# CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL NEW DELHI.

## PRINCIPAL BENCH - COURT NO. II

## Service Tax Appeal No. 52115 of 2018-SM

(Arising out of order-in-appeal No. 112(CRM) ST/ JDR/2017-18 dated 05.03.2018 passed by the Commissioner, Central Goods & Service Tax, Jodhpur).

**M/s M. Shamshuddin Contractor** **Appellant**
House No. 6F25, Vigyan Nagar, Kota
Rajasthan

*VERSUS*

**Commissioner of Central Goods and Service Tax and Central Excise** **Respondent**
G-105, Gali No. 05,
New Jodhpur Industrial Area, Jodhpur.

**APPEARANCE**:

None for the appellant
Ms. Tamanna Alam, Authorised Representative for the respondent

**CORAM:**

**HON'BLE MR. ANIL CHOUDHARY, MEMBER (JUDICIAL)**

**FINAL ORDER NO. 51503/2019**

DATE OF HEARING: 12.07.2019
DATE OF DECISION: 12.07.2019

**ANIL CHOUDHARY:**

This appeal on behalf of M/s M. Sahmshuddin Contractor, Proprietor late M. Sahmshuddin, has been filed by the legal heir Mohammad Kasim. From the facts on record it has been admitted in para 10 of the order in original, that the legal heir informed at the time of personal hearing that the proprietor - M. Shamshuddin has died and he also produced death certificate which fact is also narrated in para 13 of the order.

2. In view of the judgement of the Hon'ble Supreme Court in the case of **Shabina Abraham vs. Collector of C. Ex. -2015 (322) ELT 372 (SC),** I hold that there being no procedure prescribed for recovery of tax dues by adjudication, against the dead person. Thus, the impugned order demanding tax and penalty are *non est* in the eyes of law. Accordingly, I allow the appeal setting aside the impugned order.

(Dictated and pronounced in open Court).

**(Anil Choudhary)**
Member (Judicial)

Pant