IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-9172-2025
Date of Decision: July 18, 2025

Harvinder Singh .....Petitioner

Versus

State of Punjab and others .... Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Amit Gupta, Advocate for the petitioner.

Mr. Saurabh Kapoor, Addl. AG, Punjab.

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LISA GILL, J.

1. Prayer in this writ petition is for setting aside summoning order dated 20.02.2025 (Annexure P12) passed by Excise and Taxation Officercum-Assistant Collector 2nd Grade, Ward No. 4, Dhuri whereby petitioner and the other partners of the Firm M/s Foreigners Auto Zone have been called upon to appear and deposit a sum of Rs.37,84,228/- under Punjab Goods and Services Tax Act, 2017 (for short – 'PGST Act') and Punjab Land Revenue Act, 1887. Petitioner also seeks a restraint upon

respondents No. 1 and 2 from attaching the property which belongs to him.

2. Brief facts, as pleaded in the writ petition, are that a partnership Firm was constituted by the present petitioner and one Puneet Singla son of Bhim Singh, Deepak Nagpal son of Jogender Nagpal and Gurvinder Singh son of Gurdev Singh. Land belonging to petitioner and other partner Gurvinder Singh son of Gurdev Singh was taken on rent by the Firm vide agreement dated 16.02.2017. It is stated that there were various changes in the composition of Firm with number of partners retiring and some new ones inducted with various retirement deeds and partnership deeds/re-constitution deeds being executed between concerned parties. Details of partners retiring and inducted, as given in para 4 of the writ petition, reads as under:-

Sr. No.	Name of Partner	Incoming Date	Outgoing Date	Current Status
1.	Deepak Nagpal	23.05.2016	25.01.2017	Retired
2.	Gurvinder Singh	23.05.2016	16.01.2019	Retired
3.	Puneet Singla	23.05.2016	25.02.2019	Retired
4.	Harvinder Singh (petitioner)	23.05.2016	20.04.2021	Retired
5.	Raswinder Singh	25.02.2019	-	Existing
6.	Deepak Kumar	20.04.2021	-	Existing

3. Order 06.05.2024 (DRC-07) was passed by State Tax Officercum-Proper Officer, Ward No.4, Dhuri in respect to assessment year 202324 qua the firm in question. Liability of Rs.37,84,228/- was assessed under Section 73 of PGST Act and Central Goods and Services Tax Act, 2017 (for short – 'CGST Act') read with Section 20 of the Integrated Goods and Services Act, 2017 on account of discrepancy in payment of Goods and Service Tax (for short – 'GST Act'). Thereafter, notice/order dated 20.02.2025 was issued to the present petitioner and Raswinder Singh. It was submitted that petitioner had in fact retired from the Firm on 20.04.2021. Petitioner, it was further submitted, accessed land revenue records on 28.02.2025 for

some personal reasons and it is then it came to light that special remark has been added to jamabandi/land record to the effect that petitioner's share (103/3890) in the land measuring 19 bighas 09 biswas had been attached in favour of GST department vide rapat No. 194 dated 02.01.2025. Representation dated 11.03.2025 was submitted by petitioner before State Tax Officer, Ward 4, Dhuri explaining his case and requesting for removal of attachment. Reply to notice/order dated 20.02.2025 was also submitted by the petitioner.

4. Learned counsel for petitioner vehemently argued that petitioner had retired from partnership Firm in question on 20.04.2021 and had nothing to do with the Firm in question, therefore, he cannot be saddled with any responsibility at this stage. It is further submitted that intimation regarding his retirement was to be made by partnership Firm itself and needful was done on 28.02.2025. Petitioner, it was stated, could not have given necessary intimation because he had given up his access to GST portal and login details for the same remained with the then existing partners i.e. Raswinder Singh and Deepak Kumar. Default in question had allegedly occurred in the year 2022 whereas petitioner had retired from partnership on 20.04.2021. It is the existing partners who may be at fault, therefore, action as required should be taken against them alone. It was, thus, prayed that writ petition be allowed.

5. Learned counsel for State has refuted the arguments as raised. It is submitted that as per Section 90 of CGST Act, 2017, it is clearly provided that intimation about the date of retirement has to be given to Commissioner by notice on its behalf in writing

and in case, such intimation is not given within one month from the date of retirement, liability of such partner shall continue till the date on which such intimation is received by Commissioner.

It is further submitted that present writ petition is not entertainable inasmuch remedy of appeal is available to petitioner under Section 107 of PGST Act, 2017, which is a complete code in itself. For the period from 01.04.2022 to 30.04.2022, scrutiny was carried out and it was discovered that Firm in question declared outward tax liability of Rs.20,95,142/- but did not discharge this tax liability. Proceedings under Section 73 of the PGST Act, 2017 were initiated against Firm. Intimation in form DRC 01A dated 20.07.2023 was duly served as per the modes prescribed under Section 169 (c) and (d) of PGST Act, 2017. Neither the Firm nor any of the partners responded to the said intimation leading to show cause notice dated 15.03.2024 (form GST DRC-01) being issued under Section 173(1) of PGST Act, 2017, which was duly served.

6. Subsequent thereto, order dated 06.05.2024 in form DRC-07 was passed. After lapse of statutory period as prescribed under Section 78 of PGST Act, 2017, recovery proceedings under Section 79 of PGST Act, 2017 Act were initiated against the Firm vide DRC-09 dated 20.11.2024. No reply was filed to the said notice. Letter dated 22.11.2024 was addressed to Tehsildar to provide details of property of petitioner being one of the partners of Firm and Teshildar was requested vide communication dated 20.12.2024 to mark red entry qua property in question.

7. It is submitted that as per record, petitioner is an active partner in M/s Foreigners Auto Zone. Firm was granted registration vide GST REG06 dated 16.11.2017. It is pointed out that Firm applied

for applied for amendment in composition of registration Firm vide form GST REG – 14 dated 05.02.2023, detailing that Puneet Singla son of Bhim Singh Singla had retired and in his place Raswinder Singh son of Harbans Singh was inducted as partner vide amended partnership deed dated 25.02.2019. Raswinder Singh son of Harbans Singh is none other but the real brother of present petitioner. Effective date of amendment was accepted by jurisdictional Officer to be 05.02.2020. Thereafter no application for amendment of constitution of Firm has been filed till date. Therefore, as per GST record available on common portal, petitioner and his brother are reflected as active partners of Firm. In terms of Section 90 of CGST, 2017 Department is very well within its right to take action against petitioner. It is, thus, prayed that this writ petition be dismissed.

8. At the time of arguments, it was brought to our notice that application for removal of Red entry in respect to outstanding arrears of Rs.37,84,228/- created under Section 73 of PGST and CGST Act, 2017 was rejected on 28.04.2025.

9. We heard learned counsel for parties at length and have carefully perused the file.

10. At the outset, it is to be noticed that it is the case of petitioner himself that although he retired from partnership Firm in question on 20.04.2021, no intimation in respect to the same was given to the competent authority. Argument raised on behalf of petitioner that it was not possible for him to have intimated the competent authority on his own and it was only for the Firm to

have taken necessary steps, therefore, he cannot be fastened with any liability, is devoid of any merit, hence rejected. At this stage, it is relevant to refer to Section 90 of CGST 2017, which reads as under:-

> "**90. Liability of partners of firm to pay tax**.—Notwithstanding any contract to the contrary and any other law for the time being in force, where any firm is liable to pay any tax, interest or penalty under this Act, the firm and each of the partners of the firm shall, jointly and severally, be liable for such payment:
> Provided that where any partner retires from the firm, he or the firm, shall intimate the date of retirement of the said partner to the Commissioner by a notice in that behalf in writing and such partner shall be liable to pay tax, interest or penalty due up to the date of his retirement whether determined or not, on that date:
> Provided further that if no such intimation is given within one month from the date of retirement, the liability of such partner under the first proviso shall continue until the date on which such intimation is received by the Commissioner."

11. It is, thus, clear that intimation of retirement of partner has to be given to the Commissioner by notice in writing and that in case, no such intimation is given within one month from the date of retirement, liability of such partner under first proviso shall continue until the date on which such intimation is received by the Commissioner.

12. Another important aspect to be noted in this case is that other partner of Firm who even as of now is an active partner as per pleading of petitioner, is none other but his real brother Raswinder Singh. There is nothing on record to indicate that petitioner at any point of time had taken any steps to ensure intimation to authorities about his retirement from the Firm in question. Furthermore, reference was made to communication dated 28.02.2025 (Annexure P13) by Raswinder Singh to State Tax Officer, Ward 4 to submit

that intimation regarding retirement of petitioner on 20.04.2021 and induction of new partner namely Deepak Kumar is mentioned therein.

Communication dated 28.02.2025 reads as under:-

> "To
> State Tax Officer, Ward -4, Dhuri
> – Sangrur.
>
> Sub.: - Regarding Update of partner's detail in our registration
>
> Respected Sir,
> With due regard's I Rasvinder Singh S/o Harbans Singh Partner of M/s FOREIGNERS AUTO ZONE, M.K Road, Dhuri having GSTIN NO 03AAEFF7106J1ZP.
>
> That Mr. Harvinder Singh was our partner, who is retire from our firm as on 20-04-2021. (copy of notary attested retirement deed enclosed)
>
> And as on 20-04-2021, we admit Mr. Deepak Kumar S/o Sh. Sham Lal, residence of Sunam as partner of our firm. (copy of notary attested partnership deed and copy of PAN Card & Aadhaar of Mr. Deepak Kumar also enclosed)
>
> So please update partner detail in our GST Registration.
>
> We shall be very thankful to you.
>
> RASVINDER SINGH
> PARTNER
> MOBILE NO.8527099431 28.02.2025"

13. Perusal of two documents attached as Annexure P13 reveals that firstly a request has been addressed to the authority for updating partner detail inasmuch as Harvinder Singh (present petitioner) is stated to have retired as on 20.04.2021 with Deepak Kumar son of Sham Lal being inducted as partner and other communication also dated 28.02.2025 attached as Annexure P13 reads as under:-

> "To

State Tax Officer, Ward -4, Dhuri
– Sangrur.

Sub.:- Regarding Update Email ID

Respected Sir,

With due regard's I Rasvinder Singh S/o Harbans Singh Partner of M/s FOREIGNERS AUTO ZONE, M.K Road, Dhuri having GSTIN NO 03AAEFF7106J1ZP.

My partner Sh. Deepak Kumar, on whose mail id and mobile number on which OTP of GST portal is received, is in abroad. So, we have facing problem to open GST portal for filling GST Return or some amendments etc.

We can enclosed Copy of PAN & Aadhaar Card of Rasvinder Singh

So Kindly Update Email ID as per given below:

EMAIL ID: RASWINDERSINGH1223@GMAIL.COM

RASVINDER SINGH
PARTNER
MOBILE NO.8527099431 28.02.2025”

14. Learned counsel for petitioner was unable to point out as to why such course of action could not have been adopted earlier in April 2021 or within the month thereof when he allegedly retired from the Firm. In the given factual matrix, it cannot be concluded that petitioner is not liable under the Act, especially in view of categoric provision of Section 90 of CGST Act, 2017.

15. Learned counsel for petitioner is unable to point out any ground whatsoever which calls for interference by this Court, at this stage.

16. Writ petition is, accordingly, dismissed with liberty to petitioner to avail remedy(ies) as may be available to him in accordance with law.

(LISA GILL)

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JUDGE

(SUDEEPTI SHARMA) July 18, 2025 JUDGE

Rts

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No