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

\+ W.P.(C) 6449/2026 & CM APPL. 31839/2026

DEEPAK SHARMA .....Petitioner

Through: Mr. Udit Bakshi, Mr. Bhwesh Bhola, Mr. Piyush Kumar and Ms. Niyati Dayma, Advs.

versus

COMMISSIONER, DEPARTMENT OF TRADE AND TAXES, GOVT OF NCT OF DELHI. .....Respondent

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

CORAM:
HON'BLE MR. JUSTICE NITIN WASUDEO SAMBRE
HON'BLE MR. JUSTICE AJAY DIGPAUL

O R D E R

% **12.05.2026**

1. The present writ petition under Article 226 of the Constitution of India assails the Order-in-Original dated 30.12.2025 passed under Section 74 of the Central Goods and Services Tax Act, 2017 (hereinafter the CGST Act) bearing Reference No. ZD0712250855671 along with Form GST DRC-07 for the Financial Year 2017–2018, whereby a total demand of Rs. 27,13,098/- has been confirmed against the Petitioner.

2. The Petitioner is a registered person under the GST regime holding Registration No. 07AWBPS3597D1ZB in respect of his proprietorship concern, M/s Days Trading Co.

3. A Show Cause Notice dated 22.09.2021 bearing Reference No. ZD070921017165K was issued under Section 74 of the CGST Act for Financial Year 2017–2018, proposing a demand on account of alleged wrongful availment of Input Tax Credit and non-compliance, including

failure to respond to discrepancies communicated vide ASMT-10 dated 14.01.2021, and to furnish a reply thereto.

4. Thereafter, the impugned Order-in-Original dated 30.12.2025 came to be passed confirming the aforesaid demand for the Financial Year 2017–2018.

5. Learned counsel for the Petitioner submits that the impugned order is liable to be set aside as the same has been passed beyond the statutory period prescribed under the CGST Act. It is submitted that Section 74(10) mandates that an order must be passed within a period of five years from the due date for the filing of the annual return of the relevant financial year. In the present case, for Financial Year 2017–2018, the due date for filing the annual return stood extended to 05.02.2020, and therefore the last date for passing the order would be 05.02.2025.

6. It is further submitted that the impugned order has been passed on 30.12.2025, i.e., after a delay of more than eleven months beyond the prescribed statutory period, rendering the same barred by limitation. It is submitted that the limitation prescribed under Section 74(10) is mandatory in nature and once the period lapses, the authority becomes *functus officio* and lacks jurisdiction to pass any order.

7. Mr. Batra, learned counsel appearing for the Respondent, submits that the impugned Order-in-Original, having been passed on 30.12.2025, i.e., after a delay of more than eleven months beyond the prescribed statutory period, is beyond the limitation contemplated under Section 74(10) of the CGST Act.

8. Heard. Perused the record.

9. A perusal of Section 74(10) of the CGST Act makes it clear that the proper officer is required to pass an order within a period of five years from the due date of furnishing of the annual return for the relevant financial year. In the present case, it is not in dispute that the due date for filing the annual return for Financial Year 2017–2018 was extended to 05.02.2020. Consequently, the outer limit for passing the order expired on 05.02.2025. The impugned Order-in-Original having been passed on 30.12.2025 is clearly beyond the statutory period prescribed. It is also now a matter of record that the Respondent has fairly admitted that the impugned order is beyond the statutory period of five years as stipulated under Section 74(10) of the CGST Act. The impugned order thus suffers from lack of jurisdiction. The mandate of limitation under Section 74(10) is mandatory and cannot be relaxed.

10. In view of the above, the present petition is allowed. The impugned Order-in-Original dated 30.12.2025 bearing Reference No. ZD0712250855671 along with Form GST DRC-07 is quashed and set aside.

11. The petition along with pending applications, if any, stands disposed of.

NITIN WASUDEO SAMBRE, J

AJAY DIGPAUL, J

MAY 12, 2026/*AS/sg*