2026:DHC:9101-DB

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

% ***Date of Decision: 13.10.2026***

CNR No. DLHC010493662026

\+ W.P.(C) 15157/2026, CM APPL. 71176/2026 and CM APPL. 71177/2026

HANS RAJ KAUSHIK PROP KAUSHIK INDUSTRIES

.....Petitioner

Through: Mr. A.K. Babbar and Mr. B.K. Tripathi, Adv

versus

UNION OF INDIA, THROUGH SECRETARY & ORS.

.....Respondents

Through: Mr. Prateek Tanwar, SPC, UOI with Ms. Khanak Tanwar and Mr. Sarthak Rana, Advs. for R-1.

Ms. Monica Benjamin, SSC with Ms. Laiba Arif and Ms. Prerika Narang, Advs. for R-2 and R-3

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MR. JUSTICE BHARAT PARASHAR

J U D G M E N T (ORAL)

ANIL KSHETARPAL, J.:

1. Through the present Writ Petition, the Petitioner assails the Show Cause Notice dated 30.06.2025 (hereinafter, the 'Impugned SCN'), the consequential Order-in-Original dated 17.12.2025 (hereinafter, the 'Impugned OIO') and the subsequent order described as a rectification order dated 30.12.2025, passed in proceedings under the Central Goods and Services Tax Act, 2017 (hereinafter, the 'CGST Act'). The impugned adjudication proceedings pertain to the

Financial Year 2018-2019 and have culminated in the imposition of penalty upon the Petitioner.

2. The principal challenge initially raised by the Petitioner to the impugned proceedings was that the Impugned SCN had been issued without jurisdiction, purportedly in the absence of a valid assignment of the relevant functions under Section 122 of the CGST Act to the concerned Proper Officer. In this regard, the Petitioner had relied upon Circular No. 254/11/2025-GST dated 27.10.2025 and contended that a subsequent delegation of powers could not validate a SCN issued on an earlier date. However, during the course of arguments, learned counsel representing the Petitioner did not press the said challenge. The issues that survive for consideration in the present Writ Petition, therefore, concern the service of the adjudication order and the applicability of the statutory requirement of pre-deposit under Section 107(6) of the CGST Act.

3. At the outset, it is not in dispute that a statutory remedy of appeal is available to the Petitioner against the Impugned OIO. The controversy concerning the date and mode of communication of the said order, including the subsequent uploading of the omitted pages, is relevant to the question of limitation for availing the appellate remedy. These issues can appropriately be considered by the Appellate Authority in accordance with law.

4. Learned counsel representing the Petitioner submits that, although the Impugned OIO was passed on 17.12.2025, the Petitioner acquired knowledge thereof only on 11.05.2026, when the relevant





particulars became available upon accessing the GST portal. It is contended that the Petitioner had earlier submitted a reply dated 18.08.2025 to the SCN but did not receive effective communication regarding the subsequent adjudication order. The Petitioner attributes this circumstance, *inter alia*, to the fact that the person who had been assisting him in handling the tax-related proceedings was no longer in contact with him.

5. Learned counsel representing the Petitioner further submits that the business premises of the Petitioner were inspected and the Petitioner was not found to be operating from the registered premises. In this regard, reliance is placed upon Paragraph No.2.5 of the Impugned OIO. It is contended that, in such circumstances, the mere assertion that the order was sent to the registered address by Speed Post would not, by itself, conclusively establish effective service upon the Petitioner. The Petitioner accordingly submits that the question of service, and the consequential computation of limitation for availing the statutory appellate remedy, require appropriate consideration.

6. In support of his submissions, learned counsel representing the Petitioner places reliance upon the judgment of the Division Bench of the High Court of Punjab and Haryana in ***Luxmi Traders v. Union Territory of Chandigarh & Ors.***[1] The Petitioner seeks to rely upon the principles concerning service of notices and orders through the common GST portal and the consequences thereof for the computation of limitation for filing an appeal.

[1] (2026) 44 Centax 371 (P&H)





7. Learned counsel representing the Petitioner also relies upon the judgment dated 31.07.2026 of this Court passed in W.P.(C) 8414/2026 captioned ***Gaurav Jain & Anr. v. Joint Commissioner (Appeals-II), CGST, Delhi Zone & Anr.*** It is submitted that, in view of the nature of the liability imposed upon the Petitioner and the date on which the proceedings were initiated, the Petitioner is entitled to the benefit of the said judgment in relation to the requirement of pre-deposit under Section 107(6) of the CGST Act, as amended with effect from 01.10.2025.

8. *Per contra*, learned counsel representing the Respondents submits that the Impugned OIO was duly transmitted to the Petitioner at his registered email address as well as by Speed Post at the address available in the registration records. It is contended that the Respondents had adopted the prescribed modes of communication and that the Petitioner cannot, merely on the ground of having subsequently accessed the GST portal, contend that the adjudication order was not communicated to him.

9. Learned counsel representing the Respondents further clarifies that the subsequent uploading of the relevant pages on 31.12.2025 was not occasioned by any substantive rectification or modification of the Impugned OIO. According to the Respondents, two pages of the said order had not been uploaded earlier and were subsequently uploaded on 31.12.2025. It is, therefore, submitted that the subsequent uploading of the omitted pages should not be construed as the passing of a fresh adjudication order or as giving rise, by itself, to a fresh period of limitation.

10. This Court has considered the submissions advanced by learned counsel representing the parties and perused the material placed on record.

11. The first aspect requiring consideration is the availability of the statutory appellate remedy. The Petitioner has raised several issues, including the validity of service of the adjudication order, the date on which the Petitioner acquired knowledge thereof, the effect of the subsequent uploading of the omitted pages and the computation of the period of limitation for filing an appeal. The Respondents, on the other hand, maintain that the order was served on the registered email address and *via* Speed Post.

12. The rival contentions concerning the actual modes of service, the material available in support of such service and the circumstances in which the Petitioner claims to have acquired knowledge of the adjudication order require examination in the light of the relevant statutory provisions and the material available on record. These are matters which can appropriately be urged before and examined by the competent Appellate Authority in the proceedings arising from the Impugned OIO.

13. The Petitioner would also be at liberty to place reliance upon the judgment in ***Luxmi Traders*** *(supra)*, insofar as the principles laid down therein are applicable to the facts of the present case. The applicability of the said judgment would have to be considered in the context of the actual mode of service adopted in the Petitioner's case, particularly in view of the Respondents' specific assertion that the

order was sent not only through the GST portal but also by registered email and Speed Post.

14. In the circumstances, this Court considers it appropriate to leave the aforesaid issues open for consideration by the Appellate Authority. No conclusive finding on the validity or sufficiency of service, the date of communication of the Impugned OIO or the computation of limitation is being returned in the present proceedings. The Petitioner shall be at liberty to raise all legally available grounds in this regard, and the Appellate Authority shall consider the same in accordance with law.

15. The next issue concerns the requirement of pre-deposit for maintaining a statutory appeal under Section 107(6) of the CGST Act. Learned counsel representing the Petitioner submits that the impugned adjudication has resulted in the imposition of penalty alone and that the proceedings were initiated prior to the amendment which came into effect on 01.10.2025. On this basis, the Petitioner claims the benefit of the judgment of this Court in ***Gaurav Jain*** *(supra)*.

16. Having regard to the nature of the liability imposed upon the Petitioner, namely, a demand towards penalty alone, and the fact that the Impugned SCN was issued prior to the amendment which came into effect on 01.10.2025, the Petitioner is entitled to the benefit of the judgment of this Court in ***Gaurav Jain*** *(supra)*. Accordingly, the requirement of pre-deposit for maintaining the statutory appeal shall be governed by the principles laid down in the said judgment. It is clarified that the finding recorded herein concerning the requirement

of pre-deposit is confined to Section 107(6) of the CGST Act.

17. The challenge to the competence of the Proper Officer under Section 122 of the CGST Act was not pressed during arguments and has not been examined by this Court on merits. The Petitioner shall, however, be at liberty to raise the said issue, along with other permissible grounds concerning the validity of service, limitation and the applicability of the judgments referred to herein, before the competent Appellate Authority, which shall consider the same in accordance with law.

18. In the event the Petitioner files an application under Section 14 of the Limitation Act, 1963, seeking exclusion of the period during which the present Writ Petition remained pending, the Appellate Authority shall consider such application in accordance with law. The mere filing of such an application shall not be construed as an automatic exclusion of the said period, and the question shall be determined by the Appellate Authority in the light of the applicable legal principles and the facts placed before it.

19. It is made clear that this Court has not expressed any opinion on the merits of the demand raised against the Petitioner, the competence of the Proper Officer under Section 122 of the CGST Act, the validity or sufficiency of service of the Impugned OIO, the computation of limitation or the ultimate maintainability of the proposed appeal. These questions, subject to the finding recorded herein concerning the applicability of ***Gaurav Jain*** *(supra)* to the requirement of pre-deposit, are left open for consideration by the competent authority in

accordance with law.

20. In view of the aforesaid observations, the Writ Petition is disposed of. Pending applications also stand disposed of.

ANIL KSHETARPAL, J.

BHARAT PARASHAR, J.

OCTOBER 13, 2026
sp/pal/shah