

A2Z Taxcorp LLP

Fresh GST Proceedings Can Be Initiated Against Legal Heirs of a Deceased Proprietor, Even Where No Notice Was Issued During His Lifetime

The Hon'ble Madras High Court in the case of *V. Damayanti v. The Superintendent of GST and Central Excise [W.P.(MD) No. 10000 of 2026 dated June 16, 2026]* dismissed the writ petition filed by the legal heir of the deceased proprietor and upheld the demand initiated under Section 74 of the Central Goods and Services Tax Act, 2017 ("**the CGST Act**") after the death of the taxable person. The Court held 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 Sections 73, 74 or 74A of the CGST Act, in view of Section 93 of the CGST Act. However, in cases of discontinued businesses, the liability of the legal heir shall remain restricted to the extent of the estate inherited by him.

Facts:

V. Damayanti ("**the Petitioner**") is the wife of Late V. Vasudevan, who was the proprietor of M/s. Vasu Chemicals, engaged in the supply of industrial soaps and polishes and registered under GSTIN: 33ABRPV4709K1Z1. The proprietor passed away on March 05, 2019. Following his demise, the business was discontinued and closed, and the GST registration was cancelled with effect from December 31, 2019.

Nearly six years later, the Petitioner received a communication dated March 10, 2025, followed by an intimation in Form DRC-01A dated May 20, 2025, alleging that M/s. Vasu Chemicals had failed to report certain e-way bill transactions for the Financial Year 2018-19. The Petitioner submitted a reply stating that after the death of her husband, the business had been discontinued and that she was neither involved in nor aware of the business dealings.

A2Z Taxcorp LLP

Subsequently, a show cause notice in Form DRC-01 dated June 26, 2025 was issued and the Petitioner once again filed a reply on October 24, 2025 reiterating her stand. Rejecting the Petitioner's explanation, the Superintendent of GST and Central Excise ("**the Respondent**") passed an Order-in-Original No. 06/2025-GST-(SUPDT.) dated December 11, 2025 ("**the Impugned Order**") under Section 74 of the CGST Act, determining a tax liability of Rs. 3,42,355/- along with interest and penalty. Aggrieved thereby, the Petitioner filed the present writ petition before the Hon'ble Madras High Court.

Issue:

Whether fresh assessment proceedings under Sections 73, 74 or 74A of the CGST Act can be initiated against the legal heir of a deceased proprietor where the business has been discontinued and no show cause notice or proceedings were initiated during the lifetime of such taxable person?

Held:



The Hon'ble Madras High Court in ***W.P.(MD) No. 10000 of 2026*** held as under:

- **Observed that**, Section 93(1)(b) of the CGST Act expressly contemplates recovery of tax, interest and penalty from the legal representative even where such liability is "determined after his death", thereby statutorily permitting posthumous determination of tax liabilities to the extent of the estate inherited by the legal heir.
- **Noted that**, the expression "person chargeable with tax" used in Section 74 of the CGST Act is wider than the expression "taxable person" defined in Section 2(107) and would encompass not only registered taxable persons and persons liable for registration, but also the legal heirs from whom tax is recoverable, recipients liable under reverse charge mechanism, electronic commerce operators and any other person upon whom the statute fastens the liability.

A2Z Taxcorp LLP

- **Noted that**, 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, which would include not merely the passing of the final order but also the issuance of notices and all procedural steps preceding determination.
- **Observed that**, the principles governing proceedings under the Income Tax Act, 1961 (such as those laid down under Section 159 thereof) cannot be mechanically imported into the CGST Act, since the CGST Act contains a self-contained scheme under Section 93 dealing specifically with liability to pay tax, interest and penalty upon the death of a taxable person.
- **Relied upon** the decision of the Hon’ble Supreme Court in *Chief Commissioner of CGST v. Safari Retreats Pvt. Ltd. [2024 INSC 756]* to reiterate that a taxing statute must be construed according to its plain language, and the Court cannot read into the provision limitations which the Legislature has consciously omitted.
- **Held 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 Sections 73, 74 or 74A of the CGST Act in view of Section 93 of the CGST Act.
- **Clarified that**, 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.
- **Accordingly**, dismissed the writ petition.

Our Comments:

A2Z Taxcorp LLP

Section 93 of the CGST Act is a special provision dealing with the liability to pay tax, interest or penalty in certain cases including the death of a taxable person. Section 93(1)(a) provides that where the business of the deceased is continued by the legal representative, such legal representative shall be liable to pay the tax, interest or penalty due from the deceased. Section 93(1)(b) provides that where the business is discontinued, whether before or after the death of the proprietor, the legal representative shall be liable to pay, out of the estate of the deceased and to the extent the estate is capable of meeting the charge, the tax, interest or penalty due from the deceased – whether such tax, interest or penalty has been *determined before his death but has remained unpaid or is determined after his death*. The emphasised words clearly contemplate a posthumous determination of liability, which is the very fulcrum on which the present judgment rests.

Reading Section 93 conjointly with Sections 73, 74 and 74A, the Hon'ble Madras High Court has drawn a meaningful distinction between the expression "taxable person" defined under Section 2(107) and the wider expression "person chargeable with tax" appearing in the recovery provisions. The Court has accepted that a legal heir, although not himself a taxable person, becomes a "person chargeable with tax" by operation of Section 93, and consequently can be served with notice and proceeded against under Sections 73, 74 or 74A even after the death of the original proprietor and even where the business stands discontinued. The protection however operates by way of a cap on quantum – recovery being limited to the value of the estate inherited.

It is pertinent to note that there exists a divergence of judicial opinion across various High Courts on this issue. The Hon'ble Madras High Court itself, in an earlier matter ***T. Madhanprabhu v. The Deputy State Tax Officer [W.P. No. 22071 of 2025 & W.M.P. Nos. 24814 and 24816 of 2025]***, had held the demand order against the legal heir of a deceased person passed after cancellation of GSTIN post-demise to be unenforceable. Similarly, the Hon'ble Andhra Pradesh High Court in ***Baratam Satish v. The Joint Commissioner of Central Tax [Writ Petition No. 6029 of 2025]*** held that assessments and other proceedings can only be

A2Z Taxcorp LLP

initiated against persons who are living, and proceedings against a deceased person would not be valid. The Hon'ble Bombay High Court in ***Navin Vishwanathan, Proprietor of M/s. Oriental Facility v. State of Maharashtra and Ors. [Writ Petition No. 8709 of 2025]*** held that recovery from a legal heir is not valid without prior notice and compliance with Section 93 of the CGST Act.

The present ruling of the Hon'ble Madras High Court is therefore a significant pronouncement which takes a contrary position to the line of decisions which had held that proceedings cannot be initiated for the first time against a legal heir after the proprietor's demise. The Court has placed reliance on the plain language of Section 93 and on the Hon'ble Supreme Court's ruling in *Safari Retreats (supra)* to hold that the legislative intent is to enable both initiation and conclusion of adjudication after the death of the proprietor, subject only to the estate-based cap on recovery in cases of discontinued business.

For taxpayers and legal heirs, the immediate practical implication is that issuance of a notice in Form DRC-01 (or earlier intimation in DRC-01A) directly upon a legal heir, in respect of the period during which the deceased proprietor carried on business, cannot per se be challenged as without jurisdiction in the State of Tamil Nadu post this judgment. However, three safeguards continue to remain available: (i) recovery cannot exceed the value of the estate inherited; (ii) the notice must satisfy the substantive ingredients of Section 73 or 74 or 74A as the case may be, including the existence of suppression / fraud for invoking Section 74; and (iii) principles of natural justice must be followed by issuing notice on the legal heir and affording him an opportunity of being heard before passing any order. Given the conflict of opinion amongst High Courts, the issue is likely to travel up to the Hon'ble Supreme Court for an authoritative pronouncement, and assesseees would be well advised to preserve their contentions while continuing to participate in adjudication.

Relevant Provision:

A2Z Taxcorp LLP

Section 93 of the CGST Act – *“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.”

[CLICK HERE FOR OFFICIAL JUDGMENT COPY](#)

(Author can be reached at info@a2ztaxcorp.com)

DISCLAIMER: *The views expressed are strictly of the author and A2Z Taxcorp LLP. The contents of this article are solely for informational purpose and for the reader’s personal non-commercial use. It does not constitute professional advice or recommendation of firm. Neither the author nor firm and its affiliates accepts any liabilities for any loss or damage of any kind arising out of any information in this article nor for any actions taken in reliance thereon. Further, no portion of our article or newsletter should be used for any purpose(s) unless authorized in writing and we reserve a legal right for any infringement on usage of our article or newsletter without prior permission.*