V. Damayanti vs The Superintendent of GST and Central Excise

Whether fresh assessment proceedings under Section 74 of the CGST Act can be initiated for the first time against the legal heir of a deceased proprietor where the business stood discontinued and no proceedings whatsoever were initiated during the lifetim

Date of Order: June 16, 2026
Case Law No: GIB-MHC-2026-61
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

BACKGROUND

The petitioner's husband was the proprietor of a chemicals firm supplying industrial soaps and polishes. He died on 05.03.2019, after which the business was discontinued and closed, and the registration was cancelled w.e.f. 31.12.2019. Despite this, the Revenue initiated proceedings for FY 2018-19 against the legal heir (wife), leading to this writ challenging the demand on the ground that no proceeding had ever commenced while the proprietor was alive.

FACTS

After cancellation of registration, the petitioner received a communication dated 10.03.2025, followed by a notice in Form DRC-01A dated 20.05.2025, alleging that the firm had failed to file returns for certain e-way bills generated during FY 2018-19. The petitioner replied that, following her husband's death on 05.03.2019, the business had been discontinued and closed, and that she was neither involved in nor aware of the business dealings. A show cause notice in Form DRC-01 was thereafter issued on 26.06.2025, to which the petitioner again replied on 24.10.2025 reiterating her stand. Rejecting her explanation, the respondent passed the impugned order dated 11.12.2025 under Section 74, determining a tax liability of Rs.3,42,355/- with interest and penalty. The core legal issue was whether the words "determined after his death" in Section 93 permit initiation of fresh proceedings against the legal heir, or whether they apply only where proceedings were already pending at the time of death. The petitioner argued that "person chargeable with tax" in Section 74 means only the person on whom the incidence of levy falls, and that Section 93 read with Sections 9 and 2(107) cannot bring in a legal heir who did not continue the business. The Revenue contended that Section 93 expressly creates a statutory liability on the legal heir, covering both liability

determined before death and liability "determined after his death," and that Income Tax principles cannot be mechanically imported into the CGST scheme.

COURT OBSERVATIONS (Verbatim)

"*Section 74 of the CGST Act does not employ the expression 'taxable person' but uses the wider expression 'person chargeable with tax'. The said expression cannot be confined only to a taxable person as defined under Section 2(107) of the CGST Act. It would encompass not only registered taxable persons and persons liable for registration, but also the legal heirs from whom the tax is recoverable, and persons such as recipients liable to pay tax under the reverse charge mechanism, electronic commerce operators, etc., in cases where the statute fastens the liability upon them.*" (Para 4.4)

"*Once the statute authorises determination of liability after the death of the taxable person, the expression 'determined after his death' must necessarily include the entire adjudicatory process contemplated under Sections 73, 74 or 74A of the CGST Act, as the case may be. Such process would include not merely the passing of the final order, but also the issuance of notices and all other procedural steps preceding determination. Any other interpretation would have the effect of altering the plain, simple and clear meaning of the express words employed in Section 93 of the CGST Act.*" (Para 4.7)

"*A taxing statute creating a liability must ordinarily be construed in accordance with its plain language, and the Court cannot read into the provision limitations which the Legislature has consciously omitted.*" (Para 4.8)

"*...even in a case where the business of the deceased taxable person has been discontinued and no show cause notice or assessment proceedings had been initiated during his lifetime, fresh proceedings may nevertheless be initiated against the legal heir under Section 73, 74 or 74-A of the CGST Act, 2017 in view of section 93 of the CGST Act. However, in cases of discontinued businesses, the liability of the legal heir shall be limited to the extent to which the estate inherited by him is capable of meeting the charge.*" (Para 4.10)

FINAL VERDICT

Writ Petition **dismissed**. Fresh proceedings can be initiated against the legal heir even where no proceedings were started during the deceased's lifetime, the liability being capped at the value of the inherited estate.

CASES REFERRED

Relied on by the Court:

- *Chief Commissioner of CGST v. Safari Retreats Pvt. Ltd.* — 2024 INSC 756

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