CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH - COURT NO.I

Service Tax Appeal No.70620 of 2021

(Arising out of Order-in-Appeal No.155/ST/ALLD/2021 dated 18.06.2021 passed by Commissioner (Appeals) CGST & Central Excise, Allahabad)

M/s Bobby Cable Network, **.....Appellant**
(106/11, Shop No.5, Upper Ground Floor,
Gandhi Nagar, Kanpur)

VERSUS

Commissioner of GST, Customs & Central Excise, Allahabad **....Respondent**
(38, M.G. Marg, Civil Lines, Allahabad-211001)

APPEARANCE:

A Letter on Record, for the Appellant
Shri Santosh Kumar, Authorized Representative for the Respondent

CORAM: HON'BLE MR. SANJIV SRIVASTAVA, MEMBER (TECHNICAL)

FINAL ORDER NO.- 70280/2024

DATE OF HEARING : 28 May, 2024
DATE OF DECISION : 28 May, 2024

SANJIV SRIVASTAVA:

When the matter was called a letter dated nil, from the Wife of Late Manish Chopra proprietor of M/s Bobby Cable Network-Appellant has been placed on record. The text of the letter is reproduced below:-

> ***"Subject*** *– Intimation of death of the appellant Shri Manish Chopra, against Service Tax Appeal No.ST/70620/2021-[SM]*
>
> ***Reference*** *– Case listed against Sr.12 of Cause list of 28.05.2024.*
>
> *Dear Sir,*
>
> *That the appellant in the present appeal is Late Manish Chopra, proprietor of M/s BOBBY CABLE NETWORK against who the demand of service tax, interest and*

penalty was confirmed. That the appellant (proprietor) has passed away on 02.11.2023. A copy of the Death Certificate of the appellant is enclosed herewith as ***'Annexure-1'.***

That since the proprietor of the firm has died, the recovery proceedings against him cannot be initiated in light of decision of ***Hon'ble Supreme Court*** *in case of* ***Shabina Abraham Vs. Collector of Central Excise & Customs- 2017 (50) S.T.R. 241 (S.C.)*** *wherein it has been explicitly held that "In absence of machinery provisions for proceeding against dead person's legal heirs, duty and other sums do not become "payable" to apply recovery provisions under Section 11 of Central Excise Act, 1994"*

Same has been held by ***Hon'ble CESTAT Allahabad*** *in decision in case of* ***Anil Kumar Agarwal Vs. Commissioner of Central Excise & S.T., Kanpur*** *in APPEAL No.ST/71208/2018-CU[DB] vide Final order No.70276/2019 dated 13.02.2019.*

Therefore, it is humbly prayed that this Hon'ble Court may kindly be pleased to take the above facts on record and the appeal may be dismissed as abated."

2. I take note of the above and Rule 22 of CESTAT Procedure Rules, 1982 reproduced below:-

> ***"RULE 22. Continuance of proceedings after death or adjudication as an insolvent of a party to the appeal or application.*** *— Where in any proceedings the appellant or applicant or a respondent dies or is adjudicated as an insolvent or in the case of a company, is being wound up, the appeal or application shall abate, unless an application is made for continuance of such proceedings by or against the successor-in-interest, the executor, administrator, receiver, liquidator or*

other legal representative of the appellant or applicant or respondent, as the case may be :

Provided *that every such application shall be made within a period of sixty days of the occurrence of the event:*

Provided *further that the Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from presenting the application within the period so specified, allow it to be presented within such further period as it may deem fit."*

3. The appeal is disposed of as abated in terms of Rule 22 of the CESTAT Procedure Rules, 1982.

(Dictated and pronounced in open court)

(SANJIV SRIVASTAVA)
MEMBER (TECHNICAL)

LKS