

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

**R/SPECIAL CIVIL APPLICATION NO. 17882 of 2021**

**With**

**R/SPECIAL CIVIL APPLICATION NO. 17883 of 2021**

=====

SHAMA FATIMA W/O MOHAMMAD ALIAS SHABBIRALI SAVJANI

Versus

STATE OF GUJARAT

=====

Appearance:

MS HETAL PATEL FOR MR CHETAN K PANDYA(1973) for the Petitioner(s)  
No. 1

MR TRUPESH KATHIRIYA, AGP (SCA No.17882/2021) and MR KRUTIK  
PARIKH, AGP (SCA No.17883/2021) for the Respondent(s) No. 1,2

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**CORAM: HONOURABLE MR. JUSTICE A.J.DESAI**

and

**HONOURABLE MR. JUSTICE BHARGAV D. KARIA**

**Date : 15/06/2022**

**COMMON ORAL ORDER**

**(PER : HONOURABLE MR. JUSTICE A.J.DESAI)**

1. Heard learned advocate Ms. Hetal Patel for learned advocate Mr. Chetan K. Pandya for the petitioners and learned Assistant Government Pleader Mr. Trupesh Kathiriya in Special Civil Application No.17882/2021 and learned Assistant Government Pleader Mr. Krutik Parikh in Special Civil Application No.17883/2021.

2. Issues involved in both the petitions are similar inasmuch as order of seizure passed by by respondent no.2 pertaining to articles belonging to the petitioner have been challenged

in both the petitions and therefore, they have been heard together and disposed of by this common order.

3. For the sake of convenience, facts are recorded from Special Civil Application No.17882/2021.

4. By way of this petition under Article 226 of the Constitution of India, the petitioner has prayed for the following reliefs :

"(a) To issue a Writ of Mandamus and/or Writ of Certiorari and/or any other appropriate writ, order or direction, quashing and setting aside the Order of Seizure dated 01/08/2021 passed in FORM GST INS-02 issued by respondent No.2 at Annexure-A to this petition and direct the respondent no.2 to return the articles to the petitioner and her children.

(b) Pending admission, final hearing and disposal of this petition, to stay the Order of Seizure dated 01/08/2021 passed in FORM GST INS-02 issued by respondent no.2 at Annexure-A to this petition and direct the respondent no.2 to return the articles to the petitioner and her children.

c) To pass any other and further orders as may be deemed fit and proper in the interest of justice and the petitioner.

d) To provide for the cost of this petition."

5. Brief facts of the case are that the petitioner's husband is proprietor of M/s. Lucky Steel. An investigation was carried out in

respect of the said proprietorship firm by the State Tax Department and File No. DCST/ENF-1/AC-4/SUMMONS/2021-22/B.597 came to be registered by the State Tax Department against the petitioner herein who is neither a proprietor nor partner nor Director nor authorized signatory nor the person in day to day charge of the registered dealer.

6. Respondent no.2 in exercise of powers conferred under section 67 of the Gujarat Goods and Service Tax Act, 2017 (For short 'GGST Act, 2017") vide order dated 1<sup>st</sup> August, 2021 has seized phones, Laptop, iPad, Pen Drive, DVR and cash of the petitioner.
7. The petitioner's husband made an application on 18<sup>th</sup> October, 2021 requesting to release the said articles. However, the petitioner did not receive any response from respondent no.2 nor the articles were released, and therefore, the petitioner has preferred this petition with aforesaid prayers.
8. Learned advocate for the petitioner submitted that the petitioner's husband is the proprietor of M/s. Lucky Steel and the petitioner is neither a registered person nor a taxable person and the articles seized are being used either by the petitioner or her children for personal use and therefore, the seized articles are required

to be returned to the petitioner. It was further submitted that the order passed by respondent no.2 is without any authority of law and requires to be quashed and set aside.

9. On the other hand, learned Assistant Government Pleader for the respondent-State submitted that respondent no.2 has passed the impugned order of seizure in connection with an investigation being carried out in respect of the said proprietorship firm by the State Tax Department and therefore, the impugned order of seizure is just and proper.

10. We have heard the learned advocates for the respective parties. On perusal of the order dated 25<sup>th</sup> April, 2022 passed by this Court, it appears that in compliance of the said order in Special Civil Application No.17782/2021, out of 21 articles which were seized by the respondent-authority, 18 items have been released and have been handed over to the petitioner. However, following three items are yet to be released :

- 1) I PHONE 12 PRO MAX 256 GB (IMEI : 356733117167011)
- 2) LAPTO-LENOVO-SR.NO.PF 13 ZPBJ
- 3) D.V.R. (DIGITAL VIDEO RECORDER)

11. Further, in compliance of the said order dated 25<sup>th</sup> April, 2022, in Special Civil Application No.17883/2021, out of five articles which were seized by the respondent authority, three items have been released and have been handed over to the petitioner. However, the following two items are yet to be returned :

- 1) I Phone Mobile
- 2) Oppo Mobile

12. Learned Assistant Government Pleader under instructions state that as and when the details are retrieved from the aforesaid electronic gadgets which are yet to be returned by the respondent-authority, the same shall be released and handed over to the petitioner but not later than 31<sup>st</sup> July, 2022.

13. In view of above statement being made by learned AGP, the petitions would not survive and are disposed of accordingly. Notice in the respective petitions are hereby discharged.

**(A.J.DESAI, J)**

**(BHARGAV D. KARIA, J)**

RAGHUNATH R NAIR