



# Lawgics

By Nidhi, Advocate



Judgment No.: 091  
Dt.: 18-03-2024



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## Judgment Deals With

Section/Rule	Section 73
Authority	Kerala High Court
Case Name	Vikas A Shah VS State Of Kerala
Dated	28 <sup>th</sup> February, 2024

### Brief Facts:

The appellant's mother, the late Vasanti Anil Kumar Shah, was running a proprietorship concern under the name and style "International Agencies". The appellant's mother passed away on 02.12.2018. On her death, the father of the appellant, Sri. Anil Kumar Shah was designated as the authorised signatory for the closure activities of the business. He also passed away on 21.02.2021. The Department initiated assessment proceedings under the GST Act against the mother of the appellant for the period July 2017 to March 2018, and show cause notice was issued in the name of deceased mother. In spite of the objection raised by the appellant that the assessment proceedings cannot be continued in the name of his deceased mother, the departmental officer concluded the assessment proceedings and passed the impugned order. The learned Single Judge found that the appellant had succeeded the business of his mother. However, considering the fact that the appellant could not participate in the assessment proceedings and the impugned assessment orders were passed ex-parte, they were set aside, and the assessing officer was directed to pass a fresh assessment order in accordance with the law after hearing the appellant. The said judgment has been challenged now.

### Findings & Decision of the Court:

The learned Single Judge assumed that the appellant had inherited his mother's business.

However, the appellant had never admitted that he succeeded the business of his mother. It is his case that after the death of his mother, he started his own business in the name of International Agencies with a different registered address.

In short, his business and his mother's business are two different businesses, though their names are similar. The appellant can very well take up his said plea regarding the non-inheritance of his mother's business as well as the plea of limitation before the assessing officer. The assessing officer shall consider those pleas and pass fresh orders in accordance with the law after hearing the appellant.

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