29 24.11.2025

Ct. No. 551

Ab

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 21417 of 2025

Soni Jaiswal
Vs.
Union of India and others.

Ms. Sweta Mukherjee.
... for the petitioner.
Mr. Bhaskar Prosad Banerjee,
Mr. Tapan Bhanja.
... for the CGST & CX Authority.

1. The petitioner assails an order in original dated January 31, 2025 passed by the Superintendent (range-VI), BBD Bag-II Division, CGST & CX, Kolkata North Commissionerate and the consequential recovery notice dated May 28, 2025.
2. The case run by the petitioner is that a show-cause notice dated August 5, 2024 was issued in the name of a proprietorship concern named M/s. National Plumbing House, proprietor whereof was one Paritosh Jaiswal. The petitioner is the wife of the Proprietor of M/s. National Plumbing House. The said Paritosh Jaiswal breathed his last on June 3, 2020.
3. Upon the receipt of the notice to show-cause dated August 5, 2024, the petitioner furnished her reply thereto thereby intimating the respondent-CGST Authority that her husband (Proprietor of M/s. National Plumbing House) had expired on June 3,

2020 and that the proceeding could not be continued against her husband, since he had expired long back.

4. Despite such communication being made, the respondent no. 2 proceeded to pass the order in original on January 31, 2025 in the name of the petitioner's deceased husband. It is submitted that the entire proceedings, having been initiated against a dead person, are non est.

5. Mr. Banerjee, learned Advocate appearing on behalf of the CGST Authority tried his best to defend the indefensible.

6. Heard the learned Advocate appearing on behalf of the respective parties and considered the material on record.

7. It is well-settled that a proceeding cannot be initiated against a dead person. Once it was brought to the notice of the respondent-CGST Authority that the Proprietor of M/s. National Plumbing House, i.e. the registered tax payer, had expired, it was incumbent on the respondent-CGST Authority to drop the said proceeding and reinitiate a fresh proceeding upon issuing a fresh show-cause notice in the name of the legal representative(s) of the deceased registered tax payer, in accordance with law. Not having done so, the proceeding cannot be sustained.

8. Accordingly, the show-cause notice dated August 5, 2024, the order in original dated January 31, 2025 and the consequential recovery notice dated May 28, 2025 are set aside.
9. WPA 21417 of 2025 stands disposed of with the above observations.
10. It is clarified that this order shall not prevent the respondent-CGST Authority from re-initiating fresh proceedings against the legal representative(s) of the deceased registered tax payer strictly in accordance with law.
11. It is further clarified that since the proceeding has been set aside only on the ground that the same had been initiated against a dead person, therefore if any fresh proceeding is initiated against the legal representative of the deceased tax payer in terms of this order, the petitioner will not be entitled to challenge initiation of such fresh proceeding, on the ground of limitation unless the petitioner was (would have been) entitled to challenge the same, on the ground of limitation on the date when the show-cause notice (i.e. August 5, 2024) was issued in the name of the petitioner's husband, since deceased.

(Om Narayan Rai, J.)