



IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 8843 of 2025

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE A.S. SUPEHIA

and

HONOURABLE MR. JUSTICE PRANAV TRIVEDI

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Approved for Reporting	Yes	No
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M/S HINDUSTAN PETROLEUM CORPORATION LIMITED

Versus

THE DEPUTY COMMISSIONER OF STATE TAX & ANR.

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Appearance:

MR N C SHUKLA(5958) for the Petitioner(s) No. 1

MR APURVA MEHTA for VIJAY H PATEL(7361) for the Petitioner(s) No. 1

MS SHRUNJAL T SHAH ASSISTANT GOVERNMENT PLEADER for the
Respondent(s) No. 1,2

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CORAM:HONOURABLE MR. JUSTICE A.S. SUPEHIA

and

HONOURABLE MR. JUSTICE PRANAV TRIVEDI

Date : 14/11/2025

ORAL JUDGMENT

(PER : HONOURABLE MR. JUSTICE PRANAV TRIVEDI)

1. Heard learned advocate Mr. Apurva Mehta for learned advocate Mr. Vijay H. Patel for the petitioner and learned Assistant Government Pleader Ms. Shrunjal T. Shah for the respondents.

2. Rule returnable forthwith. Learned Assistant Government



Pleader Ms. Shrunjal Shah waives service of notice of rule on behalf of the respondents.

3. Having regard to the controversy involved, which is in a narrow compass, with the consent of the learned advocates for the respective parties, the matter is taken up for hearing.

4. By way of this petition under Articles 226 and 227 of the Constitution of India the petitioner has prayed to quash and set aside the order dated 11.02.2025 passed in Misc. Application No. 33 of 2024 in Second Appeal No. 1102 of 2016 passed by the Gujarat Value Added Tax Tribunal, Ahmedabad (For Short "the Tribunal") and consequently direct the Deputy Commissioner of the State Tax, Petroleum-1, State of Gujarat (hereinafter referred to as the "respondent") to consider in allowing production of statutory Form 'F' under the provisions of Central Sales Tax Act, 1956 and Gujarat Value Added Tax Act, 2003 bearing No. 158386 dated 22.03.2008 amounting to Rs.6,29,59,345/-.

5. The brief facts leading to filing of present writ petition are that the petitioner is a Company incorporated under the



provisions of the Companies Act, 1956 and *inter alia* is an oil marketing Company as well as public sector undertaking. The petitioner has its branch office within the territory of State of Gujarat.

5.1. The petitioner has obtained valid certificate registered under the provisions of The Gujarat Value Added Tax Act, 2003 hereinafter referred to as the "GVAT Act") and Central Sales Tax Act, 1956 (hereinafter referred to as the "CST Act"). For the Assessment Year 2003-04, the assessment was made under the provisions of the GVAT Act. However as per the statutory requirement, the petitioner was required to furnish Form 'F' for its branch transfer for the year under consideration. As the petitioner failed to do so, the Assessing Officer calculated demand to the tune of Rs.108,59,07,018/- and thereafter the Assessment Order came to be passed on 26.03.2008.

5.2. Being aggrieved by the Assessment Order dated 26.03.2008 passed by the Assessing Officer, the petitioner preferred an appeal under the provisions of Section 73 of the GVAT Act. The appeal came to be dismissed on the ground of



non-payment of pre deposit by the First Appellate Authority. However, the Tribunal was pleased to direct the petitioner to pay an amount of Rs.3,00,000/- as pre deposit and remanded the matter to the First Appellate Authority.

5.3. It is the case of the petitioner that after the matter being remanded by the Tribunal, the petitioner appeared before the First Appellate Authority and was in a position to submit certain portion of statutory Form 'F'. However, the First Appellate Authority did not consider such production which led to second round of litigation being initiated before the Tribunal by way of preferring Second Appeal, being Second Appeal No. 943 of 2010. In the second round of litigation, the Tribunal was again pleased to remand the matter to the First Appellate Authority for consideration of partial production of Form 'F'.

5.4. Thereafter in the third round of litigation, the petitioner approached before the First Appellate Authority and claimed an amount to the extent of Rs.63,99,41,576/- as branch transfer on production of Form 'F'. The First Appellate Authority by way of order dated 14.10.2016, in the third round of litigation,



accepted partial production of Form 'F' and branch transfer amounting to the tune of Rs.63,99,41,576/- was allowed and transactions to the tune of Rs.89,42,56,896/- were disallowed for non-production of Form 'F'.

5.5. Being aggrieved by the order dated 14.10.2016 passed by the First Appellate Authority, the petitioner again preferred Second Appeal being Second Appeal No. 1102 of 2016 before the Tribunal. Before the Tribunal, the petitioner again partially produced Form 'F'. The Tribunal was pleased to allow sales of Rs.25,43,15,300/- as branch transfer on production of Form 'F'. However, out of the same one branch transfer to the tune of Rs.6,29,59,345/- was not considered despite production of Form 'F'. The Tribunal in the third round of litigation dismissed the claim of the petitioner to the tune of Rs.6,29,59,345/- as the relevant Form 'F' was in duplicate and not original. It was the case of the petitioner that the petitioner was in the process of shifting the premises and, therefore, could not produce the original Form 'F' to the tune of Rs.6,29,59,345/-. However, the Tribunal did not accept the contention raised by the petitioner and dismissed the claim of Rs.6,29,59,345/-.



5.6. Being aggrieved by the order passed by the Tribunal, the petitioner preferred Misc. Application No. 33 of 2024 before the Tribunal praying for submission of statutory Form 'F' being Form No. 158386 dated 22.03.2008 to the tune of Rs.6,29,59,345/-. However, the Tribunal rejected the Misc. Application which has led to filing of the present writ petition.

6. Learned advocate Mr. Apurva Mehta for the petitioner has raised only one contention about the difficulty faced by the petitioner for claim of the branch transfer to the tune of Rs.6,29,59,345/-. Despite subsequent production of original Form 'F', the Tribunal has rejected the claim of the petitioner. It was further submitted and assured by learned advocate Mr. Mehta that the claim of Rs.6,29,59,345/- would be the last claim of the petitioner in the relevant Assessment Year 2003-04. It was assured that whatever claim remains on non-production of remaining Form 'F' for the relevant Assessment Year would not be contested in future by the petitioner. It was further submitted that the Tribunal was liberal to accept certain production of Form 'F', however branch transfer to the tune of



Rs.6,29,59,345/- was not accepted at the relevant point of time, as original Form 'F' was not produced. Today, before this Court, the petitioner has produced original Form 'F' to the tune of Rs.6,29,59,345/- and requested that the same may be allowed.

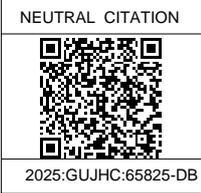
7. *Per contra*, learned Assistant Government Pleader Ms. Shrunjal T. Shah for the respondent has placed reliance upon the affidavit-in-reply filed on behalf of the respondent and submitted that the Assessing Officer has verified the veracity of the original Form 'F', which is in accordance with law and, therefore, requested that appropriate order may be passed.

8. Before addressing this sole controversy, it needs to be observed that the relevant Assessment Year is 2003-04, and litigation has gone for almost 20 years partially for non-production of Form 'F'. It is settled law that the assessee is eligible in reduction rate tax under the Central Sales Tax Act, 1956 on production of Form 'C' for inter state sale and Nil rate of tax on production of Form 'F' for branch transfer. The authority has not disputed the fact that the transaction was a branch transfer and Form 'F' was duly certified and issued by



the authority.

8.1. The only issue is the production of Form 'F' on piecemeal basis. The petitioner has produced certain Form 'F' before the First Appellate Authority and certain portion of Form 'F' before the Tribunal and now the last Form 'F' is produced before this Court. The transactions of Rs.6,29,59,345/- were not considered due to non-production of the original Form. Now the original Form is produced and verified by the authority. However, learned advocate Mr. Mehta has assured that the claim of the amount for which the Form 'F' which are not produced would not be contested by the petitioner afterwards. The dues subsequent to non-production of the remaining Form 'F' will be paid by the petitioner in accordance with law. As the controversy in the petitioner is in very narrow compass and relates only to production of Form 'F' and claim of legitimate right of the petitioner, this Court is inclined to accept the prayer of the petitioner to the aforesaid extent. Hence, Form 'F' being Form No. 158386 dated 22.03.2008 to the tune of Rs.6,29,59,345/- are allowed to be considered in view of the averments made by the respondents in the affidavit-in-reply



which reads as under :-

“6. In light of the communication dated 07.10.2025 received from the office of Range-C, Division-II, Jaipur on E-mail dated 08.10.2025 we hereby verify that the F-Form produced by the petitioner is true and correct. Copy of the communication dated 07.10.2025 received from the office of Range-C, Division-II, Jaipur on E-mail dated 08.10.2025 are annexed herewith and marked as Annexure-R1 (Colly.).

7. The answering respondent further states that as per the further affidavit filed by the petitioner dated 30.07.2025, waiving its rights for further claiming any benefit of the balance F-Form in the future which is available with the petitioner, this Hon’ble Court may kindly be pleased to pass appropriate order in accordance law in the interest of justice.”

9. In view of the above, the present writ petition is allowed to the extent of considering of Form ‘F’ produced by the petitioner and as verified by the respondent. The respondent shall ascertain the remaining transactions and the same would be payable by the petitioner within a period of twelve weeks from the date of passing of this order.

10. The petition stands disposed of accordingly. Rule is made absolute to the aforesaid extent.

(A. S. SUPEHIA, J)

(PRANAV TRIVEDI, J)

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