

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 15764 OF 2025

Ma Agro Proprietor
Mr Ashfak Jafar Shekhani ...Petitioner
Versus
Dy Commissioner of State Tax
Sanpada 501 ...Respondent

Mr. Keval S. Shah, for Petitioner.

Smt. S.D. Vyas, Addl. GP, a/w Smt. V.R. Raje, AGP for
Respondent- State.

**CORAM : M.S. Sonak &
Advait M. Sethna, JJ.**

DATED : 9 December 2025

Oral Order (Per : M.S. Sonak, J.):-

1. On 25 November 2025, after hearing the parties, we made the following order:-

- "1. Heard learned counsel for the parties.*
- 2. The learned counsel for the Petitioner submits that by order dated 21 August 2025 the Appellate Authority has directed the first Respondent to refund the Petitioner an amount of Rs.7,27,83,010/- along with interest under Section 56 of the Central Goods and Services Tax, 2017 (CGST Act). He further submits that despite this order, the Respondents are delaying the grant of actual refund along with interest on the ground that an Appeal is going to be filed against the Appellate Authority's decision.*
- 3. He relies on the decision of the Delhi High Court in the case of **Mr. Brij Mohan Mangla vs. Union of India & Ors.**(2023 (3) TMI 327) in which, it is held that*

refunds cannot be delayed on the ground that Appeals are in contemplation.

4. *Ms. Vyas, the Additional Government Pleader seeks some time to obtain instructions.*
5. *In order to enable Ms. Vyas to obtain instructions, we post this matter on **9 December 2025** for directions/disposal at the admission stage.”*

2. By today, we expected Ms Vyas to be ready with the instructions. However, she once again is constrained to seek some time.

3. Since we had already issued a notice that this Petition would be disposed of at the admission stage, we proceed to do so.

4. Accordingly, we issue the Rule and make it returnable immediately, in accordance with our order of 25 November 2025, and with the consent of the learned counsel for the parties.

5. By order of 21 August 2025, the Appellate Authority has directed the first Respondent to refund the Petitioner an amount of Rs. 7,27,83,010/- along with applicable interest under Section 56 of the CGST Act. The Petitioner has approached the first Respondent with the request for compliance with the Appellate Authority's order dated 21 August 2025.

6. The Petitioner has pleaded that the Petitioner was informed that an Appeal was contemplated against the order of 21 August 2025 and that, as a result, the refund was not granted to the Petitioner.

7. The learned counsel for the Petitioner relies on the decision of the Delhi High Court in the case of ***Mr Brij Mohan Mangla vs. Union of India & Ors.***¹, which holds that the Respondents cannot ignore the orders made by the Appellate Authority merely because they have decided to appeal against those orders. The Delhi High Court observed that it would be debilitating to the Rule of law if the Respondents are permitted to withhold implementation of the orders passed by the Appellate Authority on such grounds.

8. As long as the Appellate Authority's order dated 21 August 2025 is not set aside or stayed, the first Respondent cannot refuse to comply with the same.

9. Accordingly, we allow this Petition and direct the first Respondent to refund the Petitioner the amount of Rs. 7,27,83,010/- within 10 days from the date of uploading of this order. If this is not done, the first Respondent will have to pay interest, over and above any statutorily payable interest, @ 6% per annum. Such additional interest will have to be first paid by the Respondents to the Petitioner, and thereafter the Respondents will have to hold an inquiry, determine the liability, and recover this additional amount from the officer/officers responsible for the delay. Under no circumstances should the State/Central Exchequer be made accountable for payment of additional amounts from out of the taxpayers' funds.

¹ 2023 (3) TMI 327

10. The Rule is made absolute in the above terms without any order for costs.

11. All concerned must act on an authenticated copy of this order.

12. An authenticated copy of this order must be brought to the notice of the second and third Respondents so that they too can take emergent and appropriate action in this matter.

(Advait M. Sethna, J)

(M.S. Sonak, J.)