

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

D.B. Civil Writ Petition No. 3209/2026

Shri Hitesh Patel S/o Shri Late Bhagwan Lal Dangi, Aged About
28 Years, Resident Of 203, Eklingpura, Kaladwas, Udaipur
(Rajasthan)-313003

-----Petitioner

Versus

1. State Of Rajasthan, Through The Secretary, Department
Of Finance, Secretariat, Jaipur, 302005.
2. The Chief Commissioner (Sgst), Commercial Tax
Department, Kar Bhawan, Ambedkar Circle, Jaipur
302005
3. The Assistant Commissioner (Sgst), Circle-B, Udaipur -
Ward - Iii, Udaipur, Rajasthan, 313001
4. Joint Commissioner, State Tax, Circle-B, Room No. 201,
New Building, 1St Floor, Kar Bhawan, Patel Circle, Udaipur
5. Executive Magistrate-Cum-Tehsildar, Girwa, Udaipur
(Rajasthan)
6. Union Of India, Through Secretary Finance (Revenue),
Ministry Of Finance, Department Of Revenue, Government
Of India, Shastri Bhawan, New Delhi-110001.

-----Respondents

For Petitioner(s)	:	Mr. Prateek Gattani
For Respondent(s)	:	Mr. Mahaveer Bishnoi,AAG with Mr. Harshwardhan Singh Mr. Kuldeep Vaishnav

**HON'BLE THE ACTING CHIEF JUSTICE MR. SANJEEV PRAKASH SHARMA
HON'BLE MR. JUSTICE BALJINDER SINGH SANDHU**

Order

26/02/2026

1. Petitioner herein, son of the deceased-assessee i.e. Late Shri
Bhagwan Lal Dangi is before this Court assailing an Assessment
Order dated 10.07.2025 passed by the respondent No.3-Assistant

Commissioner (SGST), Circle -B, Udaipur – ward -III, Udaipur, wherein demand of unpaid tax for the Financial Year i.e. 2021-22 has been raised qua the business activities being carried out by his late father.

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

2.1. The petitioner's father (hereinafter referred to as "the deceased") was a PWD contractor operating as sole proprietor of M/s Patel Enterprises (GSTIN 08AJIPD6587G1ZX). The GST registration of the proprietorship was cancelled retrospectively w.e.f. 31.03.2018 vide order dated 18.04.2019, allegedly without adherence to due process and without affording an opportunity of personal hearing.

2.2 Thereafter, Respondent No.1 issued a show cause notice dated 27.05.2025 in Form GST DRC-01 under Section 74 of the CGST/SGST Act for FY 2021-2022, calling upon the deceased to make payment within 30 days. The notice was uploaded on the common portal despite the prior cancellation of registration. According to the petitioner, notice was neither in the prescribed format nor accompanied by any opportunity of personal hearing. Before any reply could be filed, the deceased was hospitalized on 08.06.2025 due to severe liver ailments and passed away on 10.06.2025.

2.3 Thereafter, a demand order dated 10.07.2025 was passed in the name of the deceased, allegedly in breach of Section 75(4) of the CGST Act, which mandates the grant of a personal hearing. Pursuant thereto, the respondent authorities initiated recovery proceedings, including addressing communication to the revenue

authorities seeking transfer of land standing in the name of the deceased. The petitioner subsequently apprised the department of his father's demise and clarified that the business had not been continued by any legal heir, but to no avail.

3. Hence, this instant writ petition.

4. Learned counsel for the petitioner submits that the impugned demand is based on survey made on 19.07.2025 during the lifetime of father of the petitioner. It is also asserted that the survey and the demand relates to the work undertaken during the lifetime of the father of the petitioner who was the sole proprietor of the business concern and, therefore, tax liability cannot be fastened on the petitioner as he had nothing to do with the business.

4.1. Learned counsel for the petitioner would also vehemently argue that the impugned order dated 10.07.2025 is 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.

4.2. Since no hearing was afforded either to the father 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.

5. Mr. Mahaveer Bishnoi, learned Additional Advocate General and Mr. Kuldeep Vaishnav appearing on advance service while

opposing the petition stated 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.

6. 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."

7. 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.

8. 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."

9. 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*.

10. 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 father of the petitioner died on 10.06.2025, and the Assessment Order was passed thereafter, on 10.07.2025.

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

12. In the premise, since the petitioner is the legal representative of the deceased assessee, being his son, 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.

13. Accordingly, the writ petition is allowed. The impugned Assessment Order dated 10.07.2025 is quashed and set aside, with liberty to the respondents to issue a notice to the petitioner in accordance with law. Needless to state, any liability assessed after granting an opportunity of hearing to the petitioner shall be recoverable only against the estate of the assessee in terms of

Section 93, *ibid.*, and to that extent, the respondents shall proceed against the petitioner for recovery of the same.

14. It transpires that during the pendency of the assessment proceedings in respect of the tax liability in question, the estate of the deceased father of the petitioner was under attachment. In the premise, since the Assessment Order has been quashed until the passing of a fresh order by the Assessment Officer, the petitioner shall maintain status quo with respect to the estate of the deceased father.

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

(BALJINDER SINGH SANDHU),J (SANJEEV PRAKASH SHARMA),ACJ

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