NEUTRAL CITATION
2026:GUJHC:52029-DB

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 8255 of 2025

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE A.S. SUPEHIA
and
HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI

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Approved for Reporting	Yes	No
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USHABEN KALPESHBHAI PATNI LEGAL HEIR (WIFE) OF DECEASED KALPESHBHAI RAMUBHAI PATNI
Versus
STATE TAX OFFICER, GHATAK 5 (AHMEDABAD)

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Appearance:
KRUTARTH K DESAI(9662) for the Petitioner(s) No. 1
MR ABHAY Y DESAI(12861) for the Petitioner(s) No. 1
MS TANUSHREE SHRIMAL, AGP for the Respondent(s) No. 1

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CORAM:**HONOURABLE MR. JUSTICE A.S. SUPEHIA**
and
HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI

Date : 13/08/2026
ORAL JUDGMENT
(PER : HONOURABLE MR. JUSTICE A.S. SUPEHIA)

1. Rule returnable forthwith. Ms.Tanushree Shrimal, learned Assistant Government Pleader waives service of notice of Rule for and on behalf of the respondent.

2. In the present writ petition, the petitioner has prayed for quashing and setting aside the notice dated 02.07.2024 issued to the petitioner, who is wife of the deceased-Shri Kalpeshbhai Ramubhai Patni (assessee).

BRIEF FACTS

3. Late Shri Kalpeshbhai Ramubhai Patni (husband of the petitioner) was engaged in the business of trading of various goods in the name and style of Shivam Trading Co.. Shri Kalpeshbhai Ramubhai Patni passed away on 03.05.2021 due to Covid-19 at the young age of 37 years. The registration of the proprietorship entity was cancelled by the authorities vide order dated 16.07.2021, assessing nill demands on failure to file the GST returns for a continuous period of six months.

3.1 It is the case of the petitioner, that the business of the deceased proprietor was not continued upon the death of the said proprietor, and she being a householder, was unable to locate the records of the business undertaken by the deceased husband. The respondent authority subsequent to the death of the proprietor and subsequent to the cancellation of registration, issued pre-show cause notice intimation under section 73(5) of the Gujarat Goods and Services Tax Act, 2017 (for short 'the GGST Act') dated 14.06.2024 in the name of the deceased proprietor in FORM DRC-01A, intimating proposed tax liability of Rs.28,49,906/- along with interest and penalty for the tax period Financial Year (for short 'F.Y.') 2020-21. Since the aforesaid intimation was issued only on the GSTN portal after the death of the taxpayer, the present petitioner (legal heir) was not aware of the same and was unable to respond to the said intimation.

3.2 The respondent authority thereafter issued the impugned notice under section 73(1) of the GGST Act along with FORM

DRC-01 dated 02.07.2024 on the deceased taxpayer seeking to recover the tax liability of Rs.28,49,906/- along with interest and penalty for the tax period F.Y. 2020-21. The said notice was issued apparently merely on the differential tax liability on taxable outward supplies as per GSTR-01 and GSTR-3B without undertaking any further verification as regards the actual supplies made by the deceased taxpayer, as well as the availability of the input tax credit against the purported supplies. Since the aforesaid notice was issued on the GSTN portal after the death of the taxpayer, the present petitioner (legal heir) was not aware of the same and was unable to respond to the said notice.

3.3 The respondent authority thereafter passed the impugned order along with FORM DRC-07 dated 01.02.2025 against the deceased taxpayer, confirming the demands proposed in the show cause notice in the absence of any reply filed by the deceased taxpayer. Subsequent to the issuance of the impugned order, the petitioner received a call from the consultant handling and filing of the GST returns for the business of the deceased taxpayer that the impugned notice and the order had been issued on the GSTN portal.

4. Learned advocate, Mr.Abhay Y. Desai appearing for the petitioner has submitted that the impugned notices as well as the subsequent orders are required to be quashed and set aside as the same were issued against the dead person. It is submitted that the petitioner was a house wife and was not related to the business activities of the proprietorship, which was being run by her late husband and hence, was not aware

of the proceedings which culminated into the impugned demand orders. In support of his submissions, he has placed reliance on the judgment dated 28.07.2026 passed in Special Civil Application No.10294 of 2026.

5. Learned AGP, Ms.Tanushree Shrimal appearing for the respondent while opposing the present writ petition, has submitted that the respondent authority has issued 3 notices; on 19.10.2024, 08.11.2024 and 11.12.2024 asking the deceased assessee to submit his reply however, no reply has been given by the late husband of the petitioner. It is submitted that through the notice dated 11.12.2024, the deceased assessee was asked to remain present at 2:13 hours for physical hearing and since no one appeared, the impugned order was passed. She has also submitted that on the principle place of business, the notices were also affixed and it is urged that the impugned orders may not be quashed and aside.

6. It is not in dispute that the petitioner is a house wife of the deceased assessee – Shri Kalpeshbhai Ramubhai Patni, who passed away during Covid Pandemic on 03.05.2021. The petitioner was not remotely connected to the proprietorship and ultimately, the registration was cancelled on 16.07.2021 of the proprietorship. After the period of almost 3 years, on 14.06.2024, the respondent authority issued the pre-show cause notice intimation to the deceased assessee under the provisions of Section 73(5) of the GGST Act intimating about the proposed tax liability of Rs.28,49,906/-. Thereafter, the proceedings further continued and the notices were issued and affixed at the factory premises of the deceased assessee.

Since no one appeared, the respondent authority passed the impugned order dated 01.02.2025 confirming the demands, proposed in the show cause notices. It is true that the respondent authority was not aware about the death of the husband of the petitioner, who was connected with the business activities of the proprietorship. However, the petitioner, being a housewife, was not even remotely connected with the business and was unaware of the niceties of the GSTN portal.

7. Thus, in wake of the aforesaid facts, since the proceedings are initiated against the dead person, we quash and set aside the show cause notices as well as the impugned orders passed thereafter with a clarification that it will be open for the respondent to initiate proper proceedings in accordance with law against the petitioner for the outstanding demand. The present petition stands ***allowed.*** Rule is made absolute. No order as to costs.

(A. S. SUPEHIA, J)

(VAIBHAVI D. NANAVATI,J)

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