IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.524 OF 2021

Mayur Jiyalal Choudhari,
Aged about 31 years,
Occ. Business, R/o Flat No.306,
Ratan Palace, Ganesh Peth,
Nagpur … Petitioner

-vs-

1. Government of India
   Through Secretary, Ministry of Finance,
   Department of Revenue, Central Board of
   Indirect Taxes and Customs.

2. Directorate General of GST,
   Intelligence, Thr. Additional
   Assistant Director, Bhopal Zone Unit,
   4th floor, Chinnarr Incube Business Center,
   Hoshanbad Road, Bhopal

3. Central Goods & Service Tax Dept.
   Division City, Through, Deputy Assistant
   Commissioner, GST Bhawan, Telangkhedi Road,
   Civil Lines, Nagpur … Respondents

Zeeshan Z. Haq, Advocate for petitioner.
Shri S. N. Bhattad, Advocate for respondent Nos.2 and 3.

CORAM : A. S. CHANDURKAR AND PUSHPA V. GANEDIWALA JJ.
DATE : January 19, 2022

Oral Judgment : (Per : A. S. Chandurkar, J)

Rule. Rule made returnable forthwith and heard learned counsel for the parties.

The limited relief sought by the petitioner is a direction to be issued to the respondent Nos.2 and 3 to re-consider the petitioner's request for benefit under Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 (SVLDR Scheme) since 2019. The request for benefit under the SVLDR Scheme dated 31/12/2019 has been rejected by respondent No.2 after making necessary enquiries with the respondent No.3. Pursuant thereto a show cause notice dated 21/06/2020 had been issued by the respondent No.2 quantifying the amount of service tax to Rs.11,43,762/-.

2. It is the case of the petitioner that pursuant to the summons dated 20/06/2019 issued under Section 14 of the Central Excise Act, 1944 as applicable to service tax matters he had appeared before the respondent No.2 and had undertaken to discharge liability towards service tax for an amount of 11,43,762/-. In the meanwhile the SVLDR Scheme 2019 was introduced and the petitioner accordingly sought benefit thereunder by making a declaration on 31/12/2019. It is the case of the petitioner that in view of Circular dated 27/08/2019 the petitioner would be entitled to relief therein since the liability was below Rs.50,00,000/-. Instead, a show cause notice was issued on 21/06/2020 demanding the entire amount of liability on the premise that the petitioner had not made any application under the Scheme. Hence, the petitioner has approached this Court.

3. We have heard the learned counsel for the parties and we have perused the Scheme in question as well as Circular dated 27/08/2019. Perusal of the form submitted by the petitioner indicates that the

respondent No.2 found that there was no specific quantification done as a result of which the petitioner has been denied benefit of the said Scheme. The petitioner had moved his application with the respondent No.2 but after making enquiries with the respondent No.3 which reported not receiving any application from the petitioner, his case has not been considered for benefit under the said Scheme. It is undisputed that such appilcation under the Scheme was made to the respondent No.2 on 31/12/2019 within time. In that view of the matter the consideration of the petitioner's claim for relief under SVLDR Scheme 2019 ought to be undertaken by respondent Nos.2 and 3.

4. In view of aforesaid, the respondent Nos.2 and 3 are directed to re-consider the form submitted by the petitioner under the SVLDR Scheme 2019 dated 31/12/2019 in the light of Circular dated 27/08/2019. If there is no legal impediment found, the said respondents can consider the case of the petitioner on its own merits and take a decision thereon. Till such decision is taken by the respondent Nos.2 and 3 on the form submitted by the petitioner, show cause notice dated 21/06/2020 shall not be acted upon. All points on merits are kept open.

Rule is made absolute in aforesaid terms with no order as to costs.

(Pushpa V. Ganediwala, J.) **(A. S. Chandurkar, J.)**