



IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 19475 of 2022

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE BIREN VAISHNAV
and
HONOURABLE MR. JUSTICE BHARGAV D. KARIA

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?	
2	To be referred to the Reporter or not ?	
3	Whether their Lordships wish to see the fair copy of the judgment ?	
4	Whether this case involves a substantial question of law as to the interpretation of the Constitution of India or any order made thereunder ?	

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PLANET AUTOMOTIVE PVT. LTD.

Versus

STATE OF GUJARAT

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Appearance:

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

for the Respondent(s) No. 1

GOVERNMENT PLEADER for the Respondent(s) No. 1,2,3

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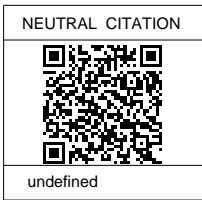
CORAM: HONOURABLE MR. JUSTICE BIREN VAISHNAV
and
HONOURABLE MR. JUSTICE BHARGAV D. KARIA

Date : 01/09/2023

ORAL JUDGMENT

(PER : HONOURABLE MR. JUSTICE BHARGAV D. KARIA)

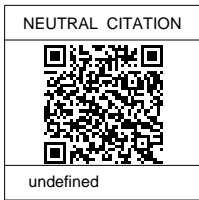
1. Heard learned advocate Mr. Uchit Sheth for



the petitioners and learned Assistant Government Pleader Ms. Shrunal Shah for the respondent.

2. Rule returnable forthwith. Learned AGP Ms. Shah waives service of notice of rule.
3. Having regard to the controversy narrated in narrow compass, with the consent of the learned advocates of both the sides, the matter is taken-up for hearing.
4. By this petition under Article 226 of the Constitution of India, the petitioner has prayed for the following reliefs:

"A. This Hon'ble Court may be pleased to issue a writ of mandamus or writ in the nature of mandamus or any other appropriate writ or order quashing and setting aside impugned letter dated 20.7.2022 (Annexed at Annexure A) and the Respondents may please be directed to grant benefit



of Vera Samadhan Yojana-2019.

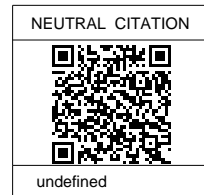
B. This Hon'ble Court may be pleased to issue a writ of mandamus or writ in the nature of mandamus or any other appropriate writ or order quashing and setting aside impugned garnishee notice dated 09.09.2022 (Annexed At Annexure B);

C. This Hon'ble Court may be pleased to issue a writ of mandamus or writ in the nature of mandamus or any other appropriate writ or order quashing and setting aside the demand notice for the year 2017-18 (annexed at Annexure H);

D. Pending notice admission and final hearing of this petition, this Hon'ble Court may be pleased to stay the operation, execution and implementation of the impugned garnishee notice dated 9.9.2022 (annexed at Annexure B) and the petitioners may please be permitted to operate their bank account;

E. Ex parte ad interim relief in terms of prayer D may kindly be granted;

F. Such further relief(s) as deemed fit in the facts and circumstances of the case may kindly be granted in the interest of justice for which act of

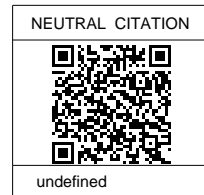


kindness your petitioners shall
forever pray."

5. Facts in nutshell are as under:

The petitioner is a Private Limited Company and distributor of Hyundai Car. The petitioner No.1 is registered under the VAT Act as well as Central Sales Tax Act now under the Goods and Service Tax Act ['GST Act' for short].

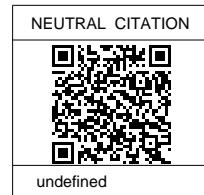
5.1 For the period from 01.06.2017 to 30.06.2017, the petitioner paid the total tax of Rs. 32,20,901/- under the Entry Tax Act. It is the case of the petitioner that after filing of the return, it was noticed that there was an error in tax computation which has resulted into short payment of tax.



5.2 Respondent No.1-State of Gujarat announced an amnesty Scheme named as "Vera Samadhan Yojana-2019" for settlement of the disputes under different tax laws including the Entry Tax Act. The said Scheme was substituted by resolution dated 06.12.2019.

5.3 As per the amended Scheme, on payment of principal tax amount, waiver of interest and penalty was admissible. The petitioner was accordingly entitled to credit of tax already paid prior to the Scheme. The said Scheme was extended from time-to-time and ultimately, expired on 31.08.2021.

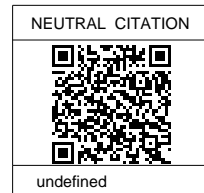
5.4 The petitioner availed the benefit of the Scheme and filed an application for



the period from 01.06.2017 to 30.06.2017 stating that the total tax liability for the month was Rs. 1,80,75,735/- and the petitioner paid amount of Rs. 32,20,901/- towards tax. The petitioner has also submitted the challans showing the payment of tax.

5.5 Upon filing of the application under the said Scheme, the petitioner received an online intimation regarding the amount payable by the petitioner to avail the benefit of the Scheme.

5.6 The petitioner, on receipt of such intimation, noticed that there was error in the intimation requiring the petitioner to pay the amount in excess of what is actually to be paid by the petitioner. The petitioner therefore approached respondent

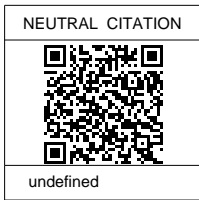


No.3-the Jurisdictional Officer and pointed out an error in the letter. The Officer corrected the amount mentioned in the letter manually and the amount was reduced to Rs. 1,48,54,834/- from Rs. 1,80,75,735/-.

5.7 The petitioner therefore, paid the said amount in installments from 13.03.2020 onwards till 31.01.2021.

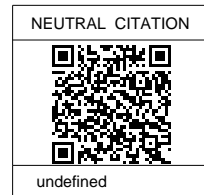
5.8 During the pendency of the amnesty scheme, the petitioner No.1 was also assessed to tax and the liability under the Entry Tax Act and VAT Act was determined after giving the credit of tax already paid by the petitioner in the assessment order.

5.9 The fact that the petitioner applied for the amnesty scheme was also



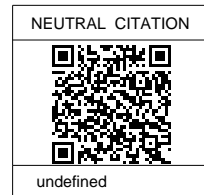
recorded in the assessment order. Considering the assessment order as a base, the petitioner paid further amount of Rs. 1,31,641/- as determined by the assessment order after the set off of the amount already paid by the petitioner under the amnesty scheme. Thus, according to the petitioner, the petitioner has paid the dues as determined by the assessment order passed on 31.12.2020 for the period from 01.04.2017 to 30.06.2017.

5.10 However, the respondent No.3, by impugned letter dated 20.07.2022, rejected the application of the petitioner under the 'Vera Samadhan Yojana-2019' on the ground that the petitioner did not pay full payment against the outstanding amount intimated to the petitioner vide intimation letter generated online.



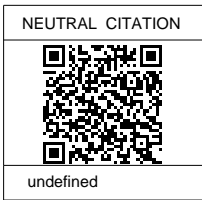
Being aggrieved, the petitioner has filed this petition.

6. Learned advocate Mr. Sheth for the petitioner submitted that the petitioner has paid the entire outstanding amount as corrected by the respondent No.3 on the intimation letter on being pointed out the error in the said letter within the stipulated time before 31.08.2021. It was also submitted that the petitioner deposited further sum of Rs. 1,31,641/- which was left outstanding as per the assessment order passed on 31.12.2020. It was therefore, pointed out that the petitioner has discharged the entire liability within the stipulated time to avail the benefit of the Vera Samadhan Yojana-2019 and hence, the petitioner is

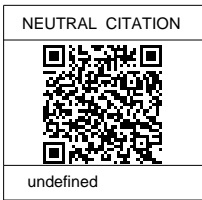


entitled to get the waiver of interest and penalty leviable upon the petitioner for short payment of the entry tax as per the Scheme.

7. On the other hand, learned AGP Ms. Shah for the respondent submitted that the respondent No.3 had no authority to correct the intimation letter by reducing the amount of payment from Rs. 1,80,75,735/- to Rs.1,48,54,834/-. The petitioner was liable to pay Rs. 1,80,75,735/- but the petitioner has not made the payment as per the intimation letter and therefore by the impugned communication dated 20.07.2022, the respondent has rightly disposed of the application made by the petitioner under the Vera Samadhan Yojna-2019.

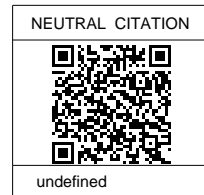


8. It was further submitted that the amount paid by the petitioner is admittedly not as per the intimation letter. Reliance was placed on the relevant clauses of the amnesty scheme which is produced by the petitioner at page 28 of the paper book to submit that the petitioner was required to pay 10% of the amount on or before 31.07.2020 and the remaining amount with interest @ 1.5% per annum before 31.08.2021. It was submitted that the petitioner had admittedly not paid the amount of Rs. 1,80,75,735/- as per the intimation letter generated online and accordingly the petitioner is not entitled to the benefit of the Vera Samadhan Yojna-2019.



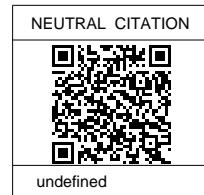
9. Having heard learned advocates for the respective parties and considering the material on record it is not in dispute that the petitioner has paid the entire amount of the outstanding dues as per the corrected intimation and assessment order prior to the date prescribed under the Vera Samadhan Yojna-2019 i.e. 31.08.2021. The petitioner has paid the following amount on various dates amounting to Rs. 1,48,54,833/-.

Planet Automotive Pvt Ltd Entry Tax			
Month	Paid Date	Installment	Paid Amount
March'20	13/03/2020	1485483	1510674
April'20	31/07/2020	1215396	1266712
May'20	09-01-2020	1215396	1264149
June'20	28/09/2020	1215396	1240658
July'20	13/10/2020	1215396	1248776
Aug'20	11-10-2020	1215396	1273644
Sept'20	12-08-2020	1215396	1230201
Oct'20	01-02-2021	1215396	1282539
Nov'20	20/01/2021	1215396	1236028
Dec'20	30/01/2021	1215396	1250213
Jan'21	30/01/2021	1215396	1257389



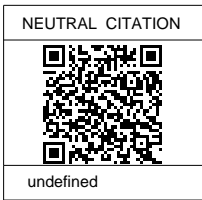
Feb'21	31/01/2021	1215396	793850
		14854839	14854833

10. The petitioner has also deposited Rs. 1,31,643/- on 5th March, 2021 after the assessment order was passed on 31.12.2020. Thus, the petitioner has deposited the entire amount as per the assessment order. Merely because, the intimation generated online has erroneously stated the amount which was not correct, the petitioner was not liable to make the payment of such amount to avail the benefit of the Scheme when it emerges from the record that there was no outstanding dues towards the principal amount of entry tax payable by the petitioner and such amount was paid by the petitioner before the due date i.e. 31.08.2021 as per the Scheme. In such circumstances, the petitioner is entitled



to the benefit of the Vera Samadhan Yojana- 2019 and merely because the respondent No.3 has changed the figure of payment to be made by the petitioner in the intimation as the figure shown in the in the intimation was erroneous, cannot come in way of the petitioner in the facts of the case to deny the benefit of the Vera Samadhan Yojna-2019 Scheme which is a benevolent scheme for the assesseees floated by the State of Gujarat so as to see that the principal amount of tax is recovered on waiver of interest and penalty, if any, so as to reduce the future litigation.

11. In view of the the foregoing reasons, the petition succeeds and is accordingly allowed. The impugned communication dated 20.07.2022 is hereby quashed and set



aside. Respondents are directed to give benefit of Vera Samadhan Yojana-2019 to the petitioner and pass consequential order within a period of eight weeks from the date of receipt of copy of this order. Rule is made absolute to the aforesaid extent. No order as to costs.

(BIREN VAISHNAV, J)

(BHARGAV D. KARIA, J)

JYOTI V. JANI