

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 7987 of 2021**

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M/S SHREE MAHALAXMI CEMENT PRODUCTS THROUGH ITS
DIRECTOR MR. DIPAKKUMAR RAMJIBHAI PATEL
Versus
STATE OF GUJARAT & ORS.

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Appearance:

AADITYA D BHATT(8580) for the Petitioner(s) No. 1
CHANDNI S JOSHI(9490) for the Petitioner(s) No. 1
GOVERNMENT PLEADER for the Respondent(s) No. 1
MR HIRAK SHAH ADVOCATE WITH MR NIKUNT K RAVAL(5558) for the
Respondent(s) No. 3
SERVED BY RPAD (N) for the Respondent(s) No. 2

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CORAM: HONOURABLE MR. JUSTICE BHARGAV D. KARIA
and
HONOURABLE MR. JUSTICE NIRAL R. MEHTA

Date : 09/08/2024

ORAL ORDER

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

[1] Heard learned advocate Mr. Aaditya Bhatt for the petitioner and learned advocate Mr. HIRAK SHAH for learned advocate Mr. Nikunt Raval for the respondent No.3.

[2] Learned advocate Mr. Aaditya Bhatt for the petitioner submitted that in view of circular No.179/11/2022-GST dated 3rd August 2022, it is clarified that as per Entry at Senior No.176B of the Schedule II, the items of description "Fly ash bricks or fly ash

aggregate with 90%, or more fly ash content; Fly ash blocks” attracts a GST rate of 12% and confusion has arisen about the applicability of 90% condition on fly ash aggregates and fly ash bricks. It was submitted that as per the clarification, even as per the said circular and as per the recommendations of the GST Council in the 23rd meeting, the condition of 90% or more fly ash content was applicable only for fly ash aggregate. It was further submitted that the impugned orders passed by the authority for Advance Ruling and the Appellate Authority are not tenable in view of the aforesaid circular.

[3] Considering the above submissions, list this matter for further consideration on 23rd August 2024. To be listed on top of the Board.

(BHARGAV D. KARIA, J)

(NIRAL R. MEHTA, J)

CHANDRESH