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

\# **CNR No. DLHC010291732026**

\+ W.P.(C) 9141/2026, CM APPL. 42934/2026 and CM APPL. 42935/2026

VYOME THERAPEUTICS LIMITED .....Petitioner

Through: Ms. Kavita Jha, Sr. Adv. along with Mr. Shammi Kapoor and Mr. Sandeep Gupta, Advs.

versus

THE COMMISSIONER OF CGST (EAST) DELHI & ORS. .....Respondents

Through: Mr. Akash Verma, SSC with Ms. Aanchal Uppal, Adv.

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

O R D E R

% 12.08.2026

1. The availability of alternative statutory remedy of Appeal against the Impugned Order dated 28.03.2026 is not in dispute.

2. However, learned senior counsel representing the Petitioner contends that the Order was required to be passed within a period of five (05) years from the date of erroneous refund, in terms of the latter limb of Section 74(10) of the Central Goods and Service Tax Act, 2017 [hereinafter referred to as ‘CGST Act’].

3. She further submits that since the Order has been passed beyond the aforesaid period of five (05) years, this Court should entertain the present Writ Petition and the Petitioner ought not to be relegated to the remedy of Statutory Appeal.

4. *Per contra*, learned counsel representing the Respondent submits that the Petitioner was subjected to audit under Section 65 of the CGST Act and, during the course thereof, it came to the notice of the Department that an erroneous refund had been granted.

5. It is further submitted that in the present case, first limb of sub-Section 10 of Section 74 of the CGST Act would be applicable, which prescribes a period of five (05) years from the due date for furnishing annual return for the relevant financial year. He submits that the relevant financial year is 2019-20 and the due date for furnishing the annual return was initially extended up to 28.02.2021 *vide* Notification No. 95/2020-Central Tax dated 30.12.2020 and, thereafter, up to 31.03.2021 *vide* Notification No. 04/2021-Central Tax dated 28.02.2021.

6. In rejoinder, learned senior counsel representing the Petitioner submits that it is not a case of audit but of adjudication.

7. This Court has considered the submissions advanced by learned counsel representing the parties and is of the opinion that it is a debatable as to which limb of Section 74(10) of the CGST Act would be applicable in the facts of the present case. Section 74(10) of the Act contemplates different starting points for computation of limitation depending upon the nature of the demand. In the facts of the present case, there is a dispute as to the applicable starting point for computation of the period of limitation under the said provision.

8. Determination of the aforesaid issue would require examination of the nature of the demand, the underlying proceedings and the factual foundation of the adjudication. In these circumstances, this Court is not inclined to examine the said issue in exercise of its writ jurisdiction. Accordingly, the Petitioner is relegated to the alternative

statutory remedy of Appeal.

9. Needless to observe, if the Petitioner files an application under Section 14 of the Limitation Act, 1963 seeking exclusion of the period for which the present Writ Petition has remained pending, the same shall be considered pragmatically by the Appellate Authority.

10. With these observations, the present Writ Petition, along with pending application, is disposed of.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.

AUGUST 12, 2026

s.godara/ad