IN THE HIGH COURT OF J UDICATURE AT MADRAS

DATED : 30.11.2021

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.5409 of 2021
and
W.M.P.No.6007 of 2021

(Through Video Conferencing)

Convenant Insurance Surveyors and Loss
Assessors Private Limited,
Represented by its Managing Director
Authorised Signatory Mr.Jude Jayasingh,
1B Jaysons, No.41, Plot No.969,
Lakshmanaswamy Road,
K.K.Nagar, Chennai - 600 078. ... Petitioner

Vs.

1. The Designated Committee,
Subka Vishwas (Legacy Dispute Resolution)
Scheme, 2019,
Chennai - South GST Commissionerate,
No.692, MHU Complex, Anna Salai,
Nandanam, Chennai - 600 035.

2. The Additional Commissioner of GST &
Central Excise,
GST Commissionarate (South),
MHU Complex, No.692, 5th Floor, Anna Salai,
Nandanam, Chennai - 600 035. ... Respondents

Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records of the second respondent in his proceedings in Order-in-Original No.54 of 2020 ADC dated 31.12.2020 and quash the same and thereby direct the first respondent to enable the link in the relevant portal (CBIC) for enabling the petitioner to make the payment as ordered by the first respondent under SVLDRS-3 on 09.04.2020.

For Petitioner : Mr.S.Senthil Nathan

For Respondents : Mr.A.P.Srinivas,
Senior Standing Counsel

ORDER

This Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus, to call for the records of the second respondent relating to the Order-in-Original No.54 of 2020 ADC, dated 31.12.2020 and quash the same and thereby direct the first respondent to enable the link in the relevant portal (CBIC) for enabling the petitioner to make the payment as ordered by the first respondent under SVLDRS-3 on 09.04.2020.

2. The petitioner had opted for settling the case under Sabka Vishwas (Legacy Dispute Resolution) Scheme 2019 announced vide Finance Act, 2019. The last date for payment under the aforesaid Scheme was 31.12.2019 which was later extended to 15.01.2020. Therefore, the petitioner had opted for payment under the aforesaid Scheme on the last date, i.e. 15.01.2020. Thereafter, the petitioner has filed Form SVLDRS 1 furnishing the details and Form No.SVLDRS-3 was issued to the petitioner, whereby, the petitioner's liability was fixed at Rs.12,68,886.80.

3. The last date for making payment had expired on 30.06.2020, by which time, on account of the outbreak of Covid-19, the business had been shut down. The petitioner sent a representation dated 15.06.2020 requesting further time for making payment. It appears that the petitioner had sent reminders dated 29.10.2020 and 26.12.2020. However, no extension has been given. During the interregnum, the second respondent has passed the impugned Order-in-Original, dated 31.12.2020.

4. The learned counsel for the petitioner submits that the petitioner is now willing to pay the amount. However, the petitioner is unable to pay the same as the Web Portal does not permit the petitioner to make payment as the aforesaid Scheme came to end. The learned counsel for the petitioner draw attention to an order dated 16.04.2019 of the Hon'ble Supreme Court in Dal Chandra Rastogi Vs. Central Board of Direct Taxes and Another, in C.A.No.3981 of 2019. The learned counsel for the petitioner also submits that in the aforesaid case, the delay was condoned under the Income Declaration Scheme, 2016 considering the delay of 9 to 12 days.

5. The learned counsel for the petitioner submits that the extraordinary situation in this case is similar to the above case as the business of the petitioner had completely been crippled on account of the lock down imposed by the Government due to the outbreak of Covid-19 and therefore, the respondents

should be directed to settle the case under the Sabka Vishwas (Legacy Dispute Resolution) Scheme 2019.

6. Appearing on behalf of the respondents, the learned Senior Standing Counsel submits that the aforesaid Scheme is a time bound Scheme which ought to have been complied by the petitioner in time. The due date for making payment had expired much prior to the outbreak of Covid-19 Pandemic and therefore merely because the country was under lock down due to Covid-19 Pandemic would not justify an interference. It is further submitted that the issue is covered by several decisions of the Hon'ble Supreme Court against the petitioner and therefore submits that this Writ Petition is liable to be dismissed.

7. Heard the learned counsel for the petitioner and the learned Senior Standing Counsel for the respondents and perused the communications.

8. Though the petitioner has made out a reasonable ground, this Court is unable to come to rescue the petitioner as the aforesaid Scheme is a time bound Scheme. Unless the Authorities acting under Act issue appropriate guidelines, the officers acting under the Act cannot deviate. Therefore, the second respondent has now passed the impugned order.

9. The petitioner has to workout the remedy before the Appellate Commissioner by filing suitable appeal under Section 84 of the Finance Act, 1994 on pre-deposit of 7.5% of the service tax demanded. The only option is available to the petitioner to approach the Director of Central Board of Indirect Taxes and Customs for appropriate relaxation in the light of outbreak of Covid-19 and on account of lock down imposed by the Government.

10. The petitioner is therefore directed to file a statutory appeal before the Commissioner of GST & Central Excise (Appeals), within a period of thirty (30) days from the date of receipt of a copy of this order.

11. If such an appeal is filed within such time, the appeal shall be held maintainable.

12. Meanwhile, the petitioner may approach the Central Board of Indirect Taxes and Customs and give a suitable representation for relaxation under the aforesaid Scheme to mitigate the hardship.

13. This Writ Petition stands disposed with the above observations. No cost. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

jen

To

1. The Designated Committee,
   Subka Vishwas (Legacy Dispute Resolution) Scheme, 2019,
   Chennai – South GST Commissionerate,
   No.692, MHU Complex, Anna Salai,
   Nandanam, Chennai – 600 035.

2. The Additional Commissioner of GST & Central Excise,
   GST Commissionarate (South),
   MHU Complex, No.692, 5th Floor, Anna Salai,
   Nandanam, Chennai – 600 035.

+1cc to Mr.A.P.Srinivas, Advocate, S.R.No.63210

W.P.No.5409 of 2021 and
W.M.P.No.6007 of 2021

KG[co]
NSK 16/12/2021