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SUCCESSION AND LEGAL STATUS OF SOLE PROPRIETORSHIP AFTER DEATH OF OWNER IN INDIA: A PROCEDURAL ANALYSIS

David T Sutzamuan Paite[1]

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Abstract

The most basic and approachable business structure is the sole proprietorship, which is defined by direct control and individual ownership. On the other hand, when the owner passes away, its lack of perpetual succession presents serious financial and legal difficulties. With an emphasis on significant legislative provisions, court rulings, and tax implications, this article studies the legal status and succession procedures governing sole proprietorships in India. Without succession planning tools like wills, trusts, or business conversion, the lack of a distinct legal identity results in immediate dissolution. Although Indian Succession Act of 1925, served as the major foundation for inheritance, its application to company continuity is still complicated. Additionally, legal heirs are subject to procedural obligations under tax rules under Central Goods and Services Tax Act of 2017 and Income Tax Act of 1961, which need GST cancellation, new registration, and compliance with outstanding liabilities Judicial rulings reaffirm that sole proprietorships do not survive beyond the owner's lifetime, reinforcing the necessity for structured succession policies. The study identifies gaps in current legal frameworks and recommends reforms, including mandatory succession planning, streamlined GST and tax procedures, recognition of perpetual sole proprietorships, and improved financial institution policies. In addition to ensuring simpler business transitions, strengthening legislative and policy measures would also protect financial stability and promote economic resilience. Proactive legal reforms that address these issues will help individual business owners as well as boost investor confidence and promote a long-lasting Indian entrepreneurial ecosystem.

Keywords: Death of Owner, GST Registration, Legal Heir, Sole Proprietorship, Perpetual Succession

Introduction

A sole proprietorship is a form of business that is owned and controlled by a single individual and does not require incorporation. Examples of these are local storekeepers, such as grocery and stationary stores, and independent workers, such as electricians, carpenters, lawyers with independent practices, etc. A sole Proprietor is an individual who owns a business and operates it by themselves and the place of creation can be from home or any other property with a small investment. In a Sole proprietorship, the need for incorporation does not arise since there exist no distinction between owner and company. Hence, there does not arise any separate legal identity. This was ruled in the case of Commissioner of C. Ex., Chandigarh v. Shre Ambica Steel Industries[2] where the Court stated that "It is well settled that a sole proprietorship concern has no legal entity independent of its proprietor. Thus, it is obvious that the death of of late Smt. Bimla Rani of the respondent-company ceased to exist."[3] Hence, it is one of the easiest and most convenient forms of business to

1. Independent Legal Researcher.
2. *Commissioner of C. Ex., Chandigarh v. Shre Ambica Steel Industrie*s, 2012 SCC OnLine CESTAT 3064: (2013) 288 ELT 420.
3. Id. at Para 7.

establish with no special procedure established by law for its creation.

Legal Status of Sole Proprietorship in India

Registration of sole proprietorship is not mandated by law in India; there exists no such mechanism provided by the Government instead, they are guided by various rules and regulations such as tax registration. The purpose of such registration is to indicate that the sole proprietor is holding business under the said structure.

In India, sole proprietorship is governed by these following Statute:

Shop and Establishment Act 1948

This Act is regulated by the Ministry of Labour and regulates trade, business, or professions being carried out. This Act is enacted in every state in India, and it differs slightly from one state to another. The Act is connected with sole proprietorship because it regulates the working conditions and legal requirements for businesses. It includes businesses like shops, restaurants, and offices which are a form of business under sole proprietorship and hence they are required to register under this Act. The Sole proprietor generally has to register with the Municipal. The need for this is to ensure compliance with labour laws, working hours, employee rights, etc.

The Central Goods and Services Tax Act, 2017 (hereby CGST, 2017)

The CGST, 2017 is directly connected with Sole Proprietors as such forms of businesses have to undergo GST Registration and taxation to hold business as they conduct business involving supply of goods and services. Sole proprietor has to register in India under this Act under Section 22 provided certain conditions are fulfilled –

- "A person making taxable supplies of goods and services (or both) from any Special Category State is liable for GST registration if their aggregate turnover exceeds ₹ 10 lakh in a financial year.
- At the request of a Special Category State and upon the recommendation of the GST Council, the aggregate turnover threshold may be:
- Increased from ₹ 10 lakh to ₹ 20 lakh, subject to conditions and limitations as notified.
- Further enhanced from ₹ 20 lakh to a maximum of ₹ 40 lakh for suppliers engaged exclusively in the supply of goods, subject to specified conditions and limitations.
- The Government may approve such enhancements based on the request of the State and the recommendation of the GST Council.[4]"

To summarise, any sole proprietor must obtain GST registration if the aggregate turnover exceeds the said amount in a financial year.

Section 24[5] provides for compulsory registration in certain cases. Under this provision, a sole proprietor must register if such businesses he holds are related to making interstate supply of goods & services, E-Commerce supply, causable taxable individual, or non-resident who makes taxable supplies.

Various other sections of the CGST Act, 2017 govern sole proprietorships, including Section 9, which pertains to the levying and collecting tax; Section 16, which outlines eligibility criteria and condition for availing Input Tax-Credit (ITC); Sec. 10, which provides for the composition levy applicable to small businesses; and Section 25, which prescribes the procedure for registration which we will not be going into detail. These provisions collectively regulate the tax obligations and compliance requirements for sole proprietorships under the GST framework.

The relationship between sole proprietors and CGST Act, 2017 can be observed in the sense that GST registration is compulsory for sole-proprietorship whose annual-turnover exceed the prescribed threshold limit under the Act. Sole proprietors are required to levy and collect GST on taxable supplies and subsequently remit the tax collected to the government. They are eligible to claim ITC on business-related purchases, thereby reducing their overall tax liability. Additionally, compliance with the regular filing of GST-returns, which includes GSTR-1, GSTR-3B, and GSTR-9, is essential

4. The Central Goods and Service Tax Act, 2017, § 22, No. 12, Acts of Parliament, 2017 (India).
5. Id.

to ensure adherence to statutory obligations. Small-scale sole proprietors may opt for the composition scheme, which offers a simplified tax payment structure with reduced compliance requirements. Failure to comply with GST requirements may lead to interest and penalty costs, emphasizing the importance of timely tax payments and accurate return filings.

The Central Goods and Services Tax (CGST) Rules, 2017

The CGST Rules, 2017 provide for a detailed procedural guideline for registration (Rule 8), Issuance of Registration Certificate (Rule 10), Application of Registration of Cancellation (Rule 20), and various other rules related to Sole Proprietorship. Non-compliance with the guidelines by a sole proprietor may lead to penalties or cancellation of registration, which makes it important for one to adhere to GST regulations and timely tax filings.

Income Tax Act, 1961

As a sole proprietor do not identify as a separate legal identity, they come under individual tax slabs hence they are taxed individually as individual taxpayers. The business of the sole proprietor is treated as personal income therefore they are taxed accordingly. Section 28[6], provides for "Profits and gains of business or profession", and hence sole proprietors are taxed under this provision. Income from businesses includes a retail business, independent workers, etc. This section ensures that all revenues earned through sole proprietorship are subjected to taxation and tax deductions. Since Sole proprietors are not mandated by law for registration, this Act makes them comply with tax laws, and maintain proper account books for account and any failure to adhere to such regulations will lead to penalties, tax audits, and interest on unpaid taxes.

Under Section 44AD[7], a sole proprietor with a turnover of up to Rs. 3 crores (for business) and Rs. 75 lakhs (for professional) can opt for presumptive taxation, paying 6% (digital transaction) and 8% (cash transaction) of gross receipts as tax. The provision removes the requirement for the taxpayer to keep detailed books of accounts or submit to tax audits by allowing them to report a predetermined percentage of their turnover as taxable income. The purpose of this provision is to promote voluntary tax compliance and lessen the pain of adherence on small-businesses. Eligible taxpayers within this clause includes, individuals, Hindu-Undivided Family, or partnership firms engaged in business. Examples of such businesses are retail stores such as grocery, clothing, and small traders, it is to be noted that LLP and Companies are not eligible under his provision. This particular section is important in simplifying tax compliance for sole proprietors and small business holders.

Along with the above provision, Section 44ADA[8], enable sole proprietors engaged in specified professions such as lawyers, doctors, consultants, etc, with gross receipts up to Rs 75 lakhs can declare 50% of their receipts as taxable income without maintaining a detailed account. Besides these, there are various provisions such as Section 80C – Deductions for Tax Savings where sole proprietor can claim deductions up to Rs. 1.5 Lakh for investment in PPF, EPF, life insurance, etc; Section 139 – Income Tax Return (ITR) Filing, Section 194J – TDS on professional fees where payments exceeding Rs. 30,000/- per annum received by sole proprietors are subject to TDS at 10% under the Income Tax Act of 1961 which acts as procedural guidelines for sole-proprietor and any default or non-compliance with such procedures may result in penalties (Section 234F).

Indian Succession Act, 1925

Since there is a single owner in a sole proprietorship, the idea of perpetual ownership does not apply. Furthermore, because the business and its owner do not have a separate legal identity, the business ends following its owner's death. As a result, the Indian Succession Act (hereby mentioned as ISA) of 1925 plays a part in deciding its inheritance as well as other requirements including business ownership, liabilities, and assets. In the absence of a will or in accordance with the terms of a legal will, this Act regulates the inheritance of real estate and company assets.

The ISA 1925 has a big impact on how a sole proprietorship's assets are handled and inherited after the owner passes away. Unless legal successors take aggres-

6. The Income Tax Act, 1961, § 28, No. 43, Acts of Parliament, 1961 (India).
7. The Income Tax Act, 1961, § 44AD, No. 43, Acts of Parliament, 1961 (India).
8. Id.

sive measures to perpetuate the business, a sole proprietorship ceases to exist since it lacks a distinct legal status. The simplest way to guarantee business continuation is through testamentary succession via a will. In the absence of a will, inheritance is governed by the relevant personal succession rules, which frequently causes complications in company succession. Hence, strategic business structuring and legal documentation will help to minimize difficulties and guarantee a seamless transfer of ownership.

Sole Proprietorship After Death: Legal Framework and Transition

From what has been discussed, an understanding of what a sole proprietorship is and its legal standing in India is observed, that it is not required by law to incorporate a business under a sole proprietorship though there exist several provisions that provide procedural guidelines. So, what is the actual scenario of a sole proprietorship upon the owner's death as the concept of perpetual succession does not exist in this form of business? In *M/s S.A Enterprise v. The General Manager, Eastern Railway & Ors*[9], petitioner took over the trade licence i.e., M/s. S.A. Enterprise which was owned by the plaintiff's deceased mother (A sole proprietorship named of the "M/s. S.A. Enterprise") who had entered into a tender released by the railway officials. In this case, the tender was cancelled upon the death of the mother (according to the General Conditions of the Contract) although the son took over the trade name due to the reason that "A sole proprietorship does not have perpetual succession and the petitioner cannot claim to be the sole proprietorship firm upon the death of the mother". That the mother had died, hence, the business of such individual has ended.

So what procedures are available upon the owner's passing, and what is the judiciary's position on the matter? In the part that follows, we will conduct a study on this.

If the sole proprietor dies, two steps have to be followed;

i. The business has to be shut down, and;

ii. It can be transferred to a legal heir who becomes the new owner through the methods available in the ISA, 1925 though it can also differ based on religion in the absence of a will.

So, the question arises how does one leave a will, or who can make a will? Can anyone make a will? The answer to this is that any individual of sound mind can make a will; the only limitation is that the person cannot be a minor[10] though there are still some exceptions to it. Such exceptions are wills made under the influence through intoxication, impairment or you have a lack of understanding of the concept of the will[11]. Hence it should be understood that just because a will exists it does not become valid.

The Apex Court in Dhani Ram v. Shiv Singh[12] held "mere registration would not sanctify a document a document by attaching to it an irrebuttable presumption of genuineness[13]". From the quoted statement it can be understood that just because a document is registered it does not mean it becomes genuine or automatically valid beyond question. For example, if A buys a Car and gets the registration certificate, the certificate proves that the car is registered in your name but it does not guarantee that the car has no defects or legal disputes and if someone challenges the ownership, A will need to provide proof such as receipts, agreements, etc. Similarly, facts in the aforementioned case are as follows. Shiv Singh challenged a will that had been allegedly executed by Leela Devi which left ancestral properties to Dhani Ram. In support of Shiv Singh's claim under intestate succession, the Trial Court declared the will to be null. The Appellate Court, however, overturned this ruling, maintaining the legality of the will and rejecting Shiv Singh's petition. The High Court's decision for

9. M/s. S.A. Enterprise v. Gen. Manager, E. Ry., W.P. No. 26493 (W) of 2017, 2017 SCC OnLine Cal 16988.
10. Indian Succession Act, 1925, § 30, No. 39, Acts of Parliament, 1925 (India).
11. Shravani Mekade, *Understanding Section 59 of the Indian Succession Act, Who Can Make a Will in India?* (Feb. 05, 2025, 11:30 AM), https://www.lawtarazoo.com/understanding-section-59-of-the-indian-succession-act-who-can-make-a-will-in-india/.
12. Dhani Ram v. Shiv Singh, 2023 LiveLaw (SC) 862.
13. Sherly Sebastian, *Will Can't be Presumed To Be Valid Merely Because It is Registered: Supreme Court* (Feb. 5, 2025, 11:40 AM), https://www.livelaw.in/supreme-court/will-cant-be-presumed-to-be-valid-merely-because-it-is-registered-supreme-court-239579.

maintaining the Trial Court's verdict led to the current appeal at the Apex Court. The High Court's ruling was maintained by the Supreme Court, which emphasized that the will's execution did not adhere to the necessary legal standards. The court specifically examined the statements of the attesting witnesses, Lok Nath Attri and Chaman Lal, and found contradictions that called into question the legality of the will. Shiv Singh is therefore entitled to inherit the properties through intestate succession since the court determined that the will was not properly executed. As a result, the will in dispute was deemed void since it did not satisfy the legal standards for proving a will. As a result, the heir had the right to inherit the inheritance since they were the only legitimate successor identified by the relevant intestate succession statutes.

So now after understanding the two routes that need to be taken after the death of a sole proprietor, one of them being that it can be transferred to a legal heir through a will (testate or intestate) provided it goes along with the procedure established by law through the various Acts then what is the actual procedure in a scenario where the sole proprietor dies? When such sole proprietor dies, the Legal heir has to visit the office of the Proper Office (Jurisdiction Officer) and submit the Death Certificate of the sole proprietor along with the Succession Certificate before the Proper Officer as documentary evidence. Proper Office will add legal heir as the authorized signatory on the GST Portal.[14]

As to what is a "Proper Office" mentioned in the above-para, Section 6 of CGST, 2017 states officers who has been appointed under the State-GST(SGST) or Union-Territory GST (UTCGST) can also act as a "Proper Officer" for implementing the CGST Act, under certain conditions, viz, as the Jurisdiction Officer. For example, Mr. A is a sole proprietor and holds a retail business in State X and has died without passing on his business or filing any GST returns, now His legal Heir Mr. Y is taking on his business and hence has to transfer the business into his name, normally a CGST officer would handle his case but under Section 6(1)[15], an SGST officer of State X may also be authorized to take action regarding the matter (under the SGST Act). In other words, Proper Officers are government officers who have the legal authority to enforce GST Rules, such as tax audits, penalties, inspections, etc.

Transferring ownership is a complicated process in sole proprietorships because there is no perpetual succession. Certain procedures must be fulfilled if the legal heir wishes to assume ownership of the company, the first being cancellation of business or GST Registration. Cancellation of Registration is mentioned under the provision of CGST Act, 2017 under Section 29 (1) – Cancellation or Suspension of registration – "It states that in case of death of a person or a sole proprietor in this scenario, the proper office may initiate a cancellation suo motu or an application may be filed by a legal heir or any other registered person to cancel the registration of the sole proprietor (transfer fully for any reason including death of the proprietor)"[16] under the time given in such manner as prescribed.

The procedure for GST Cancellation is outlined in the CGST Rules, 2017, where it is stated that a registered taxpayer, excluding individuals granted registration under Rule 12 or assigned Unique Identity Number (UIN) under Rule-17, who seeks for cancelling GST registration u/s 29(1) must submit application electronically in "FORM GST REG-16". This application must contain thorough information on the capital goods, semi-finished and finished items, and inputs that are kept in stock as of the day the cancellation is requested. Additionally, the applicant must disclose the corresponding tax liabilities and provide details of payments made, if any, toward such liabilities and relevant supporting documents may also be submitted along with the application. The entire process must be completed within 30 days from the event occurred necessitating cancelling of the same, whether straight via the GST portal or via a Facilitation-Centre informed by Commissioner.

Both Section 29, CGST Act, 2017 and Rule 20, CGST Rules, 2017 provide a structured framework for cancelling GST registration in cases such as business closure, transfer, or the death of a sole proprietor. The provision ensures tax compliance while allowing a smooth

14. Procedure In Case Of Death Of Proprietor, https://www.taxlok.com/view/latest/library/latest/details.html/id=XzJ99CK17Ec=/key=E (last visited Feb. 6, 2024).
15. The Central Goods and Services Tax Act, 2017 § 6, No. 12, Acts of Parliament, 2017 (India).
16. The Central Goods and Services Tax Act, 2017 § 29(1)(a), No. 12, Acts of Parliament, 2017 (India).

transition for businesses and their legal heirs. The role of the proper officer in overseeing this process ensures that due procedure is followed, liabilities are cleared, and fraudulent cancellations are prevented.

Steps for Cancellation of GST Registration After Death of Sole Proprietor

The Legal successor is obliged to provide several documents as proof of business transfer upon the demise of sole proprietor. Such are:

i. Identity Card (PAN Card, Aadhar, Passport) of both the deceased as well as the legal heir.
ii. Identification of the deceased Sole Proprietor
iii. Death-Certificate of Sole Proprietor
iv. Succession-Certificate
v. No Objection Certificate (NOC) in instances where there are multiple legal heirs so as to avoid conflict over whose name the transfer is happening
vi. Such legal heir authorized for obtaining the business or sole proprietorship has to be mentioned among multiple legal heirs as he/she will be applying for GST Cancellation

After acquiring the needed documents, the legal heir can proceed to the application of the sole proprietorship through methods provided by the governing Acts and Rules. The steps for Cancellation of GST Registration on account of the demise of sole-proprietor are:

1. As mentioned earlier the legal heir has to visit the Proper Office (Jurisdictional Office) and provide certification of death and succession certificate of deceased proprietor with various relevant documents and apply for 'Change of Authorized Signatory'
2. As provided in Rule 20 of CGST Rules, 2017, legal heir must fill FORM GST REG-16 to cancel the GST Registration, providing details as provided in the form. Along with this all-pending GST returns must be duly filed, and any outstanding tax liabilities must be settled up to the date of the proprietor's demise. This includes the payment of GST equivalent to the ITC over inputs owned in stocks, semi-finished/finished goods, capital-goods, etc as of the very day instantly after cancellation of registration. Alternatively, the taxpayer is required to pay the larger amount if tax-output duty on goods are higher.
3. Proper Officer will provide the cancellation order in "FORM GST REG-19" if the application is verified as correct with date of the said cancellation being the date which the applicant requested it[17].
4. Legal heir has to file FORM GSTR-10 – Final Return provided in Rule 81 of CGST Rules, 2017, within three months of cancellation or on the date of order of cancellation whichever comes later. This rule ensures that all tax liabilities are settled before the closing of GST Registration.

It is also to be noted that any unutilized ITC in e-credit ledger will pass, meaning taxpayer cannot claim nor transfer it hence when GST-registration gets cancelled, registered person or legal heir must settle any pending tax by using the e-credit ledger or e-cash ledger. The amount that is needed for paying should be the higher of either the ITC on the goods and machinery still in asset or output tax due on those goods. This ensures that any tax benefits taken earlier are either returned or adjusted. The payment must be calculated as per GST rules before the registration is officially cancelled[18].

Steps for Transfer of Business/Sole Proprietorship After Death of Proprietor

The pre-requisite procedure for transfer of business under Sole Proprietorship is that the deceased registered GST must be cancelled- after following the procedures provided under the CGST Act and CGST Rules for cancellation which have been mentioned above, the next step is to transfer the Business ownership to the legal heir which is mentioned u/s 29 of CGST, 2017 also discussed before[19]. Process for transfer of business is as follows:

1. To obtain a succession certificate from the appropriate authority to prove their claim over

17. The Central Goods and Services Tax Rules, 2017, r. 22(3) (India).
18. The Central Goods and Services Tax Act, 2017 § 29(5), No. 12, Acts of Parliament, 2017 (India).
19. The Central Goods and Services Tax Act, 2017 § 29, No. 12, Acts of Parliament, 2017 (India).

the assets and liabilities of the deceased person and transfer it to his/her name (legal heir).

2. After cancellation of GST Registration of the deceased sole proprietor the legal heir or new owner must apply for a new GST Registration (FORM GST REG-1 – Rule 8 of CGST Rules 2017) as mandated u/s 22 and Sec. 24 of CGST, 2017. The need for this new Registration arises because they cannot use the existing registration of the deceased proprietor and hence must be registered through their own PAN.
3. After registration by the legal heir, the owner now has to transfer the ITC by filing FORM GST ITC- 02 as mentioned under R. 41 of CGST Rules, 2017 - "Transfer of credit on sale, merger, amalgamation, lease, or transfer of business" and request for transfer of unutilized ITC that is still in the owner's e-ledger to the transferee. The successor must confirm such transfer using their new registration. It is to be noted that during the Cancellation of the GST Registration of the owner after his death the successor or legal heir has to pay any outstanding taxes before the transfer of business.
4. After Proper-Officer verifies the form and finds that it is in order, he/she shall pass the cancellation order through "FORM GST REG-19" (R. 22 of CGST Rules 2017 – "Cancellation of Registration") within thirty days of such date the application got submitted. Date of cancelling then is date from which the application has filed for cancellation.
5. The successor or legal heir will then need to file FORM GSTR-10 for final GST return (Rule 81 of CGST Rules, 2017 – Final Return) and finally need to update their invoice and relevant document with the new GSTIN.

Importance of Transferring Input Tax Credit (ITC) and Tax Liability During Transfer of Sole Proprietorship After Death of Owner

Tax credits, which can take many different forms under income tax regulations, such as tax deducted at source before payment, are sums of money that a taxpayer is allowed to deduct from their income tax that is due to the government. When an owner registers their business and is a sole proprietor and dies, the new owner or legal heir can carry on the business after making a new registration of the business in his name and if any assets or business liabilities are being transferred according to R. 41, CGST Rules of 2017, ITC is also transferred. Such transfer of ITC is mentioned u/s18(3) CGST, Act of 2017 wherein it states that:

"(3) Where there is a change in the constitution of a registered person on account of sale, merger, demerger, amalgamation, lease or transfer of the business with the specific provisions for transfer of liabilities, the said registered person shall be allowed to transfer the input tax credit which remains unutilised in his electronic credit ledger to such sold, merged, demerged, amalgamated, leased or transferred business in such manner as may be prescribed."[20]

Section 18(3) makes it clear that when a sole proprietor passes away, their business ownership may be transferred to a legal heir or successor. Further Section 93(1)(a) – which provide for a Special Provision pertaining to tax-liabilities, interest, or fines in some instance, which provide for better understanding of what happens to the assets and liabilities of the owner after his death.

In the case of Vinayak Purshottam Dube (Deceased), Through *LRs v. Jayashree Padamkar Bhat & Ors*[21], the Apex Court has stated that the legal representative or successor or legal heir is responsible for debts of their predecessor however such liabilities are only limited to the extent of the deceased. That any legal obligation that the legal heir has to be performed from the estate of the deceased and such "legal representative of the deceased opposite party-appellants herein are not liable to discharge the obligation which had to be discharged by the deceased opposite party in his personal capacity…"[22]

Upon reading both Section 18(3) and 93(1) of CGST Act, 2017 and the above-cited case it becomes clear that such unutilized ITC which is the tax already paid on business purchases does not automatically lapse. Instead, GST laws allow this credit to be transferred

20. The Central Goods and Services Tax Act, 2017 § 22(3), No. 12, Acts of Parliament, 2017 (India).
21. Vinayak Purshottam Dube (Deceased) through LRs v. Jayashree Padamkar Bhat & Ors., *Civil Appeal Nos. 7768–7769 of 2023, 2024 INSC 159.*
22. Id. at 27, Para 31.

to the successor, provided they also take responsibility for any outstanding tax liabilities of the deceased proprietor. This ensures that the new owner can continue the business without losing tax benefits. The transfer must be completed through a formal process, including applying for GST cancellation and registering the successor under GST as mentioned earlier. The Ministry of Finance has confirmed the same through "Circular No. 96/15/2019-GST"[23] dated 28th March 2019.

Insights

The objective of this study was to highlight significant legal, financial, and procedural challenges faced by sole proprietors upon the owner's death. Unlike the different forms of companies that benefit from continuity through share of transfer or partnership agreements, sole proprietorships lack automatic succession leading to dissolution unless specific legal arrangements are in place, this creates uncertainties for dependents, lenders, and employees who rely on the business for financial stability. An important finding was the absence of a distinct legal framework for sole proprietorship succession in India. The law treats business and owner as a single entity which makes the assets and liabilities linked to the proprietor. Hence upon death, legal heirs must undergo complex procedures to claim ownership, settle debts, and continue operations. While the ISA, 1925 governs inheritance of business assets, it is primarily designed for personal estate distribution and does not provide clarity for transferring commercial rights, licenses, tax registration or ongoing obligations. This gap in legislation often results in forced liquidation, asset devaluation, and financial instability.

Since there is no single window structure or a business-specific succession regulation, families must deal with tax departments, local governments, and banks separately, each with its own set of papers and procedures. This discontinuous legal journey not only slows recovering of business operations, but also increases the probability of legal mistakes and disputes.

The complicated tax compliance creates difficulty in the transition process. The CGST Act, 2017 mandates that the legal heir must cancel the deceased proprietor's GST registration and obtain a new one in their name. This process, coupled with pending tax liabilities, creates administrative and financial burdens. Such stringent procedural rules fail to account for the emotional and practical problems that relatives experience immediately following the owner's death, making compliance even more difficult. Furthermore, the present system offers no provisional operating licence or grace period, necessitating a quick stop in business and carrying out supply activity. This can result in customer loss, contract breaches, and wage disruptions.

Along with this the Income Tax Act, 1961 treats business earnings as personal income making succession challenging due to individual tax obligations. Unlike other business entities that benefit from tax deferment schemes and structure inheritance laws, sole proprietors face immediate financial liabilities increasing the risk of discontinuation.

Various judicial precedents were studied relating to rulings that support sole proprietorships' non-perpetual nature. These rulings underscore the urgent need for legal certainty and statutory reform to prevent business paralysis and inheritance disputes. Even if legal heirs try to carry on the business, the court decided in M/s. S.A. Enterprise[24] that sole proprietorships do not live over the owner's lifetime. These decisions highlight the judiciary's position on sole proprietorship dissolution following the owner's death and highlight the necessity of legislative changes to enable smooth transitions. Such judgment reflects a strict interpretation of proprietorship law, which although legally sound, fails to align with the practical demands of India's small business economy. The absence of enabling clauses under the CGST Act or other policies to override this legal finality aggravates the situation. Major risks were also identified through this study. Since sole proprietorship does not have a distinct legal identity, financial institutions hesitate to provide loans. The absence of a structured succession framework further discourages lenders as they cannot ensure loan recovery in the event of the owner's death. This limitation affects business expansion and sustainability. Banks too lack RBI mandated protocols for nominee-based succession in sole proprietorship loans, unlike in bank deposit or insurance claims. The resulting ambiguity raises perceived credit

23. Ministry of Fin., Dep't of Revenue, Cent. Bd. of Indirect Taxes & Customs, GST Policy Wing, Circular No. 96/15/2019-GST, F. No. CBEC-20/16/04/2018-GST, https://cbic-gst.gov.in/pdf/circular-cgst-96.pbdf.

24. M/s. S.A. Enterprise v. Gen. Manager, E. Ry. & Ors., supra note 13.

risk which in turn limits capital access for proprietors despite various government schemes.

In short, the persistent failure to regard sole proprietorship as a long-term business entity has serious social and economic consequences. Without appropriate legal strategies, succession planning awareness, and institutional flexibility, India's most accessible business model remains vulnerable. The absence of intergenerational planning in legal and policy thinking limits wealth creation and business among local and middle-income families, undermining the very economic inclusiveness that sole proprietorship is intended to promote. A framework for succession policy would not only protect the business, but also preserve the livelihoods of dependents and maintain confidence in the market.

Recommendations & Suggestions

Comprehensive legal reforms must be implemented to allow for easier business succession, tax compliance, and lender protection to solve the difficulties associated with sole proprietorship transitions. The following suggestions are meant to close current legislative gaps:

i. Mandatory Business Succession Planning and Buy-Sell Agreements

To ensure a smooth transfer of ownership following the owner's death, a legal requirement that sole proprietors create succession plans or other comparable corporate succession policies, including the requirement to register wills or business continuation agreements must be implemented. In addition, implementing ownership models based on trusts in which companies are replaced with legally recognized trusts can guarantee continuity in the event of the owner's death. To facilitate the effortless transfer of operation to pre-designated heirs or partners, a buy-sell agreement should also be promoted.

This could be achieved by an introduction of Statutory Amendments to the CGST Act, Income Tax Act, and ISA 1925 which will mandate declaration of a business successor or nominee at the time of GST Registration which would be similar to Section 45ZA of the Banking Regulation Act[25] for Nominees in bank accounts. This would provide for a mandatory business succession planning through

- Model for Nominee-Based Succession: In the Banking Regulation Act, depositor (a sole or joint) can nominate a person to whom the deposit amount will be payable after the death of the owner. Similarly, a provision of a similar nature for sole proprietor can be established which will allow the sole proprietor to nominate successors to manage and inherit their business. This would avoid the lengthy process of Succession Certificate, GST Portal Transition and Business disruption or any succession-related issues.
- Legal Safety for Government and Creditors: Section 45ZA[26], protects banks by discharging them from liability after payment to the nominee. A similar provsions can be inserted in GST Laws protecting tax officers when they transfer GST Registration or business rights to a nominee.

The above suggestion inspired by Section 45ZA, allows account holders to nominate successors without requiring probate or court orders, hence a similar framework should be incorporated into GST which would ensure business continuity, reduce litigation and protect the interest the legal heirs and in the business of the deceased sole proprietor.

Buy-sell agreements, which are more frequently used in partnerships, can be customised for family-run sole proprietorships, particularly when there are several heirs. As such, sole owners should be encouraged to implement these agreements. These agreements can determine in advance who will purchase the company and at what amount. An agreement of this kind can guarantee a smooth transfer of ownership to heirs or other parties, prevent disagreements, and preserve business continuity. Such support for these agreements should be made accessible through GST Registration platforms.

ii. Easy to Access Taxation and GST Procedures

The CGST Act, 2017 should be amended to eliminate the requirement for a separate application by allowing the automatic transfer of GST Registration following the submission of a death certificate and proof of legal

25. The Banking Regulation Act, 1949, § 45ZA, No. 10, Acts of Parliament, 1949 (India).
26. *Id.* at 31.

heirship. Another idea is to include "Proprietorship Transition Post Death Clause", which might reduce taxes and prevent unpaid debts until the next owner gets things under control.

For example, a form of Automatic Trigger System can be established through a digitally linked Aadhaar, PAN, and GSTIN. Upon death registration under the Civil Registration System[27], a digital alert could alert the GSTIN of the deceased for review. This will allow for further steps such as a freeze of the business or a link for the legal heir to initiate the transfer of business. This suggestion could be introduced under the CGST Act or as an explanatory rule under Section 29 of CGST Act through provisions like:

"A legal heir is allowed to assume temporary control upon submitting preliminary documents such as affidavit, death certificate, etc." and/or GST returns, ITC Claims and compliance defaults will be deferred or paused for 90 days"

iii. Legal Recognition of Perpetual Sole Proprietorship and Simplification of Legal Heirship Transfer

To enable permanent succession for sole proprietors through appointed nominees, new legislation needs to be passed. The Indian Succession Act, 1925 should be amended to include a special category for sole proprietorships, allowing quick inheritance procedures. Courts should prioritize this by ensuring rapid issuance of succession certificate to prevent prolonged disruption.

A Statutory Nominee Framework: Introduction or creation of a Perpetual Sole Proprietor Scheme, which is similar to One Person Company Under the Companies Act, which will allow the sole proprietor to nominate a successor. This will allow for the formation of a legal bridge between the traditional sole proprietor and modern business entities without the burden of LLPs or companies.

iv. Financial Institution Guidelines for Sole Proprietor Loans

Financial organisations such as banks should set up adaptable lending arrangements that enable the automated transfer of obligations to legitimate successors without necessitating new applications. This would keep sole proprietorships from experiencing liquidity issues once the owner passes away.

This can be achieved through a Circular by RBI to scheduled banks and other Financial Institutions mandating that sole proprietors' loans include a nominee clause or a predefined succession clause in the loan agreement which will allow for automatic loan responsibility transfer to a legal heir or nominated person subject to documentation and within the scope of deceased's estate. This would allow ease of access in credit transfer and prevent business disruption while protecting the legal heir from undue liability. In the same time, banks should update KYC Norms to include nominee details for all sole proprietor accounts and provide for periodic review. This would allow greater financial certainty to proprietors and their families, promote responsible lending and reduce post-death credit risk for lenders.

v. Awareness and Training Programs on Business Succession

Awareness is very important in this present age, workshops and online courses should be developed to educate sole proprietors about succession planning, tax implications and legal requirements. With the help of these ideas and recommendations, India may update its framework for sole proprietorships, guaranteeing business continuity while safeguarding employees, lenders, and dependents. Additionally, by encouraging more entrepreneurs to use sole proprietorship models, these legislative and policy improvements would promote economic expansion. Awareness can be inducted through targeted workshops, online courses and practical toolkits which may be developed by institutions such as the Ministry of MSME, GSTIN, etc. These resources should focus on succession planning, GST compliance, income tax obligations and procedural requirements following the death of the proprietor. Not only limited to these, UGC and AICTE can integrate succession modules/curriculum to build long-term awareness.

By combining educational efforts with broader policy reforms, India can modernise its sole proprietorship structural framework, ensuring smoother transitions and fostering a more resilient small business ecosystem. These steps would not only protect but also encourage more individuals to adopt sole proprietorship as a

27. About CRS, Civil Registration System, Govt. of India, https://dc.crsorgi.gov.in/crs/about (last visited July 7, 2025).

viable model for business, which would further support an inclusive economic growth.

Conclusion

Despite being simple to set up and run, sole proprietorships are extremely vulnerable to legal and financial issues in event of business-owner's death. The lack in stable succession causes businesses to dissolve suddenly, which affects employees, lenders, and dependents. This study focuses emphasis to the shortcomings in India's legal system, which include the absence of organised procedures for asset inheritance, tax compliance, and business succession. The Court's precedents support the idea that sole proprietorships lack a separate legal personality, requiring their legal heirs to go through burdensome processes in order to carry on the business. The significant financial obligations imposed on successors by the CGST Act of 2017, and Income Tax Act of 1961, require prompt legislative action. Business continuity is made more difficult by the ISA, 1925, which regulates succession but is strictly applied to single proprietorships, leading to delays and legal issues.

The study also demonstrates how practical modifications like buy-sell agreements, nominee-based transfers, and simplified GST processes can provide legally sound and efficiently run succession plans. In addition to helping legal heirs, these actions can improve creditors' trust and maintain supplier and customer relationships.

In addition, proprietors and their families can be encouraged to participate in advance planning through increased knowledge brought about by focused training and the inclusion of succession modules in entrepreneurship courses. Even well-meaning reforms face at risk of having limited impact if knowledge and resources are not readily available.

The changes that are suggested highlight the necessity of financial safeguards for legal heirs, simplified tax procedures, and organised succession planning. Business survival rates after owner death can be considerably increased by enacting obligatory succession planning, establishing business trusts, permitting automatic GST transfer, and identifying perpetual sole proprietorships. Furthermore, establishing specialised financial assistance programs and legal education courses will guarantee simpler transitions while protecting the rights of employees and dependents.

Looking ahead, a harmonised legal and policy framework has the potential to transform sole proprietorships from vulnerable individual endeavours into long-term drivers of regional development, as well as guaranteeing that the death of an owner does not equal the death of the business.

Hence finally, through the implementation of progressive policies and the modernisation of sole proprietorship rules, India can give small company owners the stability they so much need. In addition to safeguarding financial assets, maintaining firm operations after an owner passes away will boost investor trust in sole proprietorship arrangements. Developments in this area of law and policy will help create a stronger and more sustainable entrepreneurial ecosystem, which will be advantageous to companies as well as the whole economy.