

GST Registration Cancellation can take effect from the date of issuance of Show Cause Notice

The Hon'ble Delhi High Court in the case of ***Varyam Dass Khurana v. Commissioner of GST, New Delhi [W.P. (C) No. 15670 of 2023 dated December 05, 2023]*** held that the cancellation of registration should take effect from the date of issuance of Show Cause Noticee, and not retrospectively.

Facts:

Late Mr. Varyam Dass Khurana was engaged in supplying building materials cement, dust, bricks etc., from his principal place of business. He died on January 02, 2019, and one of his sons Mr. Sanjay Khurana, took charge of the business. He regularly filed returns and applied for cancellation of GST registration which was in favour of Late Mr. Varyam Dass Khurana on February 17, 2020. The said application was acknowledged. Thereafter, the Commissioner of GST (**"the Respondent"**) issued a SCN seeking further information regarding the said application.

The Respondent released an Order (**"Impugned Order"**) dated May 29, 2020, whereby the GST registration was cancelled, with retrospective effect from July 04, 2017.

Thereafter, lockdown was imposed during the Covid period. Therefore, the personal hearing could not be conducted. Thereafter, Mr. Sanjay Khurana died on April 28, 2021.

Hence, aggrieved by the Impugned Order the present writ was filed by the Shri Sandeep Kumar Khurana (**"the Petitioner"**).

Issue:

Whether retrospectively, GST Registration can be cancelled from the date of issuance of Show Cause Notice?

Held:

The Hon'ble Delhi High Court in ***W.P. (C) No. 15670 of 2023*** held as under:

- Observed that, the Petitioner is not aggrieved by the cancellation of GST registration, as the business was closed down. The Petitioner is aggrieved by the cancellation to the extent that it is effected retrospectively, from the date the registration was granted.
- Held that, the Impugned Order cancelling the registration shall take effect from May 18, 2020, the date of the SCN. Further, stated that the Impugned 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. Hence, the writ petition was disposed of.

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