CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI
PRINCIPAL BENCH, COURT NO. 4

SERVICE TAX APPEAL NO. 53399 OF 2018

[Arising out of Order-in-Appeal No. 765(CRM)/ST/JDR/2018 dated 13.07.2018 passed by the Commissioner of Central Excise & Central Goods and Service Tax, Jodhpur]

MARVEL HOLIDAYS **Appellant**
D-2, Flat No. A-2, Mangal
Building, Bhati circle
Jodhpur, Rajasthan-342005

Vs.

COMMISSIONER OF CENTRAL GOODS AND SERVICE TAX, CUSTOMS AND CENTRAL EXCISE, JODHPUR 1 **Respondent**
G-105. New Industrial Area.
OPP. Diesel Shed. Basni
Rajasthan-342001

Appearance:
Present for the Appellant : Shri Om. P. Agarwal, Advocate
Present for the Respondent: Ms. Jayakumari, Authorized Representative

CORAM:
HON'BLE DR. RACHNA GUPTA, MEMBER (JUDICIAL)
HON'BLE MS. HEMAMBIKA R. PRIYA, MEMBER (TECHNICAL)

FINAL ORDER NO. 59368/2024

Date of Hearing/Decision : 17.10.2024

DR. RACHNA GUPTA

Learned counsel for the appellant has brought to notice that the sole proprietor of the appellant has expired and the death certificate has been placed on record. He prayed that since the proprietor of the appellant has died during the pendency of the appeal, the present appeal must necessarily abate in terms of Rule 22 of Customs, Excise and Service Tax Appellate Tribunal (Procedure) Rules, 1982, because no application has been filed by or against the legal heirs to contest the said matter.

2. Learned Authorized Representative has accepted the factum of death of the appellant during the pendency of the proceedings.

3. After perusal of the material on record, we find that the proprietor of the appellant has died when the present appeal was pending. We also find that in terms of Rule 22 of Customs, Excise and Service Tax Appellate Tribunal (Procedure) Rules, 1982 on the death of the appellant, the proceedings shall abate, Rule 22 of Customs, Excise and Service Tax Appellate Tribunal (Procedure) Rules, 1982 is reproduced herein 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:
> … …

3. We also find that in view of the judgement of Hon'ble Supreme Court in the case of **Shabina Abraham vs. CCE-2015 (322) ELT 372 (SC),** wherein it has been held that no proceeding can be initiated against dead person as it amounts to violation of natural justice inasmuch as dead person, who is proceeded against is not alive to defend himself. Further, as per Rule 22 of Customs, Excise and Service Tax Appellate Tribunal (Procedure) Rules, 1982, the appeal shall abate on the death of the appellant unless an application is made for continuation of such

proceedings by or against the successor in interest, executor, administrator, receiver, liquidator or other legal representatives of the appellant or applicant or respondent, as the case may be. Therefore, by following the ratio of the said decision and Rule 22 of Customs, Excise and Service Tax Appellate Tribunal (Procedure) Rules, 1982, we hold that on the death of the proprietor of the appellant, the appeal stands abated. The appeal is accordingly disposed of.

(Order dictated and pronounced in the open Court)

(DR. RACHNA GUPTA)
MEMBER (JUDICIAL)

(HEMAMBIKA R. PRIYA)
MEMBER (TECHNICAL)

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