**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

WRIT PETITION NO. 2171 OF 2025

(M/s. Patanjali Foods Ltd. ..vs..The Joint Commissioner, CGST and Central Excise, Nagpur -1 and others)

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

Mr. R.M. Bhangde, Counsel for the petitioner,
Mr. Nalamwar, Counsel for the respondents.

**CORAM : AVINASH G. GHAROTE &
ABHAY J. MANTRI, JJ.**

DATE : 22-04-2025

The show cause notice dated 23-7-2024 (Page No.255) was in respect of GST for the duration 2017 to 2022. The consequent order dated 13-1-2025 (Page No.335) is also a composite order for the above duration. It is contended that the petitioner has acquired the property on account of transfer in pursuance to insolvency proceedings under the IB Code in which the resolution plan was approved by the adjudicating authority under section 31(1) of the IB Code on 04-9-2019, appeal against which came to be rejected on 09-12-2019 by the National Company Law Appellate Tribunal (NCLAT) consequent to which the petitioner was placed in charge of the affairs of the company. Though Mr. Bhangde, learned Counsel for the petitioner, does not dispute that the period subsequent to the NCLAT order dated 04-9-2019, could be considered by the authorities, for the purpose of determining the GST liability, it is contended that the period earlier in point of time, would be covered by what has been held by the Hon'ble Apex Court in ***Ghanshyam Mishra And Sons Pvt. Ltd. v. Edelweiss Asset Reconstruction Company Ltd., (2021) 9 SCC 657.*** It is also his contention that since the show cause as well as the impugned order passed, there is common notice for the entire duration, there is no possibility of segregation of the claims, so as to enable the petitioner to file a claim in respect of the levy, post the 04-9-2019 order as Section 107(6) requires payment of 10% penalty over the entire amount.

2. List the matter on 23-4-2025, by which time, Mr. Nalamwar, learned Counsel for the respondents, to take instructions whether the respondents are willing to pass an order afresh segregating the aforesaid periods.

(ABHAY J. MANTRI, J.) **(AVINASH G. GHAROTE, J.)**

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