HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Civil Writ Petition No. 11576/2026
CNR: RJHC020608742026 | URN: CW / 25626U / 2026

Chotu Devi, Aged About 57 Years, Chakki Ke Pass, Shanti Nagar, Ward No. 1, Kishangarh, Ajmer Rajasthan- 305801, Wife And Legal Heir Of Late Shri Hansa Ram Choudhary, Proprietor Of M/s Shri Satguru Marbles Industry, Madanganj, Kishangarh, Ajmer, Rajasthan, 305801.

----Petitioner

Versus

1. Union Of India, Through The Secretary, Ministry Of Finance, Department Of Revenue, New Delhi.
2. The Chief Commissioner, Cgst, Jaipur Zone, Ncrb, Statue Circle, C-Scheme, Jaipur- 302005.
3. The Joint Commissioner, Cgst And Central Excise Commissionerate, Jaipur, Ncrb, Statue Circle, C-Scheme, Jaipur- 302005.
4. The Additional Director, Directorate General Of Goods And Services Tax Intelligence, Jaipur Zonal Unit, C-62, Sarojani Marg, C-Scheme, Jaipur- 302001.
5. The Superintendent, Central Goods And Services Tax, Range- 52, Kishangarh, Narmada Nilaya, 2Nd Floor, Plot Nos. 6 And 20, Opposite Agrasen Vihar, Khoda Ganesh Colony, Ajmer Road, Madanganj- Kishangarh, Ajmer- 305801 (Rajasthan).
6. The Superintendent, Central Gst Audit Circle-C, Ajmer, Central Revenue Building, Opposite Session Court, Jaipur Road, Ajmer- 305001.
7. State Of Rajasthan Through The Finance Secretary (Revenue), Government Secretariat, Jaipur- 302005.
8. The Chief Commissioner, Commercial Tax Department, Kar Bhawan, Jaipur- 302004.

----Respondents

For Petitioner(s)	:	Mr. Ravi Gupta
For Respondent(s)	:	Ms. Mahi Yadav, AAG with Ms. Chelsi Agarwal Ms. Anima Chaturvedi, Sr. Standing Counsel Adv. C.S. Sinha

HON'BLE MR. JUSTICE ARUN MONGA
HON'BLE MR. JUSTICE ASHUTOSH KUMAR

Order(Oral)

Reportable

24/07/2026

Per: Arun Monga, J.

1. The petitioner, wife and legal heir of late Shri Hansa Ram Choudhary, has approached this Court assailing the orders passed against the deceased proprietor (late Shri Hansa Ram Choudhary) of M/s Shri Satguru Marbles Industry, who expired on 30.12.2025. The impugned orders include order dated 31.12.2025 passed under Section 74 of the CGST/RGST Act and Order-in-Original dated 26.03.2026 passed under the CGST Act, 2017.

2. Succinctly speaking, the relevant facts of the case, shorn of the unnecessary details, are as follows:-

2.1 The proceedings relate to orders passed under the provisions of the CGST/RGST Act, 2017, whereby tax demands, along with applicable interest and penalties, were raised against late Shri Hansa Ram Choudhary, who was the sole proprietor of M/s Shri Satguru Marbles Industry who expired on 30.12.2025. The said orders include orders dated 31.12.2025 passed under Section 74 of the CGST/RGST Act and Order-in-Original dated 26.03.2026 passed under the CGST Act, 2017.

2.2 Under the aforesaid orders, demands were raised towards tax, interest and penalties, including demands of ₹8,22,310/-, ₹1,57,600/- and ₹12,29,041/- towards tax, along with corresponding penalties as provided under the relevant provisions of the CGST/RGST Act.

2.3 Allegedly, no notice was issued to Mrs. Chotu Devi, the legal heir of the deceased proprietor, nor was she impleaded in the proceedings or afforded any opportunity of hearing before the passing of the impugned orders.

2.4 Hence, this instant writ petition.

3. Learned counsel for the petitioner submits that M/s Shree Satguru Marble Industry was a sole proprietorship concern of late Shri Hansa Ram Choudhary and had no independent legal existence separate from its proprietor. He contends that upon the demise of the sole proprietor, the proprietorship concern ceased to have any separate juristic existence. Therefore, the impugned orders passed against the said concern are liable to be set aside.

3.1 Learned counsel for the petitioner would vehemently argue that the impugned orders dated 31.12.2025 and orders dated 26.03.2026 are void ab initio and is non est and is passed against a dead person in violation of the mandatory provisions of Section 75(4) and 75(6) of the CGST Act.

3.2 Since no hearing was afforded either to the wife of the petitioner or to the petitioner, it is contended that such denial has resulted in a one-sided application of mind by the Assessing Officer, without any independent consideration of the petitioner's case. It is submitted that had an opportunity of hearing been granted, the petitioner would have had a fair chance to put forth his defence and contest the alleged tax liability.

4. Ms. Mahi Yadav, learned Additional Advocate General appearing on advance service while opposing the petition states that under Section 93 of the Central Goods and Service Tax, 2017 (hereinafter referred to as the 'CGST Act') even after the death of the assessee, the tax liability is recoverable from legal representatives.

5. Having heard the rival contention of the parties and upon perusal of the record, we are of the view that the petitioner cannot claim immunity from the tax liability, if any, in view of Section 93 of CGST Act, relevant of which is reproduced hereinunder:-

> ***"Section 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."*

6. In light of the aforesaid legal position, it is clear that Section 93(1)(b) of the CGST Act expressly provides that where tax liability is sought to be recovered qua a business that has been discontinued due to the death of the assessee, the legal representative shall be liable to discharge such liability out of the estate of the deceased.

7. However, Section 93, supra, is subject to the caveat contained in Section 75 of the CGST Act, which mandates that any person upon whom tax liability is proposed to be imposed must be afforded an opportunity of personal hearing, and that any order passed pursuant thereto must be a reasoned and speaking order. For ready reference same is reproduced as under:-

> ***"75. General provisions relating to determination of tax. –***
> *xxxx xxxx xxxx*
> *(4) An opportunity of hearing shall be granted where a request is received in writing from the person chargeable with tax or penalty, or where any adverse decision is contemplated against such person.*
> *xxxx xxxx xxxx*
> *(6) The proper officer, in his order, shall set out the relevant facts and the basis of his decision."*

8. Trite it may sound that the assessment proceedings which are initiated and are to be enforced against the person who are the

heirs/LRs of the deceased assessee would be vitiated in the absence of compliance of the statutory provisions contained under Section 75(4) and (6) of the CGST Act, *ibid*.

9. The conceded fact in the instant case is that the petitioner, being the legal heir, was not issued any independent notice prior to the passing of the Assessment Order. The husband of the petitioner died on 30.12.2025, and the order under Section 74 was passed on 31.12.2025 and Order-in-Original was passed thereafter, on 26.03.2026.

10. Even otherwise, impugned order seems to fall foul of the requirement mandated under Section 75 (6), *ibid*.

11. In the premise, since the petitioner is the legal representative of the deceased assessee, being his wife, as already held hereinabove, he is entitled to be heard, and the Assessment Order ought to have been passed only after the Assessment Officer had set out all the relevant facts and disclosed the basis of his decision.

12. Accordingly, the writ petition is allowed, order under Section 74 dated 31.12.2025 and Order-in-Original dated 26.03.2026 are quashed and set aside, with liberty to the respondents to issue a notice to the petitioner and proceed to pass fresh orders after affording an opportunity of hearing, in accordance with law.

13. All pending application(s) including stay petition stand disposed of.

(ASHUTOSH KUMAR),J **(ARUN MONGA),J**

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