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

\+ W.P.(C) 7155/2024

RAJENDER PARSAD JAIN
(THROUGH LEGAL HEIR SH. RAJIV JAIN) .....Petitioner

Through: Mr. Nitin Gulati and Ms. Reena Gandhi, Advocates.

versus

AVATO WARD-38, STATE GOODS AND SERVICES TAX & ANR. .....Respondents

Through: Mr. Rajeev Aggarwal, Additional Standing Counel along with Mr. Shubham Goel, Advocates for R1 and R2.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU
HON'BLE MR. JUSTICE SACHIN DATTA

O R D E R

% **04.09.2024**

1. The petitioner has filed the present petition, *inter alia*, impugning the order dated 04.10.2021 (hereafter *the impugned order*), whereby the GST registration of the deceased taxpayer namely Rajender Parsad Jain (father of the petitioner) was cancelled with retrospective effect from 01.07.2017. The impugned order was passed pursuant to a show cause notice dated 16.08.2021 (hereafter *the SCN*). The reason set out in the SCN for proposing to cancel the GST registration is set out below:-

> "1 Issues any invoice or bill without supply of goods and/or services in violation of the provisions of this Act, or the rules made thereunder leading to wrongful availment or utilization of input tax credit or refund of tax."

2. The noticee (the petitioner's father since deceased) was called upon to furnish a reply to the SCN within a period of seven working days and to

appear before the proper officer on 24.08.2021. Additionally, the taxpayer's GST registration was also suspended with effect from the date of the SCN.

3. The taxpayer filed an appeal against the impugned order on 02.11.2021. The petitioner states that the said appeal has not been disposed of as yet. In the meanwhile, on 23.07.2023, the petitioner's father expired.

4. In the aforesaid circumstances, the petitioner has filed the present petition assailing the impugned order.

5. It is apparent from the SCN that it does not provide the necessary particulars. It merely reproduces the statutory provisions which, according to the proper officer, enabled it to cancel the taxpayer's GST registration. Not only is the SCN bereft of any particulars, it also did not provide sufficient opportunity to the taxpayer to respond to the same. In this view, the impugned order is also liable to be set aside.

6. Having stated above, it is material to note that the petitioner does not seek restoration of the GST registration in favour of his deceased father. He is essentially aggrieved by the cancellation of the GST Registration with retrospective effect.

7. Mr. Rajeev Aggarwal, the learned counsel appearing for respondents fairly states that the impugned order may be modified to be operative from the date of the SCN while reserving the rights of the respondents to initiate further proceedings, if necessary.

8. In view of the above, we direct that the cancellation of the GST registration of the petitioner's deceased father shall take effect from 16.08.2021, being the date of the SCN, and not with effect from 01.07.2017.

9. We also clarify that this would not preclude the respondent authorities from initiating any proceedings, if necessary, for statutory non-compliance

of recovery of dues or otherwise, in accordance with law.

10. The present petition is disposed of in the aforesaid terms.

VIBHU BAKHRU, J

SACHIN DATTA, J

SEPTEMBER 04, 2024
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