

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/SPECIAL CIVIL APPLICATION NO. 7965 of 2026**

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MR MANOJ RAMKISHAN AGRAWAL & ANR.

Versus

UNION OF INDIA & ANR.

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Appearance:

MR HARJOTSINGH J KASSOWAL(11053) for the Petitioner(s) No. 1,2

MR CB GUPTA(1685) for the Respondent(s) No. 2

MR PRADIP D BHATE(1523) for the Respondent(s) No. 1,2

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CORAM: **HONOURABLE MR. JUSTICE A.S. SUPEHIA**

and

HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI

Date : 17/06/2026

ORAL ORDER

(PER : HONOURABLE MR. JUSTICE A.S. SUPEHIA)

1. On 12.06.2026, after the order was passed, the matter was adjourned at the request of learned advocate Mr. Harjotsingh J. Kassowal, appearing for the petitioners, to enable him to obtain instructions as to whether the petitioners intended to prefer an appeal under Section 107 of the Central Goods and Services Tax Act, 2017 (for short, "the CGST Act, 2017"), or whether they wished to invite an order on merits.

2. Today also, learned advocate Mr. Harjotsingh J. Kassowal, appearing for the petitioners, has submitted that the petitioners wish to invite an order on merits and do not intend to prefer an appeal before the Appellate Authority under Section 107 of the CGST Act, 2017.

3. In the present petition, the petitioners have prayed for quashing and setting aside the impugned Order-in-Original dated 30.01.2026 passed by the respondent No.2, whereby



penalty has been levied upon under Sections 122(1A) and 122(3) of the CGST Act, 2017.

4. Learned advocate Mr. Harjotsingh J. Kassowal, appearing on behalf of the petitioners, has submitted that the present petition is maintainable and deserves to be entertained on two counts: (i) no finding has been recorded by the respondent No.2 establishing the liability of the present petitioners under Sections 122(1A) of the CGST Act, 2017 and (ii) the impugned Order-in-Original dated 30.01.2026 has been passed in violation of the principles of natural justice, without considering the defence raised by the petitioners, particularly in their reply dated 15.05.2025. It is thus submitted that the impugned Order-in-Original deserves to be quashed and set aside on the ground of violation of the principles of natural justice. He has further submitted that the petitioners are partners of the partnership firm and since a penalty has been been imposed upon the partnership firm, the petitioners cannot be made to penalty under the provisions of section 122(1A) of the CGST Act, 2017. It is submitted that no separate penalty could have been imposed upon the petitioners. No other submissions are advanced.

5. In support of his submissions, learned advocate Mr.Kassowal placed reliance upon the judgment of the Supreme Court in the case of M/s. Kranti Associates Pvt. Ltd. and Anr. vs. Sh. Masood Ahmed Khan and Others, dated 08.09.2010, passed in Civil Appeal No.7472 of 2010 (arising out of SLP (Civil) No. 20428 of 2007) and allied matters, as well as the judgment of Bombay High Court in the case of Amit



Manilal Haria and Ors. vs. Joint Commissioner, CGST and Central Excise and Another, rendered in Writ Petition No.5001 of 2025 on 25.02.2026 questioning the retrospective effect of applicability of Section 122(1A) of the CGST Act, 2017.

6. Opposing the present petition, learned Senior Standing Counsel Mr.C.B. Gupta, appearing on behalf of the respondents, has submitted that the present petition ought not to be entertained, as the petitioners have an efficacious alternative remedy of preferring an appeal under Section 107 of the CGST Act, 2017. He further submitted that the respondent No.2 - the adjudicating authority, has extensively considered all the relevant facts, including the defence put forth by the present petitioners as well as the other noticees. He has further submitted that the partnership firm and its partners were involved in serious illegal activities, including undertaking transactions through *hawala*, thereby evading tax liability. He has submitted that a large-scale fraud was unearthed during the investigation, which ultimately revealed the complicity of the present petitioners along with the partnership firm. It is further submitted that the partnership firm and the present petitioners were involved in generating bogus invoices and e-way bills, and that all such bogus transactions were undertaken by the petitioners in their capacity as partners of the partnership firm. He has further submitted that, during the course of the investigation, the petitioners had, in fact, admitted their involvement. It is thus urged that, in view of the availability of the statutory alternative remedy of appeal, the present writ petition may not be entertained.



7. In response to the judgments relied upon by learned advocate Mr. Harjotsingh J. Kassowal, learned Senior Standing Counsel Mr.C.B. Gupta has submitted that Section 122(1A) of the CGST Act, 2017 was introduced with effect from 01.01.2021 and that the impugned Order-in-Original has been passed by the adjudicating authority by invoking the said provision against the petitioners. It is submitted that the present writ petition does not warrant interference under Article 226 of the Constitution of India.

8. We have heard the learned advocates for the respective parties.

9. As already recorded in the preceding paragraphs and in the order dated 12.06.2026, learned advocate Mr. Harjotsingh J. Kassowal was called upon to state whether the petitioners intended to avail the statutory remedy of appeal under Section 107 of the CGST Act, 2017 or whether they wished to invite an order on merits. Since learned advocate Mr.Kassowal, on instructions, opted to invite an order on merits, we are left with no option but to adjudicate the present writ petition on its facts and merits.

10. The petitioner No.1 and the petitioner No. 2 are partners of M/s. Maa Renuka Trading Company. Along with the partnership firm, the present petitioners and the other noticees were subjected to investigation by the respondent-Department in relation to the generation of fake invoices and e-way bills without any actual supply of goods for F.Y.2020-21 and 2021-22. A total of 23 persons/firms, including the partnership firm and its partners, were issued notices. Acting upon specific



intelligence, the respondent-Department carried out search proceedings under Section 67(2) of the CGST Act, 2017 at the registered place of business. During the course of the investigation, statements of various persons, including the present petitioners and Shri Ankur Kanda (broker), were recorded. Necessary panchnamas were drawn at the spot, and summons were also issued to the present petitioners as well as the partnership firm.

11. The statement of Shri Krishna Goyal, Accounts Assistant of M/s.Maa Renuka Trading, Indore, was recorded on 22.11.2021. Pursuant to the summons issued to the petitioners, the statement of petitioner No.2 - Shri Yash Goyal, was recorded on 25.11.2021. During his examination, petitioner No. 2 was confronted with various vehicle registration numbers and the corresponding e-way bills. He admitted that the e-way bill generated for the movement of goods from M/s. Retail Mart Enterprise, Delhi, to M/s.Diksha Enterprise, Delhi, was incorrect, as the vehicle concerned could not have covered such a long distance within the time reflected therein. Similar questions were put to him with regard to other vehicles, including vehicle No. GJ-06-AX-8617, which was shown to have been used by three different firms for transportation of goods. In respect of those transactions also, petitioner No.2 made similar admissions and acknowledged that the e-way bills had not been correctly generated. He further admitted that M/s. Maa Renuka Trading, Indore, and Shree Sanwariya Trading Company, Vadodara, were receiving invoices of various firms registered in Delhi through Shri Ankur Kanda. According to his statement, those



Delhi-based firms had not made any genuine purchases of bitumen and were merely engaged in paper transactions with the object of passing on Input Tax Credit (ITC).

12. The petitioners were also confronted with the material collected during the forensic examination of the mobile phones belonging to petitioner No.1 - Shri Manoj Agrawal, in respect of which a panchnama had also been drawn. Petitioner No.1, upon being confronted with the statement of Shri Ankur Kanda (broker), admitted that Shri Ankur Kanda used to send invoices relating to the goods, allegedly purchased by them, whereupon they would transfer the amounts into the bank accounts of such parties as instructed by Shri Ankur Kanda. He further admitted that Shri Ankur Kanda would thereafter return the money to them in cash through *angadia* after deducting his commission.

13. The adjudicating authority in paragraph No.7.5 of the order has discussed thus : -

"7.5 Partners of M/s Maa Renuka Trading, Indore by operating and managing M/s Sanwariya Trading, Vadodara for wrongly and fraudulently availing and utilizing input tax credit have rendered themselves liable for penalty under Section 122(1A) & Section 122(3) of CGST Act' 2017"

14. Thus, the adjudicating authority has analyzed the complicity of the present petitioners, who are the partners of M/s Maa Renuka Trading, Indore and operating and managing M/s.Sanwariya Tranding, Vadodara for wrongly and fraudulently availing and utilizing ITC, and thus rendering themselves liable for penalty under Section 122(1A) and Section 122(3) of the CGST Act, 2017.



15. The adjudicating authority has further examined the WhatsApp chats exchanged between petitioner No.1 - Shri Manoj Agrawal and Shri Ankur Kanda. A categorical finding has been recorded that on 13.03.2022, Shri Ankur Kanda instructed Shri Manoj Agrawal (petitioner No.1) to deposit a sum of Rs.25 lakhs into the bank accounts of two firms, i.e. Rs.15 lakhs in the account of M/s. Bholenath and Rs.10 lakhs in the account of M/s. Shri Shyam. It has further been recorded that Shri Ankur Kanda subsequently returned a sum of Rs.23 lakhs in cash to Shri Manoj Agrawal after deducting his commission.

16. Upon consideration of the aforesaid material, the adjudicating authority, while dealing with noticee No.22 (petitioner No.1) and noticee No.21 (petitioner No. 2), has, in paragraph No.13.4.6 of the impugned order, categorically recorded that the investigation established that the affairs of M/s.Maa Renuka Trading were conducted with the full knowledge and consent of both its partners. The adjudicating authority has further recorded that petitioner No.1 - Shri Manoj Agrawal, has specifically admitted that all activities relating to the Vadodara firm were carried out with the knowledge and consent of petitioner No.2 - Shri Yash Goyal. Thus, the adjudicating authority has recorded a categorical finding establishing the complicity of the present petitioners, who are the partners of M/s. Maa Renuka Trading.

17. The findings recorded by the adjudicating authority with regard to the alleged fraud also delineate the entire *modus operandi* adopted by the petitioners i.e. the creation of



multiple fictitious suppliers, routing of invoices through a broker, circular movement of funds through *hawala* channels, generation of fake e-way bills, and continued availment of ITC despite knowledge of the cancellation of the registrations of the supplier firms, all with the object of availing ITC without actual payment of tax. In paragraph No.13.8.1.3, the adjudicating authority has recorded findings regarding the prior knowledge and habitual conduct of petitioner No.1 - Shri Manoj Agrawal. Similarly in paragraph No.13.8.2, the adjudicating authority has discussed the evidence establishing the knowledge and consent of petitioner No.2 - Shri Yash Goyal.

18. In paragraph No.13.9.3, the adjudicating authority has also examined the routing of funds through *hawala* transactions. It has been recorded that petitioner No.1 - Shri Manoj Agrawal, in his statement recorded under Section 70 of the CGST Act, 2017, unequivocally admitted his active role in coordinating the transactions with Shri Ankur Kanda. He admitted that he used to send images of currency notes to Shri Ankur Kanda as coded signals for routing cash through *hawala* channels and that he also shared specific *hawala* details relating to Indore and Mumbai to facilitate such transfers.

19. After recording the aforesaid findings and appreciating the evidence on record, the adjudicating authority imposed penalties upon the petitioners under the provision of Section 122 of the CGST Act, 2017.

20. At this stage, it would be apposite to refer to Section 122(1A) of the CGST Act, 2017, which reads as under:

“Section 122(1A) - Any person who retains the benefit of a transaction covered under clauses (i), (ii), (vii) or clause (ix) of sub-section (1) and at whose instance such transaction is conducted, shall be liable to a penalty of an amount equivalent to the tax evaded or input tax credit availed of or passed on.

[(1B) [Any electronic commerce operator, who is liable to collect tax at source under section 52,]—

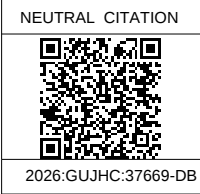
(i) allows a supply of goods or services or both through it by an unregistered person other than a person exempted from registration by a notification issued under this Act to make such supply;

(ii) allows an inter-State supply of goods or services or both through it by a person who is not eligible to make such inter-State supply; or

(iii) fails to furnish the correct details in the statement to be furnished under sub-section (4) of section 52 of any outward supply of goods effected through it by a person exempted from obtaining registration under this Act, shall be liable to pay a penalty of ten thousand rupees, or an amount equivalent to the amount of tax involved had such supply been made by a registered person other than a person paying tax under section 10, whichever is higher”

21. A plain reading of Section 122(1A) of the CGST Act, 2017, makes it evident that any person who retains the benefit of a transaction covered under clauses (i), (ii), (vii) or (ix) of sub-section (1), and at whose instance such transaction is conducted, is liable to a penalty equivalent to the tax evaded or the ITC availed of or passed on.

22. Thus, the findings recorded by the adjudicating authority unequivocally establish the complicity of the present petitioners in the generation of fake invoices and e-way bills without any actual supply of goods, as well as their involvement in *hawala* transactions. The impugned Order-in-Original contains detailed findings based on the material collected during the course of the investigation, including the statements of the petitioners themselves, documentary evidence and electronic records. We are, therefore, not



inclined to interfere with the impugned Order-in-Original merely on the grounds canvassed before us.

23. The judgement of the Apex Court in the case of **M/s. Kranti Associates Pvt. Ltd. (supra)** will not even remotely apply to the present case, as it deals with the passing of a reasoned order by a quasi-judicial authority. We also do not find that the impugned order is in any sense an unreasoned order, additionally we also do find any violation of the principles of natural justice warranting interference in exercise of our writ jurisdiction under Article 226 of the Constitution of India. The the petitioners have an efficacious statutory remedy of appeal under Section 107 of the CGST Act, 2017, and all factual findings including the applicability of the provisions of Section 122(1A) of the CGST Act, 2017 retrospectively could have been examined by the appellate authority, more particularly in wake of the fact that there appears to be widespread network involving numerous transactions by various entities of defrauding the revenue, which was not the case before Bombay High Court as reflected in the decision in the case of **Amit Manilal Haria (supra)**. However, since the petitioners have insisted for reasoned order, we are constrained to pass one.

24. Accordingly, the writ petition is rejected. Rule is discharged. There shall be no order as to costs.

Sd/-
(A. S. SUPEHIA, J)

Sd/-
(VAIBHAVI D. NANAVATI,J)

MAHESH/03