

Court No. - 39

Case :- WRIT TAX No. - 1044 of 2018

Petitioner :- Rina Rani Rustogi

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Gopal Misra, Amit Rastogi

Counsel for Respondent :- C.S.C., Vipul Kumar

Hon'ble Saumitra Dayal Singh, J.

Hon'ble Surendra Singh-I, J.

1. Heard Shri Sanjay Kumar Asthana, Advocate, holding brief of learned counsel for the petitioner and Shri Nimai Dass, learned Additional Chief Standing Counsel for the State-respondents.

2. Shri Vipul Kumar, learned counsel for the insurance company is not present. Order sheet records repeated illness slip on his behalf.

3. Today, upon urgency being pressed, we have examined the matter. Primarily, relief sought by the petitioner is against the State-respondents. Unless the State-respondents were to issue the necessary Biometric form-II under the Uttar Pradesh Value Added Tax Act, 2008 (hereinafter referred to as 'the Act'), the occasion would not arise to the Insurance Company to consider the claim for insurance money being paid to the petitioner. Accordingly, we have proceeded with the matter.

4. Upon hearing learned counsel for the petitioner and learned Additional Chief Standing Counsel for the State-respondents, it is not in dispute that the husband of the present petitioner, Ajay Rastogi died in a road accident on 09.10.2013. Claiming that the deceased was a registered dealer under the Act and that his registration was continuing on the date of his death, the present

petitioner claims payment of insurance money, Rs. 5,00,000/- to her in terms of the Group Insurance Policy purchased by the State Government for the benefit of such registered dealer, under the Circular dated 30.03.2013 issued by the Commissioner, Commercial Tax, U.P., Lucknow.

5. The above claim has been resisted by the State on the ground that prior to the occurrence of his death the deceased had submitted the application on 18.03.2013 to cancel the registration granted to him. That application is stated to have processed on 18.03.2013. At the same time, according to the case of the State-respondents itself, the said order was uploaded on the website of the revenue authorities on 24.12.2013. This fact has been disclosed in paragraph-9 of the writ petition.

6. On the contrary, the contents of paragraph-9 and 10 of the counter affidavit have been disputed by the petitioner. It has thus been specifically asserted, by means of the rejoinder affidavit, that the deceased had earlier obtained registration certificate in the name of M/s Ganpati Agency, 362/696, Civil Lines, Fatehpur. That registration was obtained in the year 2006, as is clearly recorded in form-15, the then existing registration form, dated 21.02.2006. That registration is stated to have been surrendered by the petitioner, for the first time on 16.12.2013 by filing appropriate application. According to the petitioner, it is that cancellation of registration that came to be posted on the website of the revenue authorities on 24.12.2013. Therefore, according to the petitioner, the registration granted to the deceased remained valid from 21.02.2006 to 24.12.2013. Thus, the terms of the Circular prevailing and the terms of the Group Insurance Policy are stated to be satisfied inasmuch as the deceased was a registered dealer on

the date of occurrence of his death.

7. As to the fact relied upon by the learned Additional Chief Standing Counsel, it has further been clarified by learned counsel for the petitioner that the application being referred to dated 18.03.2013 was with respect to certain additions to the registration that were sought by her husband, which request came to be withdrawn. That would never have the effect of cancellation of the pre-existing registration. Rather, it would be confined to rejection of the claim for additional commodities for which registration may have been sought.

8. Prima facie, the stand taken by the petitioner appears to be correct. It also appears that the respondent-authorities have misdirected themselves in not looking at the application dated 18.03.2013 without considering the fact of the pre-existing registration, that stood in the name of the deceased. If the deceased held a registration certificate prior to the occurrence of his death and that registration did not stand cancelled on the date of occurrence of his death, the status of the deceased would remain to be of a registered dealer for the purpose of Group Insurance Policy.

9. Since the respondents have not applied their mind on this aspect of the matter, we **dispose of** the writ petition with the direction upon the respondent no. 3 to examine the correct facts in light of the observations made above and issue appropriate reasoned communication to the petitioner within a period of one month from today.

10. If the factum of the registration of the deceased, on the date of occurrence of his death is confirmed, it is further expected that the

respondent will complete all formalities and issue the necessary form-II to the insurer with the same time period.

11. In absence of any other legal impediment, the insurance money be paid out to the petitioner within a further period of one month therefrom.

Order Date :- 26.10.2023

SA

(Surendra Singh-I, J.) (S.D. Singh, J.)