

GAHC010160802025



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**THE GAUHATI HIGH COURT**  
**(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)**

**Case No. : WP(C)/4535/2025**

SIKHA BORGOHAIN  
D/O LT ANIL BORGOHAIN R/O WARD NO. 3 ERA DHAL PO PS AND DIST  
DHEMAJI ASSAM PIN 787057

VERSUS

UNION OF INDIA AND ORS  
REP BY THE SECRETARY OF GOVT OF INDIA MINISTRY OF FINANCE NEW  
DELHI 110001

2:GOVT OF ASSAM  
REP BY THE SECRETARY OF GOVT OF ASSAM FINANCE DEPTT JANATA  
BHAWAN DISPUR GUWAHATI 6 ASSAM

3:THE CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS  
REP BY ITS CHAIRMAN SITUATED AT 1ST FLOOR TOWER NBCC PLAZA 1  
SECTOR 5 PUSHP VIHAR NEW DELHI 110017

4:THE GOODS AND SERVICES TAX COUNCIL  
REP BY ITS CHAIRPERSON SITUATED AT 5TH FLOOR TOWER II JEEVAN  
BHARATI BUILDING JANPATH ROAD CONNAUGHT PALACE NEW DELHI  
110001

5:THE COMMISSIONER OF CENTAL GOODS AND SERVICE TAX  
GST BHAWAN LB ROAD PO TEZPUR ASSAM ASSAM784001

6:THE DPEUTY COMMISSIONER OF CENTRAL GOODS AND SERVICE TAX  
TEZPUR DIVISION GST BHAWAN LB ROAD PO TEZPUR ASSAM 784001

7:THE COMMISSIONER OF STATE GOODS AND SERVICES TAX ASSAM

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KAR BHAWAN GANESHGURI GUWAHATI ASSAM 78100

**Advocate for the Petitioner** : MR. P BORDOLOI, MS M NIROLA

**Advocate for the Respondent** : DY.S.G.I., SC, GST,SC, FINANCE

**BEFORE  
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI**

**ORDER**

**11.08.2025**

Heard Shri L Gulani, the learned counsel appearing on behalf of the petitioner.  
Shri S Chetia, the learned counsel appears on behalf of the respondent nos. 3 to 6.

- 2.** The petitioner herein is the daughter of one Anil Borgohain, (since deceased) who has filed the instant writ petition challenging the order in original dated 29.08.2024 and summary order dated 30.08.2024.
- 3.** The case of the petitioner herein is that the father of the petitioner, namely, Anil Borgohain was granted a registration under the Central Goods and Services Tax, Act 2017 (for short, the Act of 2017) by issuance of a certificate on 01.07.2017. The trade name of the petitioner's father proprietorship firm was M/s. Anil Borgohain and the registration number was 18AISP7213Q2ZN.
- 4.** It is the case of the petitioner that the father of the petitioner expired on 17.09.2021. However, a show cause notice was issued on 28.05.2024 in respect to the tax period from April, 2019 – March, 2020 under Section 73(1) of the Act of 2017. The petitioner, thereupon, on receipt of the same intimated the authorities that the father of the petitioner had expired and a request was made on 01.03.2024 seeking time to submit the show cause notice. Thereupon, there was

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no reply so submitted and the consequential effect was that on 29.08.2024, the impugned order was passed thereby imposing an amount of Rs.39,82,924/- as the outstanding tax along with applicable interest and penalty payable by the father of the petitioner to the Department. After the said order was passed on 29.08.2024, the petitioner has approached this Court by filing the instant writ petition on 22.07.2025.

- 5.** From the materials on record, it transpires that the petitioner's father was liable to pay whatever tax was required during the financial year 2019-20 and in terms with Section 93 of the Act of 2017, upon the death of the father, the legal representative would be liable. There is no dispute with the fact that the petitioner herein is the daughter of Late Anil Borgohain. It is also to be taken note of that had the respondent authorities being informed about the death of the father they would have accordingly made necessary corrections and not issued the notice to Late Anil Borgohain and would have taken steps for issuance of notice upon the petitioner or other legal representatives of Late Anil Borgohain. Under such circumstances, as the said proceedings was initiated against a dead person, the same has to be construed to be a nullity and accordingly, this Court interferes with both the notice dated 28.05.2024 as well as the impugned order dated 29.08.2024. Be that as it may, this Court is also of the opinion that the period from the date of issuance of the notice dated 28.05.2024 till the certified copy of this order is served upon the respondent No.6 is required to be excluded while computing the period of limitation for passing an order under Section 73 of the Act of 2017, in view of the fact that the petitioner had only approached this Court on 22.07.2025 and there was never any information being provided by the legal representatives of Late Anil Borgohain to the respondent authorities. It is also pertinent to take note of that even after the death of Late Anil Borgohain on 17.09.2021, on behalf of Late Anil Borgohain the petitioner continued to file the returns and as such, the

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respondent authorities were completely unaware of the death of Late Anil Borgohain.

**6.** Under such circumstances, this Court, therefore, disposes of the instant writ petition with the following observations and directions:

(i). The show cause notice dated 28.05.2024 as well as the impugned order dated 29.08.2024 are both set aside and quashed.

(ii). Liberty is given to the respondent authorities to issue fresh show cause notice upon the legal representatives of Late Anil Borgohain in terms with Section 73(1) of the Act of 2017 and the period from the date of such notice dated 28.05.2024 till a certified copy of this order is served upon the respondent No.6 would be excluded while computing the period of limitation.

**7.** Writ petition, accordingly, stands disposed of.

**JUDGE**

**Comparing Assistant**