GAHC010064152020

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

Case No. : WP(C) 2333/2020

1:M/S. COZY TOUR AND TRAVELS
HAVING ITS OFFICE AT TAYABULLA ROAD, DIGHOLI PUKHURI EAST, GUWAHATI, DIST. KAMRUP (M), ASSAM AND REP. BY ITS SOLE PROPRIETOR SRI MAHANTA KALITA RESIDENT OF H. NO.5, DISPUR LAST GATE (NEAR DISPUR LAW COLLEGE), GUWAHATI-781006, ASSAM.

VERSUS

1:THE UNION OF INDIA AND 3 ORS.
REP. BY THE SECRETARY TO THE GOVT. OF INDIA, MINISTRY OF FINANCE, DEPTT. OF REVENUE, NEW DELHI.

2:THE CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS
REP. BY ITS CHAIRMAN
MINISTRY OF FINANCE
DEPTT
OF REVENUE
GOVT. OF INDIA
NEW DELHI.

3:THE PRINCIPAL COMMISSIONER
CENTRAL GST
GST BHAWAN
GUWAHATI.

4:THE DESIGNATED COMMITTEE
CONSTITUTED UNDER RULE 5 OF THE SABKA VISHWAS (LEGACY DISPUTE RESOLUTION) RULES
2019 HEADED BY THE PRINCIPAL COMMISSIONER CENTRAL GST
GUWAHATI

Advocate for the Petitioner : MR. A K GUPTA

Advocate for the Respondent : ASSTT.S.G.I.

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : 25-06-2020

The Court proceedings have been conducted by means of creating a Virtual Court with the help of technology, so as to maintain distance between the staff, Advocates and the Presiding Judge.

2. Heard Mr. R.S. Mishra, the learned counsel for the petitioner and Mr. S.C. Keyal, learned Asst. SGI appearing for the respondent.

The case of the writ petitioners is that the demand of service tax along with interest & penalty was imposed by the commissioner, Central Excise and Service Tax, Guwahati vide order dated 23.09.2014

3. Against the said order an appeal was filed before the Customs, Excise & Service Tax Appellate Tribunal, Kolkata, which was registered as Appeal No. ST/75368/2015 During the pendency of the appeal the scheme "Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019" was notified providing relief to the extent of 40% to 70% of the tax dues as well as waiver from payment of interest and penalty. The petitioner being eligible, applied under the said scheme by its application No. ARN LD 0612190001422, dated 6.12.2019. However, after filing the application the petitioner noticed that the "pre-deposit/any other Deposit of duty" amount was shown as Rs. 19,82000/- instead of Rs. 21,96899/- due to wrong calculation. Accordingly, the petitioners decided to file a rectified application/declaration being ARN LD 3112190021021 dated 31.12.2019 by correctly declaring the value of Pre-deposit made. However, by the impugned order dated 6.12.2019 vide Annexure-J the respondent authorities rejected the first declaration made by the petitioner on the ground of "*Incorrect Declaration"* in file. Subsequently, again by impugned order dated 29.02.2020 the respondent authorities also rejected the second declaration/application filed by the petitioner on the ground that "SVLDRS-1 CAN BE FILED ONLY ONCE FOR A PARTICULAR CASE/ORDER. IN THIS CASE THE EARLIER SVLDRS-1 IS ALREADY DISPOSED OF".

4. Being aggrieved the present writ petition has been filed.

5. Mr. S.C. Keyal, learned counsel for the respondents submits that on similar issues a Co-ordinate Bench of this Court has already disposed of writ petition

being WP(C) No. 2122/2020, passed in M/S ACME Trade and Agencies Vs. Union of India and 3 Ors. Mr. Keyal submits that by that order this Hon'ble Court has remanded the matter back to the authorities concerned for consideration afresh.

6. Mr. Keyal accordingly submits that the present writ petition can also be disposed of by remanding the matter back to the authorities to decide the matter afresh.

7. Mr. Mishra, learned counsel for the petitioner is in agreement with the submission made by Mr. Keyal that the present writ petition can also be disposed of in terms of the order dated 08.06.2020, passed in WP(C) No.2122/2020

8. Accordingly, as agreed to by both the counsels, the impugned orders dated 6.12.2019 & 29.02.2020 are set aside and the matter is remanded back to the authorities to reconsider the application/declaration furnished by the petitioner being ARN LD 3112190021021 filed on 31.12.2019 and pass appropriate orders thereon in terms of the scheme and the rules framed there under. If the authorities require a fresh declaration then they shall permit the petitioner to file such declaration afresh.

9. The writ petition is accordingly disposed of and the respondents are directed to pass the required orders on the declaration/application submitted by the writ petitioner within a period of two months from the date of the receipt of the certified copy of this order

Writ petition is accordingly disposed of.

No order as to cost.

JUDGE

Comparing Assistant