IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH : NAGPUR

WRIT PETITION NO.4130 OF 2020

M/s. National Construction Company ... Petitioner

- Versus -

The Designated Committee under
Sabka Vishwas Legacy Disputes
Resolution Scheme, 2019 ... Respondent

Shri Y.D. Nagpure, Advocate for petitioner.

Shri S.N. Bhattad, Advocate for respondent.

CORAM : DIPANKAR DATTA, C.J. AND
A.S. CHANDURKAR, J.

DATED : JULY 26, 2021

P.C. :

1) An amnesty scheme titled "Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 was notified under Chapter V of the Finance Act, 2019. The scheme was designed to provide a one-time window for settlement of disputes and payment of arrears of tax dues.

2) The petitioner applied under the scheme, pursuant whereto the Designated Committee as referred to in clause 126 of the scheme, determined Rs.45,09,357/- as the amount payable by the petitioner towards full and final settlement of tax dues under the

Finance Act, 1994. In terms of clause 127(5) of the scheme, a declarant like the petitioner was required to pay electronically, through internet banking, the amount payable as indicated in the statement issued by the Designated Committee, within a period of thirty days from the date of issue of such statement. The statement of the Designated Committee requiring the petitioner to pay Rs.45,09,357/- having been issued on 31/1/2020, the petitioner had thirty days' time since then to pay the determined amount electronically. For reasons with which we are not too concerned here, the petitioner could not pay by thirty days from 31/1/2020. From the materials on record, we find that the period for making payment was initially extended up to 31/3/2020 and lastly upto 30/6/2020. Annexure R-2, being a letter dated 19/10/2020 of the Joint Commissioner (Tech), may be referred to in this connection. The petitioner having failed to deposit Rs.45,09,357/- before 30/6/2020, the statement prepared by the Designated Committee lapsed.

3) Four months after such lapsing, the petitioner presented this writ petition before this Court seeking, *inter alia*, a writ or direction upon the respondent to allow it to deposit the said amount of Rs.45,09,357/-.

4) We have heard Shri Nagpure, learned advocate for the petitioner and Shri Bhattad, learned advocate for the respondent.

5) Shri Nagpure has cited circumstances, which prevented the petitioner from paying Rs.45,09,357/- within the time fixed in the statement as well as within the extended period of time. One of the

reasons cited is obviously the pandemic arising out of COVID-19. According to him, the petitioner was disabled due to reasons beyond its control from tendering the requisite payment and, therefore, this Court, in exercise of its extra-ordinary powers, ought to direct the respondent to receive the payment as and when it is tendered by the petitioner within such time as may be fixed by this Court.

6) Per contra, Shri Bhattad has referred to the terms of the scheme as well as the decision in ***Union of India vs. Charak Pharmaceuticals (India) Ltd***. [2003 (154) E.L.T. 354] to contend that if any benefit is sought to be availed of under a scheme, the party intending to avail the benefit must fully comply with the provisions of the scheme; and that if all the requirements of the scheme are not met, the Courts cannot, on principles of equity, extend the benefit of that scheme to the party.

7) Shri Nagpure was quick to respond that the pandemic was unknown when the decision in ***Charak Pharmaceuticals*** (supra) was rendered by the Supreme Court. However, in our view, nothing substantial turns on such response. It is indeed true that the scheme provided a one-time window for a party like the petitioner to avail the benefits envisaged therein. The statement of the Designated Committee is dated 31/1/2020. As per the terms of the scheme, the determined amount of Rs.45,09,357/- was required to be paid by thirty days from 31/1/2020. The national lock-down because of COVID-19 was announced sometime on 23/3/2020. The reason put forward by Shri Nagpure that the petitioner was disabled to pay the requisite amount because of the pandemic is, therefore, unsustainable. Even otherwise, considering the pandemic, there

were further extensions – one till 31/3/2020 and then again till 30/6/2020. Such extensions must be treated to be actions taken to facilitate payment by the declarant, who had sought to avail of the benefits under the scheme. There being no extension beyond 30/6/2020, the writ court has no competence to add to or alter the terms of the scheme to enable the party, which had sought to avail the benefits of the scheme, to deposit the determined amount beyond the period as fixed by the respondent.

8) We are afraid, the writ jurisdiction cannot be invoked by a party for facilitating avoidance of obligations voluntarily incurred. The determined amount not having been paid by 30/6/2020, the statement has lapsed and cannot be given a fresh lease of life. For the reasons afore-stated, the writ petition stands dismissed. There shall be no order as to costs.

(A.S. CHANDURKAR, J.) (CHIEF JUSTICE)

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