IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.3240 OF 2021

Sachin Chemburkar Petitioner
versus
Union of India and another Respondents

Mr.Aditya Sharma with Mr.Irfan Khan i/by Ms.Sudha Dwivedi, Advocate for petitioner.
Mr.Sham Walve with Mr.Dhananjay Deshmukh with Mrs.Sangeeta Yadav, Advocate for respondent no.3.
Mr.A.R.Patil, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 2nd August 2022

PC :

1. The petitioner has challenged the proceedings initiated by Commissioner of Service Tax, Mumbai-II. The case of respondent is that the petitioner was involved in evasion of service tax in contravention of Finance Act, 1994 and rules made thereunder. Enquiry was initiated by Commissioner of Service Tax, Mumbai-II and summons was issued u/s.14 of Central Excise Act, 1944, Section 108 of Customs Act, 1962 to appear before the Superintendent of Service Tax, Mumbai-II and to give evidence on such matters concerning enquiry and produce documents and records mentioned in the schedule. After issuance of summons the petitioner was taken in custody on 3rd July 2014 stating reasons that investigating officer has reason to believe that petitioner is guilty of offence u/s.89 of Finance Act 1994 r/w Section 90 of Finance Act, 1994. After statutory period of 60 days, the investigating agency failed to file complaint and petitioner was released on bail.

2. The petitioner contends that he has paid Rs.1.80 crores towards service tax. He was in receipt of challan in that regard. He has also received discharge certificate for full and final settlement of tax dues under Section 127 of Finance Act, 2019 which formulated a dispute resolutions scheme whereunder liability of proprietorship concern of the present applicant is zero. The discharge certificate has been annexed to this petition.

3. Learned advocate for petitioner submitted that officials of Service Tax Department have not initiated any complaint against petitioner or partnership firm.

4. In view of the discharge certificate dated 22nd January 2020 which indicate that full and final settlement of the tax dues has been cleared by the petitioner, no purpose will be served by persuing the impugned enquiry proceedings.

ORDER

(i) Writ Petition is allowed and disposed of;

(ii) Enquiry Proceedings initiated by officials of Commissioner of Service Tax, Mumbai-II, bearing F.No.V/ST/HQ/Enq/GR-3/141/MII/2012 are quashed and set aside.

(PRAKASH D. NAIK, J.)

MST