



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2021

CORAM :

THE HON'BLE MR. JUSTICE T.S. SIVAGNANAM
AND
THE HON'BLE MR. JUSTICE SATHI KUMAR SUKUMARA KURUP

W.A.Nos.2097 & 2098 of 2021
and
C.M.P.Nos.13292 & 13298 of 2021

N.Sundararajan (Former Partner)
M/s.Yarn Bliss
38/24, New Street, Ammapet,
Salem - 636 003.

... Appellant/Petitioner in W.A.No.2097 of 2021

N.Sundararajan (Former Partner)
M/s.Winaco Yarn Agencies,
38/24, New Street, Ammapet,
Salem - 636 003.

... Appellant/ Petitioner in W.A.No.2098 of 2021

Vs.

1. Union of India,
Represented by Secretary, Department of Revenue,
Ministry of Finance, North Block,
New Delhi - 110 001.
2. The Central Board of Indirect Taxes and Customs,
Department of Revenue, Represented by its Chairman,
Ministry of Finance,
Government of India,
North Block, New Delhi.
3. The Deputy Commissioner,
Member, Designated Committee under SabkaVishwas (Legacy
Dispute Resolution) Scheme, GST Bhawan,
No.1, Foulkes Compound,
Anaimeedu, Salem - 636 001.
4. The Assistant Commissioner of Central Excise & GST,
Salem - I Division,
106, 3rd Floor, Varalakshmi Orchid,
Ramakrishna Road,
Salem - 636 007.

... Respondents/Respondents in both appeals



Prayer : Writ Appeals in W.A.Nos.2097 & 2098 of 2021 filed under Clause 15 of the Letters Patent to set aside the order, dated 15.06.2021, passed in W.P.Nos.14451 and 14497 of 2020 respectively.

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Prayer in W.P.Nos.14451 and 14497 of 2020:

To issue a Writ of Mandamus directing the 1st Respondent to accept the payment of Rs.1,97,524/- & Rs.2,49,338/- respectively in terms of SVLDRS (Sabka Vikas Legacy Dispute Resolution Scheme) Form 3 in compliance under Section 127 of the Finance (No. 2) Act 2019 towards full and final settlement of tax dues and to issue a certificate of settlement in SVLDRS (Sabka Vikas Legacy Dispute Resolution Scheme) Form 4.

For Appellant : Mr.V.Parthiban
in both appeals

For Respondents : Mr.V.Sundareswaran
Senior Standing Counsel
in both appeals

C O M M O N J U D G M E N T
(Judgment was delivered by T.S. SIVAGNANAM, J.)

These Writ Appeals have been filed by the writ petitioner, challenging the common order dated 15.06.2021, dismissing the writ petitions, wherein, the appellant sought for a direction upon the 1st respondent to accept the payments in terms of Sabka Vikas (Legacy Dispute Resolution Scheme), 2019 ("SVLDR Scheme" for brevity), in Form-3, in compliance with Section 127 of the Finance (No.2) Act, 2019, towards full and final settlement of tax dues and to issue a certificate of Settlement in Form-4 under the SVLDR Scheme.

2.The undisputed facts are as follows :

The appellant is a partnership firm carrying on business of yarn brokerage/commission agent for M/s.Kandagiri Spinning Mills Pvt. Ltd., Salem. A show cause notice was issued by the 4th respondent, demanding Service Tax. The appellant objected to the demand, yet, by Order-in-Original (No.7/2019) dated 23.05.2019, the demand proposed in the show cause notice as well as the penalty was confirmed. The appellant filed an appeal before the first Appellate Authority, which was dismissed. Thereafter, the appellant filed application, dated 11.10.2019, under the SVLDR Scheme and the application was found to be in order and was processed and Form-3 was issued on 27.12.2019. In



terms of the said Form, the assessee was required to remit the entire taxes within 30 days from the date of issue of Form-3. Therefore, the remittance ought to have been done on or before 27.01.2020. However, this stood extended till 30.04.2020. Subsequently, Rule 7 of the Sabka Vikas (Legacy Dispute Resolution Scheme) Rules, 2019, which stipulated the period of limitation, was amended and the time was extended till 30.06.2020. The appellant's case before the learned Writ Court was that, on account of the Pandemic and lockdown, the appellant was put to great prejudice and they could not comply with the requirement of payment of the taxes within the time stipulated and therefore, they sought for a direction upon the 1st respondent to accept the payment of taxes in terms of Form-3 notice, which was issued to the appellant.

3.The learned Writ Court was of the view that the time limit for payment of taxes was 30 days and it came to an end during January, 2020 and March 2020, respectively, in respect of the two appellants and admittedly, the appellants, having not remitted the taxes within the said time, cannot plead a case that, on account of Pandemic, they were unable to comply with the orders. In fact, there were three writ petitions, which were heard together and in one of the writ petitions, which was also filed by one of the partners of the firm, i.e., in W.P.No.14454 of 2020, the learned Writ Court, by order dated 29.06.2021, granted relief to the said writ petitioner, whereas, the present appellants' cases were dismissed. It is not in dispute that the last date for payment stood extended to 30.06.2020. In fact, this has been admitted in Para No.5 of the counter affidavit on behalf of the respondents in the writ petitions.

4.The Parliament enacted the Taxation and Other Laws (Relaxation and Amendment of certain provisions) Act, 2020 (Central Act 38 of 2020) ("the Act" for brevity). Chapter-V of the said Act related to relaxation of time limit under Central Excise Act, 1944, Customs Act, 1962, Customs Tariff Act, 1975, and Finance Act, 1994. Section 6 of the said Act states that, notwithstanding anything contained in the Central Excise Act, 1944, the Customs Act, 1962 (except sections 30, 30A, 41, 41A, 46 and 47), the Customs Tariff Act, 1975 or Chapter V of the Finance Act, 1994, as it stood prior to its omission vide section 173 of the Central Goods and Services Tax Act, 2017 with effect from the 1st day of July, 2017, the time limit specified in, or prescribed or notified under, the said Acts which falls during the period from the 20th day of March, 2020 to the 29th day of September, 2020 or such other date after the 29th day of September, 2020 as the Central Government may, by notification, specify, for the completion or compliance of such action as

(a) completion of any proceeding or issuance of any



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order, notice, intimation, notification or sanction or approval, by whatever name called, by any authority, commission, tribunal, by whatever name called; or (b) filing of any appeal, reply or application or furnishing of any report, document, return or statement, by whatever name called, shall, notwithstanding that completion or compliance of such action has not been made within such time, stand extended to the 30th day of September, 2020 or such other date after 30th day of September, 2020 as the Central Government may, by notification, specify in this behalf. The proviso states that the Central Government may specify different dates for completion or compliance of different actions under Clause (a) or Clause (b).

5. Thus, in terms of the above Act, the time limit prescribed under Chapter-V of the Finance Act for completion of certain actions as stipulated under Chapter-V, stood extended till 30th September, 2020, and Section 6 of the Act deals with two situations, namely, period for completion and period of compliance. Therefore, the said provision has to be given a liberal interpretation and if we do so, the time limit for payment of taxes can be construed to be a time limit for completion of particular act, as stipulated under Chapter-V of the Finance Act. In fact, the said Act has also made certain amendments in the Direct Tax Vivad Se Vishwas Act, 2020, in Chapter-IV. Thus, the intention of the legislation is to extend the time limit for compliance or completion of certain acts under the Statute, which have been listed therein, and the Direct Tax Vivad Se Vishwas Act, 2020, has also been amended by extending the time limit. Since Chapter-V of the Act, which deals with relaxation of time limit under Indirect Tax Laws, which stipulates four Tax Laws, which includes Finance Act, 1994, we will be well justified in holding that the time limit for completion of the payment of taxes, as quantified in Form-3, also stood extended till 30.09.2020. If that is the date on which the appellants were required to complete the payment, then the appellant's conduct in approaching this Court by filing the writ petitions on 29.09.2020 and 30.09.2020 can very well be reckoned to be a conduct, which will not be hit by delay and laches.

6. Therefore, we are of the view that the appellant should be permitted to remit the taxes, as quantified in the Form-3 declaration issued to the appellant, subject to of course by also paying interest @ 15% from 01.07.2020 till the date of remittance, which we shall fix as on or before 17.09.2021. If the appellants comply with the said condition, then the appropriate authority under the SVLDR Scheme shall consider the appellant's application and proceed in accordance with the provisions of the said Scheme.



7. Accordingly, these Writ Appeals are allowed and the impugned order is set aside. No costs. Consequently, connected Miscellaneous Petitions are closed.

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Sd/-
Assistant Registrar (CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary, Department of Revenue,
Union of India,
Ministry of Finance, North Block,
New Delhi - 110 001.
2. The Chairman,
Department of Revenue,
Central Board of Indirect Taxes and Customs,
Ministry of Finance,
Government of India,
North Block, New Delhi.
3. The Deputy Commissioner,
Member, Designated Committee under SabkaVishwas
(Legacy Dispute Resolution) Scheme, GST Bhawan,
No.1, Foulkes Compound,
Anaimedu, Salem - 636 001.
4. The Assistant Commissioner of Central Excise & GST,
Salem - I Division,
106, 3rd Floor, Varalakshmi Orchid,
Ramakrishna Road,
Salem - 636 007.

+2ccs to Mr.V.Parthiban, Advocate Sr No.43499,43500

W.A.Nos.2097 & 2098 of 2021

AJS (CO)
PR (20/09/2021)