

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(T) No. 523 of 2023

Rishi Shangari, Aged about 40 years, Son of Late Navtej Kumar Shangari, Resident of No. 2, Rajendra Nagar, P.O. Sakchi, P.S. Sakchi, Town Jamshedpur, District East Singhbhum-831 001.

... .. Petitioner

Versus

1. Union of India, through the Principal Commissioner, Central Goods and Service Tax (CGST), Ranchi, having its Office at Central Revenue Building, 5-A, Main Road, P.O. Doranda, P.S. Chutia, District Ranchi-834 001.
2. Commissioner, Central Goods and Service Tax (CGST), Jamshedpur, having his Office at G.S.TL. Building, Outer Circular Road, P.O. Bistupur, P.S. Bistupur, Town Jamshedpur, District East Singhbhum-831 001.
3. Assistant Commissioner (A/E), Central Goods and Service Tax (CGST), Jamshedpur, having his Office at G.S.TL. Building, Outer Circular Road, P.O. Bistupur, P.S. Bistupur, Town Jamshedpur, District East Singhbhum-831 001.
4. Superintendent, Central Goods and Service Tax (CGST), Jamshedpur, having his Office at G.S.TL. Building, Outer Circular Road, P.O. Bistupur, P.S. Bistupur, Town Jamshedpur, District East Singhbhum-831 001.
5. The Commissioner of State Tax, Government of Jharkhand, having its Office at Excise Building, Kanke Road, P.O. University, P.S. Gonda, District Ranchi.
6. Deputy Commissioner of State Tax, Jamshedpur Circle, P.O. & P.S. Jamshedpur, District Saraikela-Kharswan.
7. State Tax Officer, Jamshedpur Circle, P.O. & P.S. Jamshedpur, District Saraikela-Kharswan Respondents

**CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJESH SHANKAR**

For the Petitioner: Mr. Deepak Kumar Sinha, Advocate
Ms. Rakhi Sharma, Advocate
For the State: Mr. Rahul Saboo, G.P.-II
Mr. Gauranj Jajodia, A.C. to G.P. -II
For the CGST: Mr. Amit Kumar, Advocate
Mr. Anurag Vijay, Advocate

13/Dated: 15.04.2025

1. This writ petition has been filed by the petitioner challenging the order dt. 28.11.2022 passed by respondent no. 3.

2. The petitioner's father, by name, Navtej Kumar Shangari had obtained a certificate of registration dt. 17.07.2018 under the GST Act in the trade name M/s. N. Kumar and Company (Annexure-1 is the registration certificate) w.e.f. 01.07.2017.
3. Admittedly the said individual by name, Navtej Kumar Shangari died on 13.02.2018. His son Rishi Shangari, who is the petitioner herein, applied for registration and another certificate of registration was issued on 24.03.2018 in the same proprietary concern's name.
4. Curiously, an order was passed on 20.12.2022 under GST DRC-07 by the 7th respondent for the tax period April 2018 to March 2019 with regard to father of the petitioner, and another order on the same date for the tax period from April 2019 to March 2020.
5. The registration in favour of the proprietary concern of the father came to be cancelled on 10.01.2020.
6. A summons dt. 18.07.2022 was issued under section 70 to the father of the petitioner who no more was regarding non-payment of GST. The petitioner filed a reply thereto stating that his father died on 13.02.2018 and even enclosed the copy of the death certificate. He pointed out that there cannot be any proceeding initiated against a dead person after his death and requested to waive the liability.
7. However, the impugned order came to be passed on 28.11.2022 by 3rd respondent in regard to the proprietary concern of the petitioner's deceased father quoting section 93(1)(a) of the CGST Act, 2017. In that order it is held that if the business is carried on by a person's legal representative after his death, the legal representative would be liable to pay tax, interest or penalty. But 3rd respondent did not provide details of any material evidence to

show as to how the petitioner was said to be continuing business of the father's proprietary concern having himself obtained a fresh registration on 24.03.2018.

8. In the said proceeding having noted the death of the petitioner's father on 13.02.2018, the 3rd respondent stated that petitioner is liable to pay the entire GST due along with applicable interest and penalty of his late father's firm.
9. In the absence of any material referred to by the said respondent as to on what basis it is held that the petitioner was continuing the business in the name of his father's proprietary concern after his father's death in spite of the petitioner obtaining a fresh registration in his own name on 24.03.2018, we are of the opinion that the impugned order dt. 28.11.2022 is perverse, based on no evidence and cannot be sustained.
10. Therefore, the writ petition is allowed and the order dated 28.11.2022 passed by the 3rd respondent is set aside.

(M.S. Ramachandra Rao, C.J.)

(Rajesh Shankar, J.)