2021** on top of the board.

(J. B. PARDIWALA, J)

(ILESH J. VORA,J)

A. B. VAGHELA

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