HIGH COURT OF JUDICATURE FOR RAJASTHAN JODHPUR

S.B. Civil Writ Petition No. 19308/2025

M/s Hotel R.k. Palace

----Petitioner

Versus

State Of Rajasthan

----Respondent

For Petitioner(s)	:	Mr. R.S. Choudhary.
For Respondent(s)	:	Mr. Gaurav Bishnoi for Mr. Mahaveer Bishnoi, AAG.

HON'BLE DR. JUSTICE NUPUR BHATI

Order

11/11/2025

1. The matter comes up on an application (1/2025) preferred by the respondents under Article 226 of the Constitution of India for recalling the order dated 07.10.2025 passed by this Court and placing the matter before Division Bench.

2. On 07.10.2025, after hearing learned counsel for the petitioners, this Court, while issuing notice to the respondents, passed the following interim order:

> "Issue notice to the respondents. Issue notice of stay petition as well, returnable within four weeks.
>
> In case, the petitioners deposit Rs.5,79,482/- to the respondent No.2- Asstt. Commissioner, State Goods and Service Tax, Ward No.2, Circle Churu within a period of 15 days from today, the account i.e. A/c No.61259587522 and other bank account of the petitioners, which are linked to PAN Account No. BEOPK4497L shall be de-freezed.
>
> In case, the writ petition is allowed, thus the amount deposited by the petitioner shall be refunded to him."

3. Learned AAG appearing on behalf of the respondents vehemently submits that, by filing the writ petition, the petitioners have essentially challenged the notice dated 23.07.2025 (Annex.8) issued by the Assistant Commissioner (State Tax),

Ward-2, Circle Churu, directing the petitioners to deposit a sum of Rs.5,79,482/- under the provisions of the SGST/CGST Act. Learned AAG further contends that, in view of order dated 15.11.2022 (Annexure A/1 annexed with the application), the present writ petition ought to be placed before the Division Bench. He further asserts that, as the matter was required to be heard by a Division Bench, the order dated 07.10.2025, passed by this Court, may be recalled.

4. On the other hand, learned counsel for the petitioners fairly submits that the interim order was passed ex parte. He further submits that, pursuant to the interim order, the petitioners have deposited a sum of Rs. 5,79,482/- with respondent No.2, and consequently, the bank accounts linked to PAN No. BEOPK4497L have been de-freezed by the respondents.

5. Having considered the submissions advanced by learned counsel for both parties, this Court is of the opinion that a judicial order passed without jurisdiction, particularly in a matter reserved for hearing by the Division Bench, is a nullity in law. Such an order can be recalled or set aside at any stage, even if it has already been complied with, since compliance does not confer jurisdiction. The Supreme Court and various High Courts have consistently held that where an order suffers from an inherent lack of jurisdiction, the concerned court not only has the authority but also the obligation to recall such an order, irrespective of subsequent compliance by the parties. Moreover, even if both the petitioners and the respondents have complied with the order, this does not validate an order passed without jurisdiction. The legal

maxim “consent does not confer jurisdiction” makes it clear that neither agreement nor compliance by the parties can cure a fundamental jurisdictional defect.

6. In view of the above, the application filed by the respondents (No. 1/2025) under Article 226 of the Constitution of India succeeds and is accordingly allowed. The order dated 07.10.2025 is hereby recalled.

7. Let the matter be placed before the Division Bench for adjudication.

8. The office is directed to comply with the order dated 15.11.2022 [Annex.A/1 annexed with application (1/2025)] in its true letter and spirit in tax matters.

(DR.NUPUR BHATI),J

205-Sumit/-