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

\# **CNR No. DLHC010476252026**

\+ W.P.(C) 14630/2026, CM APPL. 68431/2026, CM APPL. 68432/2026, CM APPL. 68433/2026

M/S LEXORBIS CONSULTING PVT LTD .....Petitioner

Through: Mr. Akhil Sibbal, Sr. Adv. and Mr. Ramesh Babu, Sr. Adv. with Mr. Abhai Pandey, Ms. Nisha Sharma, Mr. Deepanjan Dutta, Mr. Krishnesh Bapat, Mr. Mridul Tiwari, Ms. Ayushi Pandey, Advs.

versus

SPECIAL COMMISSIONER I DEPARTMENT OF TRADE AND TAXES APPELLATE AUTHORITY ZONE II & ORS.

.....Respondents

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

Mr. Priyanshu Chhabra, SPC with Ms. Ruchika Mamgai and Ms. Ishita Kumar, Advs. for R-3/UOI.

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

O R D E R

% 05.10.2026

1. By way of the present Writ Petition, the Petitioner seeks the following reliefs:-

> *"a. Issue a writ in the nature of certiorari and/ or any other appropriate writ/ Order/ direction of like nature for quashing and setting aside the impugned Order dated 11.08.2026 passed by the Appellate Authority i.e., Special Commissioner-I, Department of Trade and Taxes thereby dismissing the Appeal bearing No. AD0707260006909 filed by the Petitioner under Section 107(1) of*

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the Central Goods and Services Tax Act, 2017;

b. Issue a writ in the nature of certiorari and/ or any other appropriate writ/ Order quashing and setting aside the impugned Demand Order dated 21.12.2023 passed by the Adjudicating Authority i.e., GST Officer/ Proper officer, Ward-02, Department of Trade and Taxes, Vyapar Bhawan, New Delhi;

c. Pass a direction to remand the present matter back to the Adjudicating Authority i.e., GST Officer/ Proper officer, Ward-02, Department of Trade and Taxes, Vyapar Bhawan, New Delhi for fresh adjudication on merits after granting an effective opportunity to the Petitioner to file a reply to the Show Cause Notice dated 23.09.2023 with an opportunity of personal hearing to the representative of the Petitioner;

d. Issue a writ of declaration or any other writ, order or direction in the nature thereof declaring Notification No. 09/2023-Central Tax dated 31.03.2023 issued by the Respondent No. 3 and Notification No. 09/2023-State Tax dated 22.06.2023 issued by Respondent No. 4 as ultra vires to the provisions of Section 168A of the CGST Act, 2017/DGST Act, 2017;"

2. At the time of hearing, learned counsel representing the Petitioner submits that the Order-in-Original was never served upon the Petitioner and, therefore, the period of limitation for filing the appeal would commence from the date on which the Order-in-Original came to the knowledge of the Petitioner.

3. He further submits that the Appellate Authority has erred in computing the period of limitation from the date of the Order-in-Original instead of the date on which the same came to the knowledge of the Petitioner. He relies upon the judgment passed by the Division Bench of the Punjab and Haryana High Court in ***Luxmi Traders v. Union Territory of Chandigarh & Ors.***, (2026) 44 Centax 371 (P&H).

4. Learned counsel representing the Respondents submits that, in view of paragraph 60(iv) of the judgment in ***Luxmi traders*** (supra), the Appellate Authority may be directed to hear the appeal on merits.

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5. Paragraph 60 of the judgment in ***Luxmi Traders*** (supra) is extracted 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 cases 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 furtherafter affording due opportunity of hearing."*

6. In the present case, the Petitioner submits that he came to know of the Order-in-Original on 17.06.2026, while processing his refund application.

7. Since there is no dispute on behalf of the Respondents with regard to the applicability of the principle laid down in ***Luxmi Traders*** (supra), the order-in-appeal dated 11.08.2026 is set aside. The

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Appellate Authority is directed to decide the Petitioner's appeal on merits, in accordance with law.

8. Learned counsel representing the parties submit that the validity and correctness of the aforesaid Notifications are pending consideration before the Hon'ble Supreme Court and that the parties shall remain bound by the ultimate judgment to be rendered by the Hon'ble Supreme Court in the said proceedings.

9. With these observations, the present Writ Petition, along with the pending applications, is disposed of.

ANIL KSHETARPAL, J.

BHARAT PARASHAR, J.

OCTOBER 05, 2026/sp/pal

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