CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI
REGIONAL BENCH, COURT NO. 5

EXCISE APPEAL NO. 85759 OF 2015
EXCISE APPEAL NO. 85997 OF 2015

(Arising out of Order-in-Appeal No. PUN-EXCUS-001-APP-00-151-152-14-15 dated 02.01.2015 passed by the Commissioner of Central Excise (Appeals), Pune-I.)

AAS AD AIDS
S#245, BORATE VASTI,
DEHU RASTA, MOSHI,
PUNE-412 105. **Appellant**

Vs.

COMMISIONER CENTRAL EXCISE AND SERVICE TAX, PUNE-I **Respondent**
41/A, ICE HOUSE,
SASSOON ROAD,
PUNE-411001.

Appearance:
Shri R S Paranjape, C.A for the Appellant.
Shri A.K. Srivastava, A.C. Authorised Representative for the Respondent

CORAM:
HON'BLE Dr. SUVENDU KUMAR PATI, MEMBER (JUDICIAL)

FINAL ORDER NO. A/85766-85767/2025

Date of Hearing : **01/05/2025**
Date of Decision: **01/05/2025**

Both sides are present.

2. In submitting Death Certificate of Proprietor Late Sumita Vivek Gotge, sole proprietor of Appellant's firm. Ld. Counsel for the Appellant informs that in both the appeals, duty and penalties confirmed by the Commissioner (Appeals), against which appellant-proprietor had preferred this appeal has died on 22.03.2022, for which Appellant's firm is closed now and therefore, both penalty and duty part should have been absolved as Appeal would abate in case of death of Appellant Proprietor. In filing copy of judgment passed by Hon'ble Supreme Court in the case of Shabina Abraham & Others V/s. Collector Central Excise & Customs passed in Civil Appeal No. 5802/2005 on dated29.07.2015, Ld. Counsel for the Appellant further

submits that in view of the said judgment, no duty liabilities survives that in to be recovered from heirs of the Appellant.

3. Ld. Authorised Representative is present. He takes note of the submission. He also informs that Appellant's Proprietorship firm is closed with withdrawal of GST Registration and therefore, he leaves the decision to the discretion of the Bench.

4. Taking note of the submission and having regard to the content of para-30 of the above referred judgment passed by Hon'ble Supreme Court, which is to be reproduced below;

> *It remain to consider a judgment cited by learned counsel for the appellants, namely Commissioner of Central Excise, Bangalore-III V. Dhiren Gandhi, 2012(2810e.l.t. 64 (Karnataka). This judgment is correct in its conclusion that while interpreting the provisions of the Central Excises and Salt Act, legal heirs who are not the persons chargeable to duty under the Act can not be brought within the ambit of the Act by stretching its provisions. To the extent that this judgment holds what is set out here in below, it is correct:-*
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> ***"We do not find any provision in the Act which foists any such liability in the case of intestate succession. In other words, there is no pro0visions which empowers the authorities to recover due from a deceased assessee by proceeding against his legal heirs. They way section 11 and 11A are worded, it is amly clear, the legislature has consciously kept away the legal heirs from answering to liabilities under the Act.***

5. I am of the considered view that neither duty liability nor penalty survives against successors of the proprietor and therefore both the appeals abate in its totality. No recovery proceedings what-so-ever, shall be initiated against any of the successor of the deceased Appellant proprietor.

(Dr. SUVENDU KUMAR PATI)
MEMBER (JUDICIAL)