

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 22093 of 2022

M/s. Swift Packaging

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Petitioner

Mr. S. Panda, Advocate

-versus-

Union of India and Ors.

.....

Opposite Parties

Mr. A. Kedia, Sr. Standing Counsel

(for O.P. Nos.2 to 5)

Mr. P.K. Parhi, DSGI

(for O.P. No.1)

CORAM:

JUSTICE S. TALAPATRA

JUSTICE M.S. SAHOO

ORDER

21.10.2022

Order No.

01.

1. This matter is taken up through hybrid mode.
2. Heard Mr. S. Panda, learned counsel appearing for the Petitioner and also heard Mr. A. Kedia, learned Senior Standing Counsel appearing for the CGST, Excise and Customs.
3. By means of this petition, the Petitioner urges this Court to quash the order dated 31.03.2022, Annexure-1 to the petition, passed by the Opposite Party No.3 and also for direction to allow the Petitioner avail the benefit of SVLDR Scheme, 2019 under the arrear category. Based on those prayer, as referred above, one consequential relief has been urged for directing the Opposite Parties to issue Form SVLDES-4 to the Petitioner, in consonance with Form

SVLDRS-1 in terms of provisions of the SVLDR Scheme, 2019 and the Rules framed thereunder.

4. Mr. Panda, learned counsel has candidly submitted that the Petitioner had made due application to avail the benefits under the SVLDR Scheme, 2019. But the said application was made citing the wrong category i.e. voluntary disclosure category. Mr. Panda, learned counsel has admitted that, the Petitioner does not come under the said category. Hence, *ex facie*, the order, as impugned, does not suffer from any infirmity. But Mr. Panda, learned counsel did not forget to urge that, that was a mistake emanating from improper reading of the Scheme. To be precise according to Mr. Panda, learned counsel, the Petitioner falls under the arrear category.

5. Mr. A. Kedia, learned Senior Standing Counsel for the CGST, Excise and Customs has submitted that, this writ petition is entirely bereft of any merit, in as much as in absence of appropriate application before the authority, no relief can be granted. As admitted, no such application was available for consideration (before the closure date). As such, the authority cannot be blamed. In rejoinder, Mr. Panda, learned counsel has submitted that, since that was a bonafide mistake on misconception of law, this court may allow the Petitioner to correct that mistake by conversion of the application to the appropriate category for purpose of consideration. The Petitioner had filed the application on different category within time and it is not controverted.

6. Having regard to the claim of the Petitioner, we are of the view that, this writ petition can be disposed of with the following direction:

The Petitioner may file an application to the competent authority under the SVLDR Scheme, 2019 for conversion of the old application [rejected] so that he can avail the benefits of the SVLDR Scheme, 2019 under the arrear category. Whether the conversion will be allowed or not is left entirely within discretion of the competent authority. At the time of applying discretion the claim of bonafide mistake as referred before, be provided due regard. The Petitioner shall file such application by 31st October, 2022 and the competent authority shall take a call on the said application as expeditiously as possible. Till then, no coercive action shall be taken against the Petitioner.

7. There shall be no order as to cost.

8. Mr. P.K. Parhi, learned Deputy Solicitor General of India appears for the Opposite Party No.1.

9. Urgent certified copy of this order be granted as per rules.

(S. Talapatra)
Judge

(M.S. Sahoo)
Judge