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

Date of decision: 28th October, 2025

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W.P.(C) 1064/2025 & CM APPL. 5273/2025

VARIAN MEDICAL SYSTEMS INTERNATIONAL INDIA
PVT. LTD.

.....Petitioner

Through: Mr. Gajendra Maheshwari, Adv.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. R. Ramachandran, SSC with Mr.
Prateek Dhir, Adv. for R-2 & 3.

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AND

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W.P.(C) 13605/2025 & CM APPL. 55801/2025

VARIAN MEDICAL SYSTEMS INTERNATIONAL INDIA
PVT. LTD.

.....Petitioner

Through: Mr. Gajendra Maheshwari, Adv.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Ms. Gauri Goburdhun, Sr. Panel
Counsel for UOI.

Mr. R. Ramachandran, SSC with Mr.
Prateek Dhir, Adv. for R-2 & 3.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE SHAIL JAIN

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. The present two petitions arise out of an audit which had been commenced against the Petitioner *vide* audit notice dated 11th January, 2024 for the Financial Year 2017-18 (from 1st July, 2017) to Financial Year 2022-23. Various notices were issued to the Petitioner and information was sought in the form of documents and clarifications which were duly supplied by the



Petitioner *vide* letters dated 22nd February, 2024, 19th April, 2024, 6th September, 2024 and 24th September, 2024.

3. A draft audit report was also prepared by the Department and in respect thereof as well, certain clarifications were sought on 4th October, 2024. The reply was given by the Petitioner to the clarification sought in the draft audit report on 11th October, 2024.

4. After the said reply was submitted, a pre-Show Cause Notice (hereinafter, '*pre-SCN*') was issued on 25th November, 2024 to which a reply was permitted to be filed by the Petitioner within three days. However, surprisingly before the expiry of the said three days itself, the Show Cause Notice (hereinafter, '*SCN*') was issued on 27th November, 2024.

5. ***W.P.(C) 1064/2025*** was therefore filed challenging the issuance of the SCN dated 27th November, 2024.

6. When the said writ petition was pending before this Court, the Department finalized the audit report and communicated the same on 13th February, 2025 to the Petitioner. Thus, a further writ petition was filed by the Petitioner challenging the said final audit report being ***W.P.(C) 13605/2025***.

7. Before this Court, therefore, there are two writ petitions. One challenging the pre-SCN and the second one challenging the audit report dated 13th February, 2025.

8. The submission by Mr. Gajendra Maheshwari, Id. Counsel appearing for the Petitioner is two-fold:

- i) One that the audit report was issued beyond the period of limitation prescribed under Section 65 of the Central Goods and Services Tax Act, 2017 (hereinafter, '*CGST Act*');
- ii) The second argument being that in respect of the pre-SCN even



before the time for filing the reply to the pre-SCN lapsed, the SCN was issued and hence, the SCN deserves to be quashed.

9. On the first aspect, Id. Counsel has highlighted that under Section 65(4) of the CGST Act, the audit is to be completed within three months though the said period is extendable in terms of the proviso of the said provision for a further maximum period of six months.

10. It is further submitted that the findings have to be communicated within a period of 30 days after conclusion of the audit in terms of Section 65(6) of the CGST Act.

11. The second submission is that the SCN having been issued before the period for filing a reply to the pre-SCN having lapsed, the SCN is also not tenable.

12. Mr. Ramachandran, Id. Senior Standing Counsel appearing for the Department on the other hand argues that under Section 65 of the CGST Act, the audit has to be concluded within three months but a further period of 30 days exists to communicate the said audit report.

13. Heard. The Court has considered the various dates in this matter. Firstly, insofar as the audit report is concerned, the relevant provision reads as under:

“Section 65. Audit by tax authorities.-

(1) The Commissioner or any officer authorised by him, by way of a general or a specific order, may undertake audit of any registered person for such period, at such frequency and in such manner as may be prescribed.

(2) The officers referred to in sub-section (1) may conduct audit at the place of business of the registered person or in their office.

(3) The registered person shall be informed by way of a notice not less than fifteen working days prior to the conduct of audit in such manner as may be prescribed.



(4) The audit under sub-section (1) shall be completed within a period of three months from the date of commencement of the audit:

Provided that where the Commissioner is satisfied that audit in respect of such registered person cannot be completed within three months, he may, for the reasons to be recorded in writing, extend the period by a further period not exceeding six months.

Explanation.- For the purposes of this sub-section, the expression "commencement of audit" shall mean the date on which the records and other documents, called for by the tax authorities, are made available by the registered person or the actual institution of audit at the place of business, whichever is later.

(5) During the course of audit, the authorised officer may require the registered person, -

(i) to afford him the necessary facility to verify the books of account or other documents as he may require;

(ii) to furnish such information as he may require and render assistance for timely completion of the audit.

(6) On conclusion of audit, the proper officer shall, within thirty days, inform the registered person, whose records are audited, about the findings, his rights and obligations and the reasons for such findings.

(7) Where the audit conducted under sub-section (1) results in detection of tax not paid or short paid or erroneously refunded, or input tax credit wrongly availed or utilised, the proper officer may initiate action under section 73 or section 74"

14. In terms of the above provision, the scheme of the Act is that the registered person is to be informed by way of a notice period of at least 15 days prior to the conduct of the audit. The date from when the *commencement of the audit* takes place is the date from when the registered person makes available the records and other documents as called for by the authorities. Further, the audit has to be then concluded within three months and within a period of 30



days, the same has to be communicated to the registered person.

15. In the present case, the final reply was filed by the Petitioner on 11th October, 2024. The audit report bears the date of 11th February, 2025 and the same has been communicated on 13th February, 2025. On this aspect, the Court has considered the matter. There can be no doubt that after the final submission is made by the Petitioner, the commencement date takes place in terms of the explanation to Section 65 of the CGST Act. The audit has to, therefore, commence from 12th October, 2024 and has to be concluded within a period of three months.

16. According to Mr. Ramachandran, Id. SSC, the audit was completed and within a further period of 30 days, the report was prepared *i.e.*, 11th February, 2025 and was communicated on 13th February, 2025. The submission, therefore, that the audit was not concluded within the three-month period, would not be correct and in any case, the said period of three months is also not a mandatory period as the proviso permits further maximum period of six months.

17. In the overall circumstances when the audit report has been prepared on 11th February, 2025 and communicated to the Petitioner on 13th February, 2025, this Court is not inclined to hold that the same is beyond limitation.

18. Insofar as the pre-SCN is concerned, the same records specifically as under:

“You are hereby advised to pay the amount of tax as ascertained above along with the amount of applicable interest and penalty under Section 74(5) by 28/ 11/ 2024, failing which Show Cause Notice will be issued under Section 74(1).

In case you wish to file any submissions against the above ascertainment, the same may be furnished by



28/11/2024 in Part B of this Form.

This letter has been issued on the basis of discrepancies observed so far during the audit conducted on the basis of information/details/documents submitted by you. In case any contradiction, misinformation and/or non-Information on part of the audited entity comes into the notice of the department/ Audit Commissionerate / or any other tax authority in future, the Department keeps its right reserved to take action and further examine the Issue.”

19. As is clear from the above, the Petitioner was given time to file submissions till 28th November, 2024 in Part B of the form. However, surprisingly, the authority has decided to issue the SCN itself one day before the said day expires *i.e.* on 27th November, 2024 itself. Thus, this would be completely in violation of the principles of natural justice in terms of the pre-SCN itself.
20. Accordingly, the SCN is set aside. The proceedings are relegated to the pre-SCN stage. The Petitioner is now free to file its reply to the pre-SCN dated 25th November, 2024 on or before 10th November, 2025.
21. At this stage, the Court is informed that the Petitioner has already filed the preliminary reply to the pre-SCN dated 25th November, 2024. Accordingly, if any further reply is to be filed to the pre-SCN, the same may be filed on or before 10th November, 2025. After considering the said reply, the concerned authority shall decide as to whether the SCN is to be issued or not and if any SCN is issued, the same shall proceed in accordance with law.
22. Needless to add, the time during which the present two writ petitions remained pending before this Court shall not be counted for counting the period of limitation for either of the parties.



23. Petition is disposed of in these terms. All pending applications, if any, are also disposed of.

PRATHIBA M. SINGH
JUDGE

SHAIL JAIN
JUDGE

OCTOBER 28, 2025

Rahul/ck