

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD  
R/CRIMINAL REVISION APPLICATION NO. 741 of 2006**

**FOR APPROVAL AND SIGNATURE:**

**HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR**

Approved for Reporting	Yes	No

SHAYONA PETROCHEM LTD.,  
Versus  
STATE OF GUJARAT & ANR.

Appearance:

MR HR PRAJAPATI(674) for the Applicant(s) No. 1  
PUBLIC PROSECUTOR for the Respondent(s) No. 1  
RULE SERVED for the Respondent(s) No. 2

**2CORAM:HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR**

**Date : 11/03/2026  
ORAL JUDGMENT**

1. By way of the present Criminal Revision Application, the applicant has prayed for the following main reliefs:

*“(A) Your Lordship be pleased to call for record of the case No. Supply/ECA/6A/23/03 from the office of the respondent no.2 and after perusing the same be pleased to quash and set aside the order dated 9-11-2004 passed by the respondent no. 2 confiscating stock of 64,631 liters of pit oil amounting to Rs. 4,52,417/- and also judgment and order dated 28-9-2005 passed by the Special Judge (Essential Commodities) Fast Tract Court No. 1, Patan, in Criminal Appeal No. 20 of 2004.*

*“(B) Your Lordships be pleased to direct the respondent no.2 to release entire stocks confiscated by the order dated 9-11-2004 and confirmed in appeal by order dated 28-9-2005 as the products confiscated are dangerous and it may evaporate effectively day by day which may cause damage to either of the parties pending admission and hearing and disposal of this revision application.”*

2. Heard learned advocates for the respective parties.
  
3. The learned advocate for the applicant submits that the impugned order of confiscation passed by respondent No.2 under Section 6-A of the Essential Commodities Act, 1955, and the order confirming the same passed by the learned Appellate Court are illegal, without jurisdiction and contrary to the provisions of law. It is submitted that under the Solvent, Raffinate and Slop (Acquisition, Sale, Storage and Prevention of Use in Automobiles) Order, 2000, the definition of “solvent” was initially very wide; however, considering several representations received from across the country, the Central Government amended the definition in the year 2001 by restricting it to specific items mentioned in the Schedule. The Central Government had also informed all the States regarding the said amendment.
  
4. It is contended that the products seized from the petitioner, namely pit oil and spray oil, do not fall within the definition of “solvent” as provided in the amended order. Despite this legal position being brought to the notice of respondent No.2, the authority proceeded to confiscate the stock without proper jurisdiction. The learned advocate further submits that the respondent authority acted with undue haste without awaiting the report of the Directorate of Forensic Science Laboratory. It is, therefore, submitted that the impugned orders suffer from non-application of mind and deserve to be quashed and set aside.

5. Mr. Rohan Raval, learned APP appearing for the respondent–State, has supported the impugned orders passed by the competent authority as well as the Appellate Court. It is submitted that respondent No.2 exercised powers under Section 6-A of the Essential Commodities Act, 1955 after conducting due inspection and finding that a large quantity of petroleum hydrocarbon products, namely pit oil and spray oil, was stored by the petitioner. According to the prosecution, the seized products are mixtures of petroleum hydrocarbons and fall within the ambit of “solvent” as contemplated under the Solvent Control Order, 2000. It is further submitted that the competent authority, after following due procedure and giving an opportunity of hearing to the petitioner, passed the order of confiscation, which has rightly been confirmed by the Appellate Court.

6. Having heard the learned advocates for the respective parties and having gone through the record, it appears that the petitioner has challenged the order dated 10.11.2004 passed by respondent No.2 whereby the stock of 64,631 litres of pit oil (a mixture of petroleum hydrocarbon) amounting to Rs.4,52,417/- was confiscated for the alleged breach of the provisions of the Solvent, Raffinate and Slop Order, 2000, in exercise of powers under Section 6-A of the Essential Commodities Act, 1955. The said order has been confirmed in appeal by the learned Special Judge (Essential Commodities), Fast Track Court No.1, Patan in Criminal Appeal No.20 of 2004 decided on 28.09.2005 under Sections 397 read with 401 of the Code of Criminal Procedure.

7. In view of the above, the moot question that arises for consideration before this Court is whether the alleged confiscated goods, namely pit oil (a mixture of petroleum hydrocarbons), fall within the category of “solvent” under the Solvent Control Order issued under the Essential Commodities Act, and consequently whether any control order or licence is required for its storage or sale. The learned advocate for the applicant has mainly submitted that the FSL report does not contain any specific opinion stating that the seized material is a solvent mixture, and the mere presence of hydrocarbons cannot be a ground to presume that the alleged goods fall under Section 3 of the Essential Commodities Act, 1955. On the other hand, the learned APP has opposed the application contending that under Section 3 of the Essential Commodities Act, the Ministry of Petroleum and Natural Gas, vide order dated 05.06.2000, defined “solvent” as volatile fractions derived either directly or indirectly from petroleum or coal, which may consist of single hydrocarbon components such as propane, benzene, toluene, xylene, etc., or narrow or wide boiling ranges of hydrocarbons.

8. The learned advocate for the applicant has submitted that the aforesaid definition came to be amended vide notification dated 21st November, 2001 issued by the Ministry of Petroleum and Natural Gas, wherein “solvent” has been defined as volatile fractions derived either directly or indirectly from petroleum or coal. Such solvents may consist of single hydrocarbon components like propane, benzene, toluene, xylene, etc., or narrow or wide boiling ranges of hydrocarbons.

9. Since the definition of “solvent” has been amended and the

alleged confiscated goods do not fall within the category of solvent, respondent No.2 has committed an error in initiating the proceedings. From the very beginning, the petitioner had raised a specific defence, in response to the show-cause notice, that a preliminary issue ought to have been decided as to whether the alleged mixture, namely pit oil, falls within the definition of solvent or attracts the provisions of Section 3 of the Essential Commodities Act. However, the said issue has neither been decided by the learned Collector nor by the appellate authority. It further appears from the record that respondent No.2 had addressed communication to the Forensic Science Laboratory (FSL) seeking clarification regarding the nature and composition of pit oil and the mixture from which it was prepared. However, no specific opinion has been provided by the FSL in this regard. Even the Supply Department of the Government of Gujarat had advised the Collector to take appropriate action after obtaining the opinion of the FSL. Despite this, in the absence of any clear finding or specific opinion from the FSL regarding the applicability of the Essential Commodities Act and the nature of the petroleum hydrocarbons found in the seized material, i.e. pit oil (a mixture of petroleum hydrocarbons), the impugned action has been taken without proper determination of the relevant issue.

10. Considering the aforesaid facts and more particularly the specific defence raised by the petitioner vide submission dated 14<sup>th</sup> September, 2004 addressed to respondent No.2 (Annexure-L) regarding the applicability of the Essential Commodities Act, it appears that no issue was framed or decided prior to deciding the matter as to whether the provisions of the Essential

Commodities Act were applicable. The impugned order is silent on this aspect, and the appellate authority has also remained silent with regard to Annexure-L. More particularly, in light of the opinion of the Forensic Science Laboratory (FSL), the present matter is required to be decided afresh after considering the FSL report and by first determining the preliminary issue regarding the applicability of the Essential Commodities Act, namely whether pit oil falls within the category of solvent or not?

11. On an overall appreciation of the facts on record, the Revision Application appeal is allowed. The order dated 09.11.2004 passed by respondent No.2 and order dated 28.09.2005 passed by the learned Special Judge (Essential Commodities), Fast Track Court No.1, Patan in Criminal Appeal No.20 of 2004, are hereby quashed and set aside. The matter is remitted back to the competent authority-respondent No.2 for deciding the case afresh after giving an opportunity of hearing to both the parties.

12. The authority shall decide the matter on its own merits, without being influenced by the observations made by this Court, preferably within a period of six months from the date of receipt of this order. No order as to costs.

ALI

**(HASMUKH D. SUTHAR,J)**