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

\+ **W.P.(C) 8802/2024**

M/S JAI BHAGWAN AND SONS .....Petitioner
Through: Mr. Mohit Gautam, Adv.

versus

COMMISSIONER OF VAT & ANR. .....Respondents
Through: Mr. Udit Malik, ASC., Mr. Vishal Chanda, Ms. Rima Rao, Advs. (M:9811981128)

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE AMIT SHARMA

O R D E R

% **07.01.2025**

1. This hearing has been done through hybrid mode.

2. The present petition has been filed by the Petitioner-M/s Jai Bhagwan and Sons under Article 226 of the Constitution of India seeking refund of a sum of Rs.26,21,025/-.

3. The case of the Petitioner is that the said amount is due for the second quarter of the year 2017 *i.e.,* from 1st April, 2017 to 30th June, 2017 for which the refund request was filed on 27th June, 2018. According to the petition, the assessment for the relevant period has been completed. However, the refund has not been issued.

4. The Petitioner firm was a sole proprietary concern of Late Shri Ram Karan Goel, who passed away on 3rd July, 2018. According to the Petitioner, the deceased was survived by his wife Smt. Krishna Goyal and three children namely Mr. Pardeep Kumar Goel, Ms. Divya Gupta and Ms. Vaani Garg. Some details of said legal heirs have been placed on record.

5. On behalf of the Department, Mr. Udit Malik, ld. ASC has appeared and submitted that the counter affidavit has been filed yesterday and is yet to come on record. Therefore, the counter affidavit was handed over in Court today and the same is taken on record. A perusal of the counter affidavit shows that the refund claim has been rejected by the Additional Commissioner (Zone-9), Department of Trade and Taxes, GNCTD *vide* order dated 26th November, 2014 on the ground that the documents establishing that the current claimant is the legal heir, were not furnished by the Petitioner. The relevant portion of the said order is read as under

> *"However, none of the surviving members appeared in this office. While this office does not have any authority to decide who the successor of the proprietor is, it is imperative on the part of this office, being public office, to ensure that payment is made to rightful successor of the proprietor. This is not only necessary in the interest of natural justice but also to ensure that this office is not involved in litigation due to refund made to wrong claimant."*

He, therefore, submits that the party needs to appear and satisfy the Department as to the legal heirship of the surviving heirs.

6. A perusal of the documents, which are filed on record, would show that the three legal heirs have given a no objection certificate in favour of Mr. Pardeep Kumar Goel to represent all the legal heirs. In view of the stand taken by the Department, in terms of the order dated 26th November, 2024 by which the refund claim has been rejected, let Mr. Pardeep Kumar Goel shall appear before the Department along with a copy of the death certificate and the no objection certificate and any other relevant documents so that the facts can be verified and refund can be made.

7. Accordingly, let the parties appear before the concerned Department on 15th January, 2025.

8. The rejection order dated 26th November, 2014 is accordingly set aside. The refund application be decided after hearing Mr. Pardeep Kumar Goel and/or his representative in accordance with law within a period of one month from 15th January, 2025.

9. The petition is disposed of in the above terms.

10. Pending Application(s), if any, are also disposed of.

PRATHIBA M. SINGH, J.

AMIT SHARMA, J.

JANUARY 7, 2025/*dk/Am*