

Misconduct Proceedings under VAT Act can't be initiated against Advocates, CAs, Cost Accountants: Gujarat HC

Pravin Natvarlal Modh vs. State of Gujarat

Case No. – 7408 of 2016

Date -14/09/2018

Fact of the Case

1. In the instant case the petitioner is holding a certificate as a sale tax practitioner from the year 1977. In 1983 he enrolled as a an advocate under the state bar council of Gujarat.
2. The VAT authorities initiated misconduct proceedings under section 81 of the Gujarat VAT Act against the petitioner by alleging that the petitioner had connived with the dealers in the questionable transactions.
3. As per section 81 of VAT act, a person is entitled to appear before the authority may be sale tax practitioner, authorized in writing to appear before the authority or legal practitioner(Advocate),CA, or CMA.

Decision of the Case

1. Two judges bench of Gujarat High Court stated that under section 81(1) , a person is entitled to appear before an authority either as capacity of sales tax practitioner or legal practitioner/Professional(CA/CMA)
2. The bench also stated that under section 81(2) if there is any misconduct done by the legal practitioner/Professional ,then disciplinary action may be taken by the authority to which the member of the Professional belongs to.
3. In the present situation if there is any misconduct, then he BAR Council of Gujarat can take legal action against the petitioner who has enrolled as advocate under the state Bar Council of Gujarat.