

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date of Reserving the Order	Date of Pronouncing the Order
08.06.2026	16.06.2026

CORAM :

THE HONOURABLE MR. JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.(MD)No.10000 of 2026
and
W.M.P.(MD)Nos.7859 and 7860 of 2026

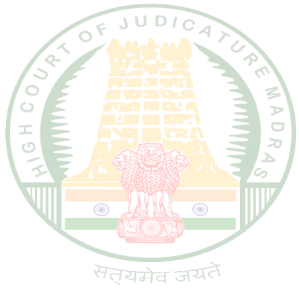
V.Damayanti,
W/o.Late V.Vasudevan (Proprietor, M/s.Vasu Chemicals) ... Petitioner

Vs.

The Superintendent of GST and Central Excise,
Kariapatti Range,
III Floor, Division Office Buildings,
Bibikulam, Madurai 625 002. ... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records relating to the DRC 07 Order in Original No.06/2025-GST-(SUPDT.) dated 11.12.2025 bearing DIN 20251259XO0000521570 passed by the respondent under Section 74 of the CGST Act 2017 for the financial year 2018-19 and quash the same.

For Petitioner : Mr.Adithya Reddy
For Respondent : Mr.R.Gowri Shankar
Senior Standing Counsel



ORDER

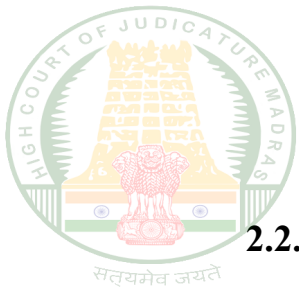
A. The Question:

This Writ Petition raises the question as to whether assessment proceedings can be initiated from the start against the legal heirs of a deceased taxable person where the business is discontinued and when no part of the proceedings whatsoever had been initiated during the lifetime of such taxable person.

B. Facts in Brief:

2. The Writ Petition has been filed challenging the order dated 11.12.2025 passed under Section 74 of the Central Goods and Services Tax Act, 2017 [hereinafter referred to as "the CGST Act"].

2.1. The case of the petitioner is that her husband, V.Vasudevan, was the proprietor of M/s.Vasu Chemicals. He was engaged in supplying industrial soaps and polishes and was registered under GSTIN: 33ABRPV4709K1Z1. He died on 05.03.2019. Following his demise, the business was discontinued and closed. The registration was cancelled with effect from 31.12.2019.



2.2. Thereafter, the petitioner received a communication dated 10.03.2025, followed by a notice in Form DRC-01A dated 20.05.2025, alleging that M/s.Vasu Chemicals had failed to file returns for certain e-way bills generated during the financial year 2018-2019. The petitioner submitted a reply stating that, after the death of her husband on 05.03.2019, the business had been discontinued and closed, and that she was neither involved in nor aware of the business dealings. Subsequently, a show cause notice in Form DRC-01 was issued on 26.06.2025. The petitioner again submitted a reply on 24.10.2025, reiterating her earlier stand. Rejecting the petitioner's explanation, the respondent passed the impugned order dated 11.12.2025, determining a tax liability of Rs.3,42,355/- and levying interest and penalty. Aggrieved thereby, the present Writ Petition has been filed.

C. The Arguments:

3. The primary contention of the learned counsel for the petitioner is that, although Section 93 of the CGST Act enables the authorities to proceed against the legal heirs of a deceased taxable person, the provision must be read harmoniously with Sections 73 and 74 of the CGST Act, as the case may be. According to the learned counsel, Section 74 mandates that a notice be issued to the person chargeable with tax before any determination of liability is made. In



the present case, admittedly, no notice was issued, and no proceedings whatsoever were initiated during the petitioner's husband's lifetime. Therefore, the expression occurring in Section 93 permitting determination of liability after the death of the taxable person must be understood as applying only to cases where proceedings had already been initiated during the lifetime of the taxable person but remained pending determination at the time of his death. It is contended that Section 93 cannot be construed as authorising the initiation of fresh proceedings against the legal heirs after the death of the taxable person in cases where the business is discontinued. Since no proceedings had been initiated during the lifetime of the petitioner's husband, the respondent cannot be permitted to proceed against the petitioner.

3.1. The learned counsel further submits that the expression “person chargeable with tax” in Section 74 refers only to the person upon whom the incidence of the levy falls. According to him, in taxing statutes, the concepts of charge, levy, assessment, collection and recovery have distinct legal connotations and cannot be conflated.

3.2. In support of the said submission, reliance is placed on the decision of the Hon'ble Supreme Court in **Peekay Re-Rolling Mills (P) Ltd. v. Assistant**



Commissioner and another¹, particularly Paragraphs 40 to 45. It is submitted that, in that decision, the distinction between levy and collection was explained by reference to the earlier judgment in **Associated Cement Companies Ltd. v. State of Bihar**².

3.3. The learned counsel also relies on the decision of the Hon'ble Supreme Court in **Laghu Udyog Bharati and another v. Union of India and another**³, particularly Paragraphs 8, 10 and 12, wherein the Hon'ble Supreme Court interpreted the expression “persons responsible for collecting service tax” and held that liability could be imposed only on the person on whom the statute casts such obligation, not merely on the recipient of the services.

3.4. Referring to Section 9 of the CGST Act, the learned counsel contends that the levy of tax applies only to the persons specified therein and that only such persons can be regarded as “persons chargeable with tax” within the meaning of Section 74. According to him, liability to tax arises upon the occurrence of a taxable supply and, therefore, the levy cannot fall upon a legal heir. Reliance is also placed upon the definition of “taxable person” under

¹ (2007) 4 SCC 30

² (2004) 7 SCC 642

³ (1999) 6 SCC 418



Section 2(107) of the CGST Act, which brings a legal heir within its fold only if he continues the deceased's business. In the present case, the petitioner did not continue the business after her husband's death. In support of this proposition, reliance is placed upon the decision of the High Court of Jharkhand in **Rishi Shangari v. Union of India**⁴, particularly Paragraphs 7 and 9 thereof.

3.5. The learned counsel further submits that, while considering a similar provision in Section 159 of the Income Tax Act, 1961 the Hon'ble Division Bench of this Court, in **S.Gowthaman v. The Income Tax Officer and another**⁵, held that assessment proceedings cannot be continued against legal heirs unless proceedings had been initiated against the assessee during his lifetime. Drawing an analogy therefrom, it is contended that, where the business has been discontinued, and no notice had been issued to the taxable person during his lifetime, the words "determined after his death" in Section 93 of the CGST Act cannot be construed as authorising the initiation of fresh proceedings against the legal heirs.

3.6. The learned counsel also submits that, although this Court has, in several cases, set aside proceedings initiated against deceased persons while

4 2025:JHHC:11331-DB

5 W.A.No.529 of 2026, dated 23.03.2026



reserving liberty to the Revenue to proceed against the legal heirs, the specific issue that arises in the present case was neither raised nor considered in those decisions. It is, therefore, prayed that the question be answered in favour of the petitioner and the impugned proceedings be quashed.

3.7. Per contra, the learned Senior Standing Counsel appearing for the respondent submits that the principles governing proceedings under the Income Tax Act, 1961, cannot be mechanically imported into the CGST Act. According to him, the CGST Act contains specific provisions dealing with liability to pay tax, interest and penalty in certain contingencies, including the death of a taxable person. Section 93 of the CGST Act expressly provides for the liability of legal heirs. Under Section 93(1)(a), where the business is continued after the death of the taxable person, the person continuing the business is liable to pay the tax, interest and penalty due from the deceased. Under Section 93(1)(b), where the business is discontinued after the death of the taxable person, the tax, interest and penalty due from such person may be recovered from the legal representative to the extent that the estate inherited by him is capable of meeting the liability.

3.8. The learned Senior Standing Counsel further submits that Section 93 expressly contemplates both situations, namely, where the tax, interest or penalty



had been determined before the taxable person's death and remained unpaid, and where such liability is determined after his death. Therefore, unlike certain other enactments, the CGST Act specifically authorises the authorities to determine and recover tax liabilities even after the taxable person's death. In the absence of any challenge to the validity of Section 93, the impugned order, according to the respondent, is fully in accordance with the statutory scheme.

D. The Discussion & Answer:

4. I have carefully considered the rival submissions from both sides and perused the materials on record. Section 93(1) of the CGST Act, which provides for the liability of legal heirs in cases where the business of the deceased taxable person is either continued or discontinued, is extracted hereunder for ready reference:

"93. Special provisions regarding liability to pay tax, interest or penalty in certain cases.- (1) Save as otherwise provided in the Insolvency and Bankruptcy Code, 2016 (31 of 2016), where a person, liable to pay tax, interest or penalty under this Act, dies, then-

(a) if a business carried on by the person is continued after his death by his legal representative or any other person, such legal representative or other person, shall be liable to pay tax, interest or penalty due from such person under this Act; and

(b) if the business carried on by the person is discontinued, whether before or after his death, his legal representative shall be liable



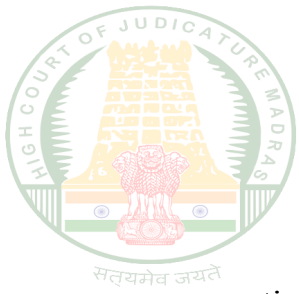
to pay, out of the estate of the deceased, to the extent to which the estate is capable of meeting the charge, the tax, interest or penalty due from such person under this Act, whether such tax, interest or penalty has been determined before his death but has remained unpaid or is determined after his death."

(Emphasis supplied)

Thus, it is evident that even where the tax, interest or penalty that is determined after the death of the taxable person is also the statute that contemplates recovery of the same from the legal heirs in the manner provided under Section 93 of the CGST Act.

4.1. The petitioner's primary contention, however, is that, notwithstanding such an enabling provision, Section 93 must be read harmoniously with Section 74 of the CGST Act, which mandates the issuance of a notice to the “person chargeable with tax” before any determination of liability. According to the learned counsel for the petitioner, the expression “person chargeable with tax” refers to the person upon whom the incidence of the levy falls. Therefore, where no notice had been issued to such a person during his lifetime, the initiation of assessment proceedings after his death would be impermissible.

4.2. In this context, the learned counsel places reliance upon Section 9(1) of the CGST Act, which is extracted hereunder for ready reference:



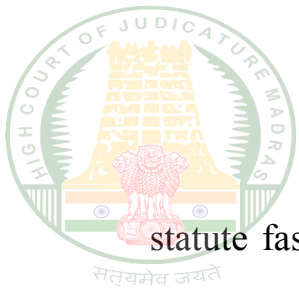
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"9. Levy and collection.- (1) *Subject to the provisions of sub-section (2), there shall be levied a tax called the central goods and services tax on all intra-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption and un-denatured extra neutral alcohol or rectified spirit used for manufacture of alcoholic liquor, for human consumption, on the value determined under section 15 and at such rates, not exceeding twenty per cent., as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person."*

4.3. The expression “taxable person” is defined under Section 2(107) of the CGST Act. The said provision is extracted below for ready reference:

"2(107). "taxable person" means a person who is registered or liable to be registered under Section 22 or Section 24;"

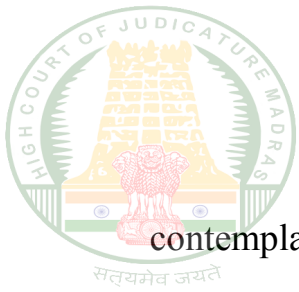
4.4. Section 74 of the CGST Act does not employ the expression “taxable person” but uses the wider expression “person chargeable with tax”. The said expression cannot be confined only to a taxable person as defined under Section 2(107) of the CGST Act. It would encompass not only registered taxable persons 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. While the expression may not extend to every person connected with a transaction, it would certainly include every person upon whom the Act imposes the liability to pay tax, interest, penalty, or any other statutory dues.

4.5. The Legislature has consciously employed the expression “person chargeable with tax” in Section 74 instead of the narrower expression “taxable person”. A careful reading of Section 9(1) of the CGST Act indicates that the levy is on the supply of goods or services or both, while the liability to pay the tax is fastened upon the taxable person or such other person as may be provided under the Act. Therefore, the expression “person chargeable with tax” must be understood as referring to any person upon whom the statute imposes the obligation to discharge the tax liability.

4.6. In this context, Section 93 of the CGST Act expressly creates a statutory liability upon the legal heirs. In cases where the business is continued, the legal heir becomes liable to discharge the tax, interest and penalty due from the deceased. Even in cases where the business is discontinued, the statute authorises recovery from the legal heir to the extent that the estate inherited by him is capable of meeting the liability. Significantly, Section 93 expressly



contemplates a situation where the tax, interest or penalty is determined after the death of the taxable person.

4.7. 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.

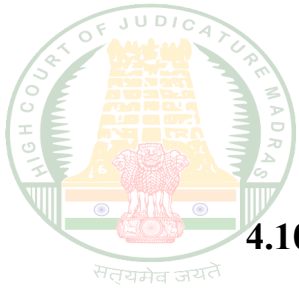
4.8. I am unable to accept the contention that the expression “person chargeable with tax” occurring in Section 74 must either be equated with the concept of levy or be confined to the definition of “taxable person” contained in Section 2(107) of the CGST Act. Consequently, the decisions relied upon by the learned counsel for the petitioner, particularly **Peekay Re-Rolling Mills (P) Ltd.** (cited *supra*), do not advance the petitioner's case. Those decisions deal with the distinction between the levy and the collection of tax, whereas the issue in the present case concerns the statutory liability to pay and the Revenue's authority to



determine and recover such liability under the scheme of the CGST Act. I am, therefore, unable to read Section 93 in the restrictive manner suggested by the learned counsel for the petitioner. 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.

4.9. Reference in this regard has to be the judgment of the Hon'ble Supreme Court in **Chief Commissioner of CGST v. Safari Retreats Pvt. Ltd.**⁶, wherein the Hon'ble Supreme Court reiterated the settled principles governing the interpretation of taxing statutes and held that the statute must be construed as it stands, without adding to or subtracting from its language on considerations of legislative intent or equity. While considering Section 9 of the CGST Act, the Hon'ble Supreme Court also observed that, although the levy is on the supply of goods or services, the liability to pay may, in certain situations, such as reverse charge, be fastened upon a person other than the supplier. The expression “person chargeable with tax”, therefore, has to be understood with reference to the statutory liability created under the Act and cannot be either restricted or expanded on equitable considerations.

⁶ 2024 INSC 756



4.10. In view of the above discussion, I answer the question by holding that, 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.

E. The Result:

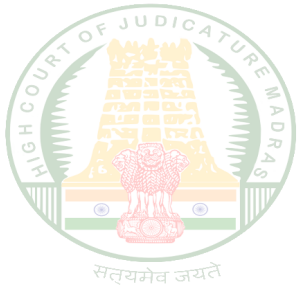
5. In the result, the Writ Petition stands dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions shall stand closed.

NCC : Yes
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16.06.2026

To

The Superintendent of GST and Central Excise,
Kariapatti Range,
III Floor, Division Office Buildings,
Bibikulam, Madurai 625 002.



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D.BHARATHA CHAKRAVARTHY, J.

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