IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9256 OF 2026

Bhagyoday Agro Industies … Petitioner

Versus

Commissioner (Appeals)
CGST & Central Excise And Ors. … Respondents

.....

Mr. Parth Parikh a/w Ms. Samikshya Chatur and Mr. Yash Prakash i/b Economic Laws Practice for the Petitioner.
Mr. Jitendra B. Mishra a/w Ms. Sangeeta Yadav and Mr. Umesh Gupta for Respondent Nos.1, 2 and 4.
Mr. A.R. Deolekar, A.G.P. for Respondent No.3-State.

.....

CORAM: M.S. KARNIK &
SANDESH D. PATIL, JJ.

RESERVED ON : 1st OCTOBER 2026
PRONOUNCED ON : 12th OCTOBER 2026

JUDGMENT (PER SANDESH D. PATIL, J.)

1. By this Petition, the Petitioner is challenging the Order dated 19th May, 2026, passed in the proceedings filed before the Office of Commissioner (Appeals),CGST and Central Excise, Nashik.

2. The Petitioner is registered under the CGST Act and is engaged in the trading of cotton. As per the information gathered by the

Officers of the Directorate General of Goods and Service Tax Intelligence Nashik Region Unit, regarding non-payment of GST by the Appellant under the Reverse Charge Mechanism **(RCM)** on the purchase of rock cotton from agriculturists, a search was conducted by the Officers under Section 67 of the CGST act 2017 **(CGST Act)**. The GST liability under RCM on purchase of rock Cotton from agriculturists was quantified to the tune of ₹14,77,57,828/-. Accordingly, the Appellant was issued show cause notice. The Adjudicating Authority passed Order dated 28th October, 2024, confirming the demand of ₹14,77,57,828/-and had appropriate tax amount of ₹1,50,00,000/-.

3. Being aggrieved and dissatisfied with the Order passed by the Adjudicating Officer, the Applicant has preferred Appeal electronically on 3rd February, 2025. It is the contention of the Appellant that the Appellate Authority on 19th May, 2026, rejected the Appeal filed by the Appellant and confirmed the Order in original passed by the Additional Commissioner, CGST & CX Aurangabad.

4. The Appellant has challenged the impugned Order passed by the Commissioner, CGST & CX dated 19th May, 2026, on the ground

that the impugned Order does not take into consideration the fact that an amount of ₹1,50,00,000/-was deposited by the Petitioner during the course of the investigation, which was appropriated against the demand. The Petitioner contended that despite such adjustment, Respondent No.1 arbitrarily proceeded to reject the Appeal filed by the Petitioner without considering that the amount already deposited by the Petitioner during the course of investigation far exceeded the statutory pre-deposit amount as per Circular dated 11th July, 2024.

5. The learned Counsel appearing for the Petitioner stated that the impugned Order is passed in a gross violation of principles of natural justice. No defect memo, notice or opportunity was granted before dismissing the Appeal.

6. The learned Counsel appearing for the Revenue supported the Judgment and Order. The learned Counsel appearing for the Revenue stated that the impugned Judgment and Order does not suffer from any error and that the Appeal was rightly rejected.

7. We have perused the impugned Order dated 19th May, 2026. It

is not in dispute that no defect memo, notice or opportunity was granted to the Petitioner before dismissing the Appeal. The Petitioner had already deposited an amount of ₹1,50,00,000/- during the course of investigation. This amount far exceeded the statutory amount required to be deposited before filing of the Appeal. The Appellate Authority ought to have applied the well settled principle that when an Appeal is to be dismissed for adding a shortfall in pre-deposit, the Appellant has to be given a no defect memo, notice or opportunity of hearing before dismissal of the appeal. The Petitioner is definitely required to be given an opportunity to satisfy the shortfall. In this case, the contention of the Petitioner that the amount of Rs.1,50,00,000/- was already deposited is also a relevant fact, which is not considered by the Appellate Authority. In this premise, we have no hesitation to set aside the impugned Judgment and Order dated 19th May 2026, passed by the Commissioner (Appeals), CGST and Central Excise, Nashik passed in proceedings bearing No.NSK/GST/000/APPL/52/2026–27 dated 19th May, 2025. Hence the following Order.

O R D E R

(i) The Writ Petition is allowed.

(ii) The Order dated 19th May, 2026, passed by the learned Commissioner (Appeals) CTST & Central Excise, Nashik in proceeding bearing No.NSK/GSP/000/APPL/52/2026–2027, is quashed and set aside.

(iii) The Commissioner (Appeals), CGST & Central Excise, Nashik, is directed to give a fresh hearing to the Petitioner, especially on the point of pre-deposit of the amount.

(iv) The Commissioner (Appeals), CGST & Central Excise, Nashik, to decide the said proceedings within a period of 12 weeks from the date of producing the Order passed by this Court before him/her.

(v) The Authorized Representative of the Petitioner to remain present before the Authority on 21st October, 2026 at 11.00 a.m., after which the Appellate Authority will commence further proceedings.

8. All contentions of the parties on merits are kept open.

9. Writ Petition No.9256 of 2026 is disposed of accordingly.

(SANDESH D. PATIL, J.) (M.S. KARNIK, J.)

RAJESH VASANT CHITTEWAN
Digitally signed by RAJESH VASANT CHITTEWAN
Date: 2026.10.12 18:12:23 +0530

www.taxcode.in