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

+ W.P.(C) 15670/2023

VARYAM DASS KHURANA (D) THROUGH LR
SANDEEP KUMAR KHURANA Petitioner

Through: Mr. Dinesh Mohan Sinha,
Mr. Naresh Kumar
Sharma, Mr. Rajeev
Kumar Deora, Mr. Shiv
Nath & Mr. Wakeel
Kumar, Advs.

versus

COMMISSIONER OF GST, NEW DELHI AND ANR

..... Respondents

Through: Mr. Rajeev Aggarwal,
Addl. Standing Counsel
along with Ms. Samridhi
Vats, Adv.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

05.12.2023

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1. Issue notice.
2. Mr. Rajeev Aggarwal, learned Additional Standing Counsel appearing for respondents, accepts notice.
3. The present petition has been filed by Shri Sandeep Kumar Khurana, son of late Shri Varyam Dass Khurana, who was registered with the GST authorities.
4. The petitioner impugns an order dated 29.05.2020 (hereafter '**impugned order**'), whereby the GST registration of Shri Varyam Dass Khurana was cancelled, *albeit* with retrospective effect.
5. The petitioner states that late Shri Varyam Dass Khurana
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was engaged in supplying building material cement, dust, bricks etc. from his principal place of business located at H. No. 28, Main Road, Opp. Radhu Cinema, Naveen Shahdara, North East Delhi, Delhi-110032. It is stated that late Shri Varyam Dass Khurana was regularly filing his returns, and had properly claimed Input Tax Credit.

6. Shri Varyam Dass Khurana expired on 02.01.2019 and one of his sons Shri Sanjay Khurana took charge of the business. It is stated that he also regularly filed the GST returns. It is further stated that Shri Sanjay Khurana applied for cancellation of the GST registration in favour of late Shri Varyam Dass Khurana on 17.02.2020. The said application was acknowledged. Thereafter, the respondent issued a notice seeking further information regarding the said application.

7. Although, it is averred in the present petition that the petitioner (Sandeep Kumar Khurana) had appeared before the concerned authorities, the said contention is incorrect because a lockdown was imposed during that period and, therefore, no personal hearings were conducted.

8. It is stated that Shri Sanjay Khurana (son of the deceased Shri Varyam Dass Khurana) could not pursue the matter and he also expired on 28.04.2021.

9. Thereafter, the respondents issued the impugned order cancelling the registration, granted to Late Shri V.D. Khurana in respect of his proprietorship concern, Ram Builders. This was pursuant to the Show Cause Notice dated 18.05.2020. The impugned order does not indicate any reasons for cancelling the registration. However, it cancels late Shri Khurana's GST registration with retrospective effect from 04.07.2017.

10. It is apparent that the said impugned order, which is bereft
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of any reasons, cannot be sustained. However, the petitioner is not aggrieved by the cancellation of late Shri Khurana's registration, as according to him the business was closed down. He is aggrieved by the cancellation to the extent that it is effected retrospectively, from the date the registration was granted.

11. In view of the above, we consider it apposite to direct that the order cancelling the registration shall take effect from 18.05.2020, the date of the Show-Cause notice. This is because it is the petitioner's case that no business was conducted thereafter.

12. It is clarified that this order shall not preclude the respondents from initiating any proceedings for recovery of tax, if any, is due and payable or taking steps for any statutory violation, if any such violation is found, in accordance with law.

13. It is also clarified that nothing stated in this order shall be construed as an expression of opinion as to whether the petitioner is in fact the legal heir or has any right, title or interest in the business of late Varyam Dass Khurana.

14. The petition is disposed of in the aforesaid terms.

VIBHU BAKHRU, J

AMIT MAHAJAN, J

DECEMBER 5, 2023

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