NEUTRAL CITATION
2026:GUJHC:57735-DB
Case Citation: (2026) taxcode.in 1571 HC

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/SPECIAL CIVIL APPLICATION NO. 9612 of 2026

FOR APPROVAL AND SIGNATURE:
HONOURABLE MR. JUSTICE A.S. SUPEHIA sd/-
and
HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI sd/-

==========

Approved for Reporting	Yes	No
		√

==========

M/S. FUTURE INFOMEDIA PRIVATE LTD.
Versus
STATE OF GUJARAT & ORS.

==========

Appearance:
HIREN J TRIVEDI(8808) for the Petitioner(s) No. 1
MR PARTH H PANDYA(12755) for the Petitioner(s) No. 1
MS TANUSHREE SHRIMAL AGP for the Respondent(s) No. 1,2,3

==========

CORAM:**HONOURABLE MR. JUSTICE A.S. SUPEHIA**
and
HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI

Date : 08/09/2026
ORAL JUDGMENT
(PER : HONOURABLE MR. JUSTICE A.S. SUPEHIA)

1. By way of the present writ petition, the petitioner has sought for the following reliefs:

> *"(A) Your Lordships may be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, order or direction quashing and setting aside the impugned order in appeal dated 30.04.2025 issued in FORM GST APL-04, whereby the appeal of the petitioner came to be dismissed on the ground of non-payment of pre-deposit.*
>
> *(B) Your Lordships may be pleased to issue a writ of mandamus or any other appropriate writ, order or direction directing the respondents to forthwith restore the appeal filed by the petitioner in FORM GST APL-01 dated 12.07.2022 and decide the same on merits, in accordance with law.*
>
> *(C) Your Lordships may be pleased to issue a writ of mandamus or any other appropriate writ, order or*

Uploaded by () on
www.taxcode.in
Downloaded on : Sat Sep 19 12:06:43 IST 2026

direction directing the respondents to refund the excess amount recovered and appropriated from the petitioner's Electronic Credit Ledger over and above the statutory pre-deposit requirement i.e. Rs.99,34,657.60/-; being the excess over Rs. 44,41,331.40/-, in the interest of justice;

(D) During the pendency and final disposal of the present writ petition, YOUR LORDSHIPS may be pleased to stay the operation, implementation and execution of the impugned order in appeal dated 30.04.2025 issued in FORM GST APL-04 and further be pleased to restrain the respondents from taking any coercive steps for recovery against the petitioner."

2. At the outset, it is submitted by learned advocate Mr. Hiren J. Trivedi that he does not press the prayer 24(c) for the refund of the excess amount which is over and above the statutory pre-deposit. However, he submits that the amount which has already been recovered from the Electronic Credit Ledger may be adjusted towards the pre-deposit requirement, so that the petitioner's appeal can be heard on merits.

In support of his submissions he has placed reliance on the decision of this Court in the case of *M/s Shiv Crakers Vs. Chief Commissioner of CGST & C.E & Anr* in 2024(3) TMI 832.

3. The petitioner-Company is the private limited company, engaged in the business of the automatic data processing machines and units thereof. The petitioner-Company received a scrutiny assessment in FORM ASMT-10 dated 19.07.2021, whereby the respondent authority intimated an alleged discrepancy regarding the utilization of Input Tax Credit (for short 'ITC') for payment of output tax liability for the financial

Uploaded by () on
www.taxcode.in
Downloaded on : Sat Sep 19 12:06:43 IST 2026

year 2018-2019 to the extent of 99.95%. Thereafter, the petitioner company received an intimation in FORM GST DRC-01A dated 10.01.2022 for the Financial Year 2018-19.

3.1 The said intimation proposed a demand *interalia* on account of the alleged difference between GSTR-2A and GSTR-3B amounting to Rs.17,60,418/- and also on the ground of utilization of ITC towards payment of output tax liability to the extent of 99.95% for the said financial year. The said intimation also proposed demand on account of cancellation of GST registration of certain suppliers, namely M/S Nation Infotech Pvt. Ld., Edington Infocom, and M/S Multitrade Consultancy.

3.2 The respondent authority, while issuing the said intimation also reiterated and expanded upon the issues earlier raised in the scrutiny notice issued in FORM ASMT-10. Therefore, a Show Cause Notice in FORM DRC-01 dated 15.02.2022 came to be issued under Section 74 of the Central Goods and Services Tax Act, 2017 (for short 'the CGST Act') proposing demand against the petitioner, along with the applicable interest and penalty. The petitioner company received an order in original dated 25.03.2022 passed under Section 74 of the CGST Act, confirming the proposed demand along with the applicable interest and penalty.

3.3 Being aggrieved and dissatisfied with the Order-in-Original, the petitioner-company preferred an appeal before the First Appellate Authority by filing Form GST APL-01 dated 12.07.2022, along with the facts and ground for the appeal. The petitioner filed an application for seeking waiver of pre-deposit

Uploaded by () on www.taxcode.in Downloaded on : Sat Sep 19 12:06:43 IST 2026

due to financial crunch and further plead for the stay of recovery of demand liability. The First Appellate Authority dismissed the appeal of the petitioner-company on the ground of non-payment of the mandatory pre-deposit, vide order dated 30.04.2025. It is further stated that the said order came to be uploaded on the GST Portal in Form GST APL-04 dated 30.04.2025.

3.4 On 08.10.2025, the respondent-authority appropriated the balance available in the Electronic Credit Ledger of the petitioner towards outstanding demand of Rs.69,506.00/- in Central Goods and Services Tax and Rs.48,32,300.100/- in State Goods and Services Tax. Thereafter, on 10.10.2025, the respondent-authority issued a notice in Form GST DRC-13 under Section 79(1)(c) of the CGST Act to a third party, namely the banker of the petitioner-company. Hence, the present writ petition is filed seeking adjustment of pre-deposit towards the amount recovered from credit ledger.

4. After the appeal of the petitioner filed under Section 107 of the CGST Act, got rejected by the appellate authority vide order dated 30.04.2025 the petitioner-Company made a representation dated 02.04.2026, requesting the appellate authority to consider the case sympathetically and to decide the appeal on merits as substantial recovery has been effected pursuant to the attachment of the bank account under Section 79 of the CGST Act.

5. Learned AGP Ms. Tanushree Shrimal for the respondent has submitted that the petitioner did not appear before the

Uploaded by () on
www.taxcode.in
Downloaded on : Sat Sep 19 12:06:43 IST 2026

appellate authority and has not requested to adjust the amount towards pre-deposit from the Electronic Credit Ledger and for the first time, such submissions has been made before this Court and the appellate authority has no reason to examine this issue as the petitioner did not appeared before the appellate authority and also not paid the pre-deposit, which has constrained the appellate authority to reject the appeal in view of mandatory provision under Section 107(6) of the CGST Act. Finally, it is contended that in case the petitioner is allowed the adjustment of the credit towards pre-deposit, the present order may not be treated as precedent.

6. This Court in the case of ***M/s.Shiv Crakers (supra)*** while examining an issue of adjustment of credit towards pre-deposit has held that the taxpayer may utilize the amount available in the electronic credit ledger to pay 10% of tax in dispute as prescribed under Section 107(6) of the CGST Act and accordingly, the Court had set aside the appeal and directed the appeal to be restored to its original file. This Court had also placed reliance on the decision of the Bombay High Court in case of *Oasis Realty Vs. The Union of India and ors* (Writ Petition No. 23507 of 2022) decided on 16.09.2022. The Bombay High Court has considered the Circular issued by Central Board of Indirect Taxes and Customs dated 06.07.2022 being Circular F.No. CBIC-20001/2/2022-GST dated 06.07.2022. However, in the instant case, the issue of adjustment of pre-deposit has arisen after the amount is recovered from the credit ledger. The petitioner had also challenged the validity of action of recovery of amount of Rs.1,43,75,989/- from the electronic cash ledger. However, he has given up the claim of refund and is only

Uploaded by () on
www.taxcode.in
Downloaded on : Sat Sep 19 12:06:43 IST 2026

claiming adjustment. It is not in dispute that the amount so recovered is more than the requisite pre-deposit of Rs.44,41,331.40/-.

7. At this stage, since the petitioner is not pressing for refund of the excess amount of the Input Tax Credit and is only praying for adjustment, due to financial crunch, in the peculiar facts of the case, and in light of the aforesaid judgment of this Court, we direct that the appeal of the petitioner may be restored to its original file, within two weeks from the date of uploading of this order, and 10% pre-deposit payable under Section 107(6)(b) of the CGST Act, i.e. Rs.44,41,331.40/- or as determined by the appellate authority shall be adjusted from the amount of credit already recovered from the electronic credit ledger. It is clarified that the present order, may not be treated as a precedent in any other matter. Accordingly, the impugned order is hereby quashed and set aside. The appellate authority shall decide the appeal of the petitioner on merits. All the contentions of respective parties are left open.

8. With the aforesaid directions, the present writ petition stands ***disposed of***.

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

sd/-
(VAIBHAVI D. NANAVATI,J)

Radhika / 6

Uploaded by () on www.taxcode.in Downloaded on : Sat Sep 19 12:06:43 IST 2026