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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 11648/2021

TOPLINE BUILDTECH PRIVATE LIMITED Petitioner

Through Mr.Siddharth Tewari, Advocate.

versus

UNION OF INDIA & ORS. Respondents

Through Ms.Shiva Lakshmi, CGSC with
Mr.Siddharth Singh, Advocate for
UOI.

Ms.Anushree Narain, standing counsel
for R-3 to 5.

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Date of Decision: 11th October, 2021

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE NAVIN CHAWLA

MANMOHAN, J. (Oral)

1. The petition has been heard by way of video conferencing.
2. Present writ petition has been filed challenging the orders of rejection, passed against the Second Declaration filed vide ARN No. LD2612190004279, issued by the Respondent No.4 by way of email dated 24th February, 2020. Petitioner also seeks directions to the Respondent No. '4' to give an opportunity of hearing to the Petitioner to present its case in relation to the Second Declaration, and thereafter pass a reasoned order after adjudication of the same in accordance with the principles of natural justice and to supply copies of complete correspondence and note-sheets in the file pertaining to investigations and inquiry and the declarations filed by the

Petitioner under the Sabka Vishwas Scheme along with other relevant documents.

3. Learned Counsel for the Petitioner states that in 2018, the Respondent No. 5 issued several summons and letters to the Petitioner to initiate an enquiry/ investigation into Petitioner's service tax liability for provision of work contract services in particular, contract dated 07th August, 2012 with M/s. Wave Mega City Center Private Limited for construction of shop-cum-offices in Sectors 25A and 32, Noida, Uttar Pradesh. He states that in response to the said Summons and other letters, the Petitioner submitted the relevant documents including the details of *challans* of pre-deposited tax liability. He contends that Respondent No. 5 accepted that the Petitioner had declared its service tax liability in its correspondence, and asked the Petitioner to fully deposit its admitted liability. He states that the Petitioner, relying on the instructions of Respondent No. 5, even deposited a total of Rs. 10.5 Lakhs (Rupees Ten Lakhs Fifty Thousand) out of the admitted service tax liability of Rs. 18,00,000/- (Rupees Eighteen Lakhs), which was later found to be Rs. 20.71 Lakh (Rupees Twenty Lakh Seventy-One Thousand) after the balance CENVAT Credit was also included.

4. Learned Counsel for the Petitioner states that in order to take advantage of the said Sabka Vishwas Scheme and settle the ongoing tax dispute, the Petitioner, on 06th December, 2019, filed a declaration to avail the benefit of the already deposited tax liability and to discharge the pending tax liability once and for all. However he states that the said declaration was summarily rejected by Respondent No. 4 stating "Amount of dues was not quantified up to 30.06.2019".

5. Learned Counsel for the Petitioner states that the Petitioner made

another attempt by filing a fresh declaration dated 26th December, 2019 for the same issue and dispute, which too was rejected for the same reason. He states that subsequently, the Petitioner submitted a letter dated 30th December, 2019 requesting Respondent No. 4 to reconsider the request to settle Petitioner's ongoing tax dispute as per the provisions of the Sabka Vishwas Scheme. However, the Petitioner did not receive any response for months on any of its letters for reconsideration. He states that the Petitioner also filed several applications under the Right to Information Act, 2005, for supply of information and documents related to anti-evasion branch file of the Petitioner, but to no avail.

6. A perusal of the paper book reveals that the Petitioner had written a unilateral letter dated 11th June, 2018 stating that its service tax liability upto 30th June, 2017 was Rs.18 lakhs and interest liability of Rs.14 lakhs. Along with the above letter, a *challan* of Rs.3 lakhs dated 11th June, 2018 towards part payment of the said liability was enclosed.

7. The Respondent vide its letter dated 08th August, 2019 had pointed out that, even according to the Petitioner's own calculation, service tax liability was due and outstanding. The Petitioner was asked to deposit the balance service tax liability as calculated by the Petitioner vide the said letter.

8. In fact, from the summons dated 20th May, 2019, it is apparent that the case was under investigation under Sections 70 and 174 of the CGST Act and the Petitioner has been asked to furnish a large number of documents including copies of *challans* showing its service tax liability deposited after the date of service. In our opinion, the said communication dated 08th August, 2019 does not indicate that the quantum of duty had either been quantified or communicated by the Respondent to the Petitioner on or before 30th June,

2019. Consequently, the present writ petition being bereft of merit is dismissed.

9. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

MANMOHAN, J

NAVIN CHAWLA, J

**OCTOBER 11, 2021
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