CGHC010139152025 2026:CGHC:31710

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPT No. 67 of 2025

*** -** Smt. Devan Anisha W/o Late Shri Mahendran Rupesh Naidu Aged About 35 Years R/o Flat No. 103, 1st Floor Deep Apartment Pragati Nagar Street 16A Risali Bhilai District - Durg Chhattisgarh - 490006

... Petitioner

Versus

1 - Union Of India Through The Secretary Ministry Of Finance Department Of Revenue Government Of India Room No. 46, North Block New Delhi – 110001

2 - Commissioner (Appeals), CGST Customs And Central Excise Central GST Building Dhamtari Road Tikrapara Raipur (C.G.) - 492001

3 - Assistant Commissioner CGST And Central Excise Division I Bhilai CGST Bhawan Bhilai District - Durg Chhattisgarh – 490001

4 - Indian Overseas Bank Through The Branch Manager Bhilai Branch District- Durg Chhattisgarh - 490001

... Respondents

For Petitioner	:	Mr. Neelabh Dubey, Senior Advocate with Ms. Smiti Sharma, Advocate
For Respondents No. 2 & 3	:	Mr. Maneesh Sharma, Advocate

Hon'ble Shri Justice Rakesh Mohan Pandey
Order on Board

24/07/2026

1. The petitioner has filed this petition seeking the following relief(s):-

> "**10.1** Calling for the records of the case.
>
> **10.2** Directing that the garnishee notice issued under section 87(b) of Finance Act 1994 and 142 of the CGSY Act 2017 issued against Petitioner is illegal and unconstitutional.

10.3 Directing the Revenue Authorities to forthwith desist from making recoveries of dues of the deceased from his legal heirs.

10.4 Granting any other relief that the Hon'ble High Court may deem fit."

2. Mr. Neelabh Dubey, learned Senior Advocate appearing for the petitioner would contend that Mahendran Rupesh Naidu was sole proprietor of M/s Mahendran Rupesh Naidu engaged in subcontracting services during Financial Year 2013-14. He would contend that the respondent authorities issued a show cause notice on 12.10.2018 alleging non-payment of service tax Rs.10,74,919/- on receipts of Rs.86,96,757/-. The demand was confirmed by the Adjudicating Authority vide order dated 30.06.2020 imposing additional penalties and late fees. An appeal was preferred by the petitioner which was dismissed on 03.02.2023 after death of Mahendran Rupesh Naidu on 03.05.2023. Learned Senior Advocate would submit that demand cannot be raised against legal heirs of the dead person of proprietorship firm according to law laid down by the Hon'ble Supreme Court in the matter of ***Shabina Abraham*** **Vs.** ***Collector of Central Excise and Customs*** reported in ***2017 (50) S.T.R. 241 (S.C.)***. He would pray to allow this petition.

3. On the other hand, Mr. Maneesh Sharma, learned Advocate appearing for respondents No. 2 and 3 would oppose. He would submit that demand notice was issued prior to death of Mahendran Rupesh Naidu and order was passed by the Appellate Authority prior to his death, therefore, the Revenue has right to recover the said amount assessed by the Adjudicating Authority from legal representative of assessee. He would submit that the petition deserves to be dismissed.

4. I have heard learned counsel for the parties and perused the documents.

5. As per pleadings made herein, which have not been disputed by the respondents, M/s Mahendran Rupesh Naidu was a proprietorship firm. The proprietor Mahendran Rupesh Naidu died on 03.05.2023, though Adjudicating Authority had passed order raising demand of Rs.10,74,919/- along with penalty of equal sum against proprietorship firm on 12.10.2018. The appeal preferred against said order was dismissed vide order dated 03.02.2023. After death of Mahendran Rupesh Naidu, demand notice was issued against his legal representatives on 13.12.2024.

6. The Hon'ble Supreme Court in the matter of ***Shabina Abraham*** (supra) while dealing with the similar issue in Para- 19 held that according to the provisions of Section 11 of the Central Excise Act *pari materia* to Finance Act 1994 no proceedings with regard to recovery etc can be initiated against dead person or his legal heirs. The relevant Para- 19 is reproduced herein below:-

> "**19.** Learned counsel for the revenue relied upon Section 11 of the Act, which, according to him, indicates that an attachment and sale of excisable goods can belong to a dead person and such attachment and sale can continue notwithstanding the death of such person. Apart from the fact that there is nothing about dead persons in Section 11, Section 11 is limited only to recovery of sums that are due to the Government. The very opening words in Section 11 show that duty and other sums must first be payable to the Central Government under the Act or the rules. If such sums are not "payable" then the provisions of the Section do not get attracted at all. We have seen that the Act contains no machinery provisions for proceeding against a dead person's legal heirs, such as are contained in the Income Tax Act. Obviously, therefore, duty and other sums do not become "payable" without such machinery provisions. Further, Section 11 deals with

> modes of recovery of tax payable and does not deal with the subject matter at hand - namely machinery provisions for assessment in the hands of the estate of a dead person and, therefore, does not have much bearing on the matter in issue in the present case. The argument, therefore, as to the insertion of the proviso to Section 11 by an Amendment Act of 2004 so as to provide that if a person from whom some recoveries are due transfers his business to another person, then the excisable goods in the possession of the transferee can also be attached and sold again leads us nowhere. In fact learned counsel for the appellants also relied on this proviso to argue that the Legislature's need to add the proviso shows that nothing can be read into the Central Excises and Salt Act by implication. As has been stated above, Section 11 deals with an entirely different situation and the addition of the proviso therein is not of much significance as far as the question we have to answer is concerned."

7. Having considered the facts of the present case and law laid down by the Hon'ble Supreme Court in ***Shabina Abraham*** (supra), demand notice dated 13.12.2024 is hereby **quashed**. Accordingly, the petition is **allowed.**

Sd/-
(Rakesh Mohan Pandey)
Judge

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