

GIB/ GJ/Paresh /25-10-2019/HC-98

High Court Category : Others

State : Gujarat

Order No.: GIB/ GJ/Paresh /25-10-2019/HC-98

Name of Entry :

Paresh Nathalan Chauhan

Date : 25-10-2019

Breif Issue :

Facts & Issue of the case

The case pertains to search and seizure operations conducted by GST officials on the residential premises of the petitioner. Applicant Paresh Nathalan Chauhan filed the petition on following grounds:

The concerned officers authorised to carry out the search at the residential premises of the petitioner had stayed there from 11.10.2019 to 18.10.2019. A perusal of the record of the proceedings of the case reveals that on 11.10.2019 at 2:15, it has been recorded that after searching of the rooms in the premises, the records of the accounts were brought to the main room and gathered there which included the bank passbooks of the family members as well as cheque books and that verification thereof is continuing.

The proceedings thereafter do not reveal any further search carried out at the premises but reveal that the officers had stayed at the premises and had examined the phone calls that were received by the family members and had recorded their phone calls. They had also recorded statements of the family members of the petitioner on 11.10.2019.

The record further reveals that the officers who had arrived on the previous day as well as the panchas were relieved by new set of officers and panchas and this cycle continued till 18.10.2019. It appears that thereafter they have been questioning the family members of the petitioner on a day to day basis till 18.10.2019.

The Gujarat HC was displeased by the manner in which the search and seizure operations were conducted by the officials and recorded the following order.

Decision of Advance Ruling Authority :

Decision:

High Court Held That

Section 67(2) of the Act empowers the authorized officer to search and seize the goods, documents or books or things – however, Sec.67(2) does not empower the officer concerned to record statements of family members through force or coercion or to record their conversations in their mobile phones.

It is not permissible for the authorized officer to use coercive measures against family members to find out the whereabouts of the taxable person.