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

Date of Decision 9th April, 2025

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W.P.(C) 4551/2025

BHAVNA LUTHRA L/H OF SH. NARAIN DAS LUTHRA,
PROPRIETOR OF M/S. HUNNY ENTERPRISESPetitioner

Through: Mr. Puneet Rai, Mr. Sushil Gaba, Mr.
Kapil Sharma & Ms. Srishti Sharma,
Advocates.

versus

ASSISTANT COMMISSIONER, RANGE 8, CGST, DELHI & ANR.

.....Respondents

Through: Mr. Piyush Beriwal, Advocate.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE RAJNEESH KUMAR GUPTA

Prathiba M. Singh, J.(Oral)

1. This hearing has been done through hybrid mode.

CM APPL. 21051/2025 (for exemption)

2. Allowed, subject to all just exceptions. Application is disposed of.

W.P.(C) 4551/2025

3. The present petition reveals the harrowing experience that a genuine person has gone through in obtaining a refund from the GST Department. The Petitioner-Ms. Bhavna Luthra is the wife of late Mr. Narain Das Luthra who was the proprietor of M/s Hunny Enterprises. He had also registered himself *qua* M/s Hunny Enterprises with the GST Department and his registration number was '**07AAVPL0369A1ZP**'.

4. Late Mr. Narain Das passed away on 29th November, 2020. The death



certificate is placed on record. Upon his demise, an application was made by the Petitioner for cancellation of the GST registration and the same was cancelled with effect from 1st January, 2021 *vide* order dated 10th August, 2021. However, the electronic cash ledger of the firm (M/s Hunny Enterprises) had an excess balance of Rs.10,45,793/- of which the Petitioner-widow claimed for refund *vide* a refund application bearing reference number **ARN No, : AA071021U32694M**. The said application was rejected by the Respondent-GST Department *vide* order dated 10th January, 2022.

5. The said order was challenged by the Petitioner through a writ petition, being **W.P.(C) 5551/2024**, in which the Court passed the following orders.

Order dated 23rd April, 2024

“1. Learned counsel for petitioner submits that the petitioner is the legal heir i.e. wife of Sh. Narain Das Luthra, who was the proprietor of M/s. Hunny Enterprises and a sum of Rs.10,45,793/- was standing as cash credit in the Electronic Cash Ledger and Sh. Narain Das Luthra has since expired and accordingly, petitioner surrendered the GST registration and applied for refund of the said amount, which has been rejected on an untenable ground. He submits that after rejection the amount has been debited from the Electronic Cash Ledger and without either being paid to the petitioner or being re-credited in the Ledger.

2. Issue notice. Notice is accepted by learned counsel appearing for respondent, who prays for time to take instructions.

3. At request, list on 09.05.2024.”

Order dated 9th May, 2024

“1. Learned counsel for the respondent under instructions submits that the respondent shall recredit the amount of Rs.10,45,793/- into the Electronic Cash Ledger of the petitioner within two weeks.

2. The statement is taken on record.



3. In view of the above, the petition is disposed of directing the Proper Officer to recredit the amount of Rs.10,45,793/- into the electronic cash ledger of the petitioner within two weeks.

4. The petition is disposed of in the above terms.”

6. As per the said order, refund was to be issued in two weeks. Despite the above order, the refund has not been granted till date but rather a completely baseless order dated 30th July, 2024 has been passed by the GST Department holding that the refund would not be liable to be paid, as the Petitioner is not a person registered with the GST Department. The said order has been passed by one Mr. Sanjay Kumar Bansal, Assistant Commissioner, Old Delhi Division. The present petition has been filed challenging the said order dated 30th July, 2024.

7. A perusal of the impugned order would show that the GST Department has asked the Petitioner to explain as to why she is an unregistered person. Since the Petitioner did not appear for personal hearing the refund has been rejected.

8. The present writ petition marks the second instance wherein the Petitioner has approached this Court seeking refund. It is a matter of concern that almost a year ago, the same Petitioner had appeared before a Coordinate Bench of this Court, which, after considering the matter, directed that the refund amount be re-credited within a period of two weeks. It is unfortunate to see that despite the said amount being in the Electronic cash ledger, the refund has not been given to the Petitioner till date.

9. Upon being queried as to the reason for not processing the refund, Mr. Beriwal, Id. Counsel for Respondent- GST Department submits that the essential supporting documents supporting the factum of death of the



Petitioner's husband were not placed along with the application for the refund.

10. Mr. Puneet Rai, Id. Counsel for the Petitioner in response submits that the death of the Petitioner's husband already stands proved *vide* the order of cancellation of GST registration dated 10th August 2021. It is further submitted that the electronic cash ledger is in effect a deemed instrument belonging to the Petitioner itself and any amount shown therein belongs to her and the GST Department cannot hold back the said amount.

11. Id. Counsel for the GST Department prays for time to seek instructions.

12. Accordingly, list on 5th May, 2025. The concerned officer Mr. Sanjay Kumar Bansal, shall remain physically present in the Court on the next date of hearing.

PRATHIBA M. SINGH
JUDGE

RAJNEESH KUMAR GUPTA
JUDGE

APRIL 9, 2025/da/Ar.