2026:DHC:6507-DB

$~48 and 49

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Date of Decision: 07.08.2026***

\# **CNR No. DLHC010483882025**

+ W.P.(C) 10640/2025 and CM APPL. 44047/2025

SARASWATI PRINTERS .....Petitioner

Through: Mr. Chinmaya Seth, Mr. A.K. Seth, Ms. Palak Mathur, Mr. Karanveer singh, Advs.

versus

SALES TAX OFFICER CLASS II/AVATO, STATE TAX WARD 91, ZONE 8 DELHI AND ORS. .....Respondents

Through: Mr. Sumit K. Batra and Ms. Priyanka Jindal, Advs. for GNCTD

Mr.Devvrat Yadav (SPC), Mr. Kartik Sharma (GP) for UOI

(49)

\# **CNR No. DLHC010484742025**

+ W.P.(C) 10724/2025 and CM APPL. 44370/2025

FABGAR OVERSEAS PRIVATE LIMITED .....Petitioner

Through: Mr. Chinmaya Seth, Mr. A.K. Seth, Ms. Palak Mathur, Mr. Karanveer singh, Advs.

versus

SALES TAX OFFICER CLASS II/AVATO, STATE TAX WARD 81, ZONE 7, DELHI AND ORS .....Respondents

Through: Mr. Sumit K. Batra and Ms. Priyanka Jindal, Advs. for GNCTD

Mr. Piyush Beriwal, Ms Ruchita Srivastava,Mr. Sparsh Jain, Advs. for R-4 & 5

Mr. Anurag Ojha, SSC, Mr. Dipak Raj, Mr. Aryaman Singh Chouhan, Mr. Aditya Chaudhary, Advs.

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MS. JUSTICE SHAIL JAIN

ORDER (ORAL)

ANIL KSHETARPAL, J.:

1. By way of this common order, this Court shall dispose of W.P.(C) 10640/2025 and W.P.(C) 10724/2025, as both petitions raise an identical challenge to Notification No. 40/2021-Central Tax dated 29.12.2021 and Notification No. 40/2021-State Tax (Delhi) dated 09.06.2022.

2. The Petitioners had challenged the aforesaid Notifications as being ultra vires Section 164 of the Central Goods and Services Tax Act, 2017 and the Delhi Goods and Services Tax Act, 2017. Consequently, the Petitioners had also challenged the respective Show Cause Notices (hereinafter referred to as the "SCNs") and Demand Orders issued under Section 73 of the said enactments for the Financial Year 2020-21 as being barred by limitation.

3. On 06.08.2026, learned counsel representing the Petitioners sought a short accommodation to obtain instructions in view of the judgment passed by the Division Bench of the Punjab and Haryana High Court in ***Luxmi Traders v. Union Territory of Chandigarh and Others***, CWP-27139-2025 (O&M) and other connected matters, decided on 21.07.2026.

4. Learned counsel representing the Petitioners, upon instructions, submits that the challenge to the aforesaid Notifications is not pressed.

He, however, prays that the petitions be disposed of in terms of the judgment in ***Luxmi Traders*** *(supra)*.

5. In paragraph 60 of ***Luxmi Traders*** *(supra)*, the Division Bench has held as under:

> *"60. On the basis of discussions and deliberations aforesaid, we come to the following conclusions:-*
>
> ***(i)*** *Service of SCN upon the petitioner/assessee concerned cannot be deemed sufficient merely on account of its uploading on the Common Portal, unless its receipt is acknowledged or a reply is filed.*
>
> ***(ii)*** *Where SCN is served only by way of uploading it on the Common Portal and in the absence of reply filed by the petitioner/assessee concerned, ex parte order is passed in original, the proceedings would stand restored to the stage of issuance of SCN and the petitioner would be at liberty to file reply to the SCN within a period of* ***four weeks*** *from today whereafter, the Department shall proceed further after affording required opportunity of hearing.*
>
> ***(iii)*** *In case where the order-in-original is passed after contest, and is served only by uploading it on the Common Portal, the period of limitation for filing of appeal would not be triggered, and the assessee aggrieved will have the right to file an appeal within a period of* ***four weeks*** *from today.*
>
> ***(iv)*** *Where appeals filed against the order-in-original, which was served only by uploading it on the Common Portal are dismissed on the ground of limitation, the order of the Appellate Court shall be set aside and the appeal would stand restored to its original number, and would be heard and decided on merits.*
>
> ***(v)*** *In cases where SCNs were served only on portal and ex parte adjudication order was passed for want of reply of assessee and appeal against the said order was dismissed on the ground of delay, both adjudication order and order-in-appeal shall be set aside and proceedings will be restored at the stage of issuance of SCN and petitioner/assessee shall be at liberty to file reply to SCN within* ***four weeks*** *from today, whereafter, the department shall proceed further after affording due opportunity of hearing."*

6. Although the two petitions were instituted on an identical legal premise, the factual position concerning the response to the respective SCNs is not the same.

7. In W.P.(C) 10640/2025, captioned ***Saraswati Printers v. Sales Tax Officer Class-II/AVATO & Others***, the Petitioner had filed a reply to the SCN dated 27.11.2024. The Petitioner had, therefore, acknowledged the SCN and participated in the adjudication proceedings. Consequently, the proceedings cannot be restored to the stage of issuance of the SCN under paragraph 60(ii) of ***Luxmi Traders*** *(supra).*

8. However, since the Demand Order dated 27.02.2025 was served only by uploading it on the Common Portal, the Petitioner shall be entitled to file a statutory appeal against the said Order within a period of four weeks from the date of this Order. If such an appeal is filed within the aforesaid period, upon compliance with the other statutory requirements, it shall be entertained without raising any objection regarding limitation and shall be decided on its merits.

9. In W.P.(C) 10724/2025, captioned ***Fabgar Overseas Private Limited v. Sales Tax Officer Class-II/AVATO & Others***, the SCN dated 20.11.2024 was served only by uploading it on the Common Portal. No reply thereto was filed by the Petitioner and the Demand Order dated 21.02.2025 was passed *ex parte*. Accordingly, the present case is squarely covered by the conclusion recorded in paragraph 60(ii) of ***Luxmi Traders*** *(supra).* The said Demand Order is, therefore, set aside and the proceedings are restored to the stage of issuance of the SCN.

10. The Petitioner in W.P.(C) 10724/2025 shall file its reply to the SCN dated 20.11.2024 within a period of four weeks from the date of

this Order. Thereafter, the Adjudicating Authority shall afford an opportunity of personal hearing to the Petitioner and pass a fresh reasoned order in accordance with law.

11. The challenge to Notification No. 40/2021-Central Tax dated 29.12.2021 and Notification No. 40/2021-State Tax (Delhi) dated 09.06.2022 is dismissed as not pressed. The question concerning the validity of the said Notifications is, therefore, left undecided. This Court has not expressed any opinion on the merits of the respective tax demands.

12. With these observations and directions, the present Writ Petitions, along with the pending applications, are disposed of.

ANIL KSHETARPAL, J.

SHAIL JAIN, J.

AUGUST 7, 2026/sp/ad