

**IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL, CHENNAI**

Service Tax Appeal No. 41424 of 2015

(Arising out of Order in Appeal No. MAD-CEX-000-APP-028-15 dated 08.04.2015 passed by the Commissioner of Central Excise, Madurai)

M/s. SSM Communication

176/3, Vandikara Street
Sapthagiri Vanika Valagam
Ramanathapuram – 623 501.

Appellant

Vs.

Commissioner of GST & Central Excise

Central Revenue Buildings
No. 4, Lal Bahadur Shastri Marg
Bibikulam, Madurai – 625 002.

Respondent

APPEARANCE:

None for the Appellant

Shri M. Selvakumar, Authorized Representative for the Respondent

Hon'ble Shri M. Ajit Kumar, Member (Technical)

Hon'ble Shri Ajayan T.V., Member (Judicial)

FINAL ORDER NO.41342/2025

Date of Hearing: 19.11.2025
Date of Decision: 19.11.2025

Per M. Ajit Kumar,

Appellant has filed the present appeal against Order in Appeal No. MAD-CEX-000-APP-028-15 dated 08.04.2015 passed by the Commissioner of Central Excise, Madurai.

2. Brief facts of the case are that the appellant, a proprietorship firm, owned by Shri Soosai Manickam, was appointed as distributors for M/s. Sun Direct TV Pvt. Ltd. for their activation/ recharge vouchers and M/s. AIRCEL Ltd. for their prepaid SIM cards, recharge coupon/ voucher/ electronic top up/ recharge appeared to have not discharged their service tax liability. Therefore, the Headquarters Preventive Unit, Madurai initiated an investigation against the appellant asking them to

produce financial records, agreements etc. Show Cause Notice was issued to the appellant to demand Service Tax of Rs.8,02,499/- for the commission received from Sun Direct TV as it involved sale of recharge coupon, by invoking extended period along with interest and for imposing penalties. After due process of law, the Ld. Adjudicating Authority confirmed the demand along with interest and imposed penalties. In appeal, the Ld. Commissioner (Appeals) upheld the same. Hence the present appeal.

3. Shri Jayakumar, son and legal heir of the proprietor Shri Soosai Manickam appeared for the hearing and requested to be heard by submitting a legal heir certificate. He informed about the death of his father Shri Soosai Manickam and submitted a death certificate in this regard. He prayed that the appeal may be allowed to abate. The learned Authorized Representative, Shri M. Selvakumar, appeared on behalf of the respondent-revenue. He stated that the Superintendent of CGST and Central Excise, Ramnad Range vide his letter dated 11.11.2025 informed the office of the Commissioner (AR) that Shri Soosai Manickam, the proprietor of the appellant is no more and enclosed the death certificate in proof the same. He submitted a copy of the letter for record.

4. We find that in **Shankar Finance and Investments Vs. State of Andhra Pradesh and others** [(2008) 8 SCC 536], the Hon'ble Supreme Court emphasised that in proceedings involving proprietary concerns, representation may be in the trade name, yet the proprietor remains the real party in interest. We find that on the death of a proprietary there is no procedure to recover the dues from him even if the revenues were to succeed in this appeal. The Hon'ble Supreme

Court in the case of **SHABINA ABRAHAM Vs COLLECTOR OF CENTRAL EXCISE AND CUSTOMS** [2015 (322) E.L.T. 372 (S.C.)] had an occasion to examine the recovery of tax from an assessee who had died. The Hon'ble Court held that there is in fact no separate machinery provided by the Central Excises and Salt Act to proceed against a dead person when it comes to assessing him to tax under the Act. The situation is no different in the case of the Finance Act 1994 under which the demand in the impugned case is sought to be enforced. Section 83 of the said Act aligns service tax procedures with Central Excise Act, covering exemptions, recovery of duty, offences, appeals etc.

5. As per **rule 22** of the **CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL (PROCEDURE) RULES, 1982**, where in any proceedings the appellant or applicant or a respondent dies among other things, the appeal or application shall abate.

7. We accordingly hold that the proceedings against the deceased appellant / proprietary firm abates as per rule 22 of the CESTAT (PROCEDURE) RULES, 1982. The appeal is disposed of accordingly.

(Operative portion of the order was pronounced in open court
on completion of the hearing)

(AJAYAN T.V.)
Member (Judicial)

(M. AJIT KUMAR)
Member (Technical)