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* IN THE HIGH COURT OF DELHI AT NEW DELHI
% ***Judgment reserved on: 23.09.2026***
Judgment pronounced on: 29.09.2026
Judgment uploaded on: 29.09.2026

\# **CNR No. DLHC010458302025**
\+ W.P.(C) 10213/2025 & CM APPL. 42602/2025
DHRUV MEDICOS PVT LTD .....Petitioner
Through: Mr. Preetam Singh, Adv.

versus

DEPUTY COMMISSIONER, CENTRAL GST CIRCLE 5, AUDIT-I, DELHI & ORS. .....Respondents
Through: Mr. Arun Khatri, SSC, Mr. Mudit Gupta, Sr. Standing Counsel with Mr. K.V. Bhaskar Reddy, Assistant Commissioner, CGST Delhi East Commissioner and Mr. Tribhuwan Yadav, Deputy Commissioner (CGST Division Laxmi Nagar) , Ms. Anoushka Bhalla, Adv. , Mr. Pranavjeet, Adv for CGST.

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

J U D G M E N T

ANIL KSHETARPAL, J.:

1. Through the present Writ Petition, the Petitioner assails the proceedings initiated pursuant to the audit conducted in respect of the Petitioner under the Central Goods and Services Tax Act, 2017 [hereinafter referred to as 'CGST Act']. The principal challenge in the

present proceedings is to the Demand-cum-Show Cause Notice bearing No. 137 dated 27.06.2025 [hereinafter referred to as 'Impugned SCN'], issued under Section 74 of the CGST Act.

2. The Petitioner has also challenged the Audit Report No. 111/2025-2026 dated 29.04.2025 and has sought, *inter alia*, a direction to the Respondents to consider the reply dated 18.06.2025 submitted by the Petitioner to the audit objections. The Petitioner has further sought a direction that the amount of Rs.40,10,153/- deposited by it through Form GST DRC-03 on 25.03.2025 be not appropriated, as according to the Petitioner, the said amount was deposited under coercion.

FACTUAL MATRIX:

3. In order to appreciate the controversy involved in the present Petition, the relevant facts, in brief, are required to be noticed.

4. The Petitioner is a private limited company stated to be engaged in the business of distribution of medicines. The audit proceedings in question commenced with the issuance of a Notice of Audit in Form GST ADT-01 dated 06.09.2024. The said notice was received by the Petitioner on 09.09.2024. According to the Petitioner, the audit was initially stated to cover the period from 01.04.2018 to 31.03.2023.

5. The Petitioner states that, pursuant to the aforesaid notice, various documents and information were furnished to the Respondents between November 2024 and January 2025. Further communications seeking information were received by the Petitioner on 19.01.2025,

26.02.2025 and 15.03.2025, to which the Petitioner claims to have responded by furnishing the information sought.

6. Thereafter, an onsite audit was conducted at the premises of the Petitioner between 20.03.2025 and 25.03.2025. The Petitioner alleges that, during the course of the onsite audit, the audit team sought to extend the scope of the audit and also sought information pertaining to periods beyond those mentioned in the original audit notice.

7. The principal grievance of the Petitioner arising from the onsite audit concerns a payment of Rs.40,10,153/- made through Form GST DRC-03 on 25.03.2025. According to the Petitioner, the said payment was not voluntary and was made under coercion exercised by the audit team. The Petitioner states that it had requested that a formal communication or audit memo setting out the alleged liability and the basis for the demand be furnished before any payment was made. According to the Petitioner, despite such request, it was required to make the aforesaid deposit.

8. The Petitioner thereafter addressed a communication dated 29.03.2025 to the concerned authorities, specifically raising its grievance regarding the circumstances in which the aforesaid amount had been deposited. The Petitioner also stated that the payment ought not to be treated as a voluntary payment or as an admission of liability. The Petitioner thereafter claims to have met Respondent No.2 on 04.04.2025 and brought to his notice the alleged coercion as well as the other grievances concerning the conduct of the audit. According to the Petitioner, an Audit Memo bearing date 28.03.2025 was

thereafter supplied to it on 04.04.2025, both through email and by post.

9. The said Audit Memo required the Petitioner to deposit an amount of Rs.75,41,830/-, besides applicable interest and penalty. The Petitioner states that the Audit Memo did not contain adequate details or workings explaining the basis on which the alleged liability had been computed. The Petitioner accordingly addressed communications dated 09.04.2025 and 11.04.2025 seeking the basis and workings of the proposed liability and also raising objections to the manner in which the audit proceedings had been conducted. The Petitioner states that a further reminder was submitted on 25.04.2025.

10. In the meantime, an Audit Report dated 29.04.2025 was issued. The Petitioner states that the amount of Rs.40,10,153/- which had already been deposited by it through Form GST DRC-03 was appropriated. The Petitioner further states that the detailed workings relied upon for arriving at the alleged liability were furnished to it only on 14.05.2025. According to the Petitioner, the supply of such material after issuance of the Audit Report deprived it of an effective opportunity to respond to the audit objections at the audit stage.

11. Thereafter, the Respondent issued an intimation in Form GST DRC-01A dated 02.06.2025, intimating the Petitioner of the proposed liability and calling upon it to make payment, failing which proceedings under Section 74 of the CGST Act would be initiated. The Petitioner submitted a detailed reply dated 18.06.2025. The reply, according to the Petitioner, comprised detailed submissions against

each of the audit objections and was accompanied by supporting documents. The Petitioner also requested an opportunity of personal hearing.

12. In the said reply, the Petitioner disputed, *inter alia*, the invocation of Section 74 of the CGST Act, the limitation in respect of the liability pertaining to Financial Year 2017-18, the manner in which the audit had been conducted, the alleged appropriation of the amount deposited on 25.03.2025, and the computation of various components of the proposed tax liability.

13. The Petitioner also furnished objection-wise submissions in respect of the various audit findings. According to the Petitioner, substantial portions of the proposed demand were either unsustainable on merits, already discharged, incorrectly computed or otherwise liable to be excluded. The Petitioner thereafter came to be served with the Impugned SCN dated 27.06.2025 under Section 74 of the CGST Act.

SUBMISSIONS ON BEHALF OF THE PARTIES:

14. Learned counsel for the Petitioner has primarily relied upon Rule 101(4) of the Central Goods and Services Tax Rules, 2017 [hereinafter referred to as 'CGST Rules']. It was submitted that the said provision requires the proper officer to finalize the findings of the audit after due consideration of the reply furnished by the registered person.

15. It was submitted that the expression "shall" occurring in the

aforesaid provision makes it mandatory for the proper officer to consider the reply furnished by the assessee before finalizing the audit findings. According to learned counsel, the statutory requirement has not been complied with in the present case since the detailed reply submitted by the Petitioner has been dealt with in the Impugned SCN merely by describing it as "non-satisfactory".

16. Learned counsel has also drawn the attention of the Court to the various objections raised by the Petitioner in its reply, including the objection concerning limitation in respect of Financial Year 2017-18, the alleged non-voluntary nature of the payment of Rs.40,10,153/-, the computation of the proposed liability and the other audit objections.

ANALYSIS & FINDINGS:

17. This Court has considered the submissions advanced by learned counsel appearing for the Petitioner and has also examined the nature of the relief sought in the present proceedings.

18. At the outset, it is necessary to notice the stage at which the Petitioner has approached this Court. The audit proceedings have culminated in an Audit Report dated 29.04.2025. Thereafter, the Respondents issued Form GST DRC-01A dated 02.06.2025 and, upon consideration of the matter at that stage, have proceeded to issue the Impugned SCN dated 27.06.2025 under Section 74 of the CGST Act.

19. Thus, the statutory adjudicatory proceedings contemplated under the CGST Act have already been set in motion. The Impugned SCN calls upon the Petitioner to show cause against the proposed

demand. The issuance of a show cause notice, by itself, does not amount to determination of the liability of the Petitioner. The allegations and proposals contained therein remain to be adjudicated upon by the competent authority in accordance with law.

20. The distinction between an audit proceeding and the subsequent adjudicatory proceeding is material in the present case. The Audit Report constitutes the outcome of the audit process. However, once proceedings under Section 74 of the CGST Act have been initiated by issuance of a show cause notice, the Petitioner has an opportunity to place before the adjudicating authority all objections which it seeks to raise against the proposed demand.

21. The Petitioner has, in fact, already prepared and placed on record a detailed response setting out its objections to the audit findings and the proposed liability. The objections raised by the Petitioner are not confined to the alleged non-consideration of its reply. The Petitioner has raised several issues on merits as well as issues relating to limitation, computation, jurisdiction, the manner of audit and the treatment of the amount deposited on 25.03.2025.

22. In the present proceedings, however, this Court is not required to examine the correctness of each of those objections at this stage. The question before this Court is whether the issuance of the Impugned SCN warrants interference merely because the Petitioner contends that its reply to the audit proceedings was not dealt with adequately.

23. Learned counsel for the Petitioner has specifically relied upon Rule 101(4) of the CGST Rules and has contended that the use of the expression "*shall*" therein makes consideration of the reply furnished by the registered person mandatory.

24. There can be no dispute with the proposition that a statutory requirement which obliges the proper officer to consider the reply furnished by a registered person is required to be complied with. Equally, however, the question whether the reply furnished by the Petitioner has been considered, whether the consideration was adequate, and what effect is required to be given to the objections raised by the Petitioner are matters which can appropriately be examined in the course of the adjudicatory proceedings.

25. In the present case, it cannot be said, at this stage, that the audit authorities have wholly ignored the existence of the reply furnished by the Petitioner. The impugned proceedings specifically refer to the reply dated 18.06.2025 and record the conclusion that the same was not satisfactory.

26. The mere fact that the reply has been dealt with in one sentence cannot, by itself, result in this Court entering into an adjudication of the underlying tax liability or quashing the subsequent show cause notice. Whether the manner in which the reply has been dealt with satisfies the statutory requirement, and whether the objections raised by the Petitioner warrant acceptance, rejection or partial acceptance, are matters which can be examined by the competent Adjudicating Authority.

27. The Petitioner would, therefore, be entitled to place before the Adjudicating Authority its complete reply and all the objections which it has raised in the present proceedings. This would include its objections concerning the audit process, the alleged failure to consider its reply at the audit stage, the alleged coercion in respect of the payment of Rs.40,10,153/-, the question of appropriation of the said amount, the alleged limitation in respect of Financial Year 2017-18, the computation of the proposed liability, as well as all other objections which may otherwise be available to the Petitioner in law.

28. It is clarified that this Court has not examined the merits of any of the aforesaid objections. No opinion is being expressed as to whether the payment of Rs.40,10,153/- was voluntary or was made under coercion. Likewise, this Court has not examined the Petitioner's contention regarding limitation, the alleged jurisdictional objection to the audit, the correctness of the computation of the proposed demand, or the validity of the audit findings. All such issues are left open for consideration by the competent authority in accordance with law.

29. The Petitioner shall, therefore, be at liberty to place its objections before the Adjudicating Authority in response to the Impugned SCN. The Adjudicating Authority shall consider the objections raised by the Petitioner independently and in accordance with law. The fact that the present Court is relegating the Petitioner to the statutory adjudicatory mechanism shall not be construed as an expression of opinion by this Court on any of the substantive objections raised by the Petitioner.

30. The Petitioner has also sought a direction concerning the amount of Rs.40,10,153/- deposited through Form GST DRC-03. The Petitioner contends that the amount was deposited under coercion and should not be appropriated. Since the question as to the nature and legal effect of the said payment is itself one of the issues raised by the Petitioner in relation to the proposed liability, the same can also be placed before and considered by the Adjudicating Authority in the course of the proceedings arising from the Impugned SCN.

31. At this stage, therefore, this Court does not consider it appropriate to interdict the statutory adjudicatory process merely because the Petitioner disputes the manner in which its reply was dealt with at the preceding audit stage. The appropriate course would be to permit the statutory authority before whom the Section 74 proceedings are pending to examine the entire matter, including the objections raised by the Petitioner.

CONTEMPT PROCEEDINGS:

32. It is noticed that, during the pendency of the present proceedings, an allegation was raised regarding violation of an interim order dated 27.07.2025, pursuant to which notice was issued to Respondent No.5 requiring his personal appearance and also calling upon him to show cause as to why contempt proceedings ought not to be initiated.

33. Respondent No.5 has submitted his response to the said notice and has explained that the order dated 24.07.2025 was not within his

notice when the notice requiring his personal appearance was issued.

34. In view of the fact that the Petitioner is being relegated to the statutory remedy before the Adjudicating Authority and keeping in view the explanation furnished by Respondent No.5, this Court does not consider it appropriate to continue the contempt proceedings arising out of the aforesaid notice.

35. Consequently, the contempt proceedings are closed.

CONCLUSION:

36. For the reasons recorded above, no interference is warranted by this Court at the present stage with the Impugned SCN dated 27.06.2025. The Petitioner shall be at liberty to raise, before the Adjudicating Authority, all objections available to it in law, including those raised in the present Writ Petition and in its reply dated 18.06.2025.

37. It is made clear that the observations contained in the present judgment are confined to the issue of entertainability of Writ Petition at the stage of the Impugned SCN. This Court has not expressed any opinion on the merits of the audit objections, the proposed tax liability, the question of limitation, the alleged coercion in respect of the payment made on 25.03.2025, the appropriation thereof, or any other substantive objection raised by the Petitioner. All such issues are left open for consideration by the competent authority in accordance with law.

38. The Adjudicating Authority shall consider the objections raised by the Petitioner in accordance with law and independently on their own merits.

39. With the aforesaid observations, the present Writ Petition, along with the pending application, is disposed of.

ANIL KSHETARPAL, J.

BHARAT PARSHAR, J.

SEPTEMBER 29, 2026
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