IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: **19.12.2022**

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.Nos.33258 and 33263 to 33265 of 2022
and WMP.No.32692 of 2022
in
W.P.No.33258 of 2022

Sri.Venkateswara Air Products
Rep. By its Partner, Sujatha Nithyanantham
270, Sambal Thottam
Thekkupalayam
Coimbatore – 641 033 .. Petitioner
in W.P.No.33258 of 2022

Sri.Venkateswara Oxygen Pvt. Ltd.,
Rep. By its Managing Partner D.Nithyanandan
270, Sambal Thottam
Thekkupalayam
Coimbatore – 641 033 .. Petitioner
in W.P.No.33263 of 2022

M/s.Sri.Venkateswara Oxygen Pvt. Ltd.,
Rep. By its Managing Director D.Nithyanandan
270, Sambal Thottam
Thekkupalayam
Coimbatore – 641 033 .. Petitioner
in W.P.No.33264 of 2022

M/s.Sri.Venkateswara Oxygen Pvt. Ltd.,
Rep. By its Managing Director D.Nithyanandan
270, Sambal Thottam
Thekkupalayam
Coimbatore – 641 033 .. Petitioner
in W.P.No.33265 of 2022

Vs.

1. The Designated Committee
   By SVLDR Scheme
   GST & CE
   Division Coimbatore-1
   Coimbatore

2. The Commissioner
   Central GST and Central Excise
   Coimbatore Division
   1441, ELGI Building, Trichy Road
   Coimbatore – 641 018

3. The Assistant Commissioner of
   Central Excise
   Coimbatore 1 Division
   1441, ELGI Building, Trichy Road
   Coimbatore – 641 018 .. Respondents 1 to 3 in W.P.Nos.33258 and 33263 to 33265 of 2022

4. M/s.ICICI Bank Ltd.,
   PRECOL Factory Premises
   Mettupalayam Road
   Perianaickanpalayam
   Coimbatore- 641 020 ... 4th Respondent in W.P.No.33258 of 2022

<u>Prayer in W.P.No.33258 of 2022:</u> Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus directing the 1st respondent to consider and process the application submitted by the petitioner under the SABKA VISHWAS (Legacy Dispute Revolution) Scheme 2019 vide Application Reference No.LD 2912 19000 2582 and to direct the 2nd and 3rd respondents to refund to the petitioner a sum of

Rs.6,35,889/-.

Prayer in W.P.No.33263 of 2022: Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus directing the 1st respondent to consider and process the application submitted by the petitioner under the SABKA VISHWAS (Legacy Dispute Revolution) Scheme 2019 vide Application Reference No.LD 2912 19000 2469 and to forbear the respondents 2 and 3 from proceedings against the petitioner in any manner for recovery of the amounts due which are the subject matter of the said application of the petitioner till such time the SVLDR Scheme application is considered and decided.

Prayer in W.P.No.33264 of 2022: Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus directing the 1st respondent to consider and process the application submitted by the petitioner under the SABKA VISHWAS (Legacy Dispute Revolution) Scheme 2019 vide Application Reference No.LD 2912 19000 2515 and to forbear the respondents 2 and 3 from proceedings against the petitioner in any manner for recovery of the amounts due which are the subject matter of the said application of the petitioner till such time the SVLDR Scheme application is considered and decided.

Prayer in W.P.No.33265 of 2022: Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus directing the 1st respondent to consider and process the application submitted by the petitioner under the SABKA VISHWAS (Legacy Dispute Revolution) Scheme 2019 vide Application Reference No.LD 2912 19000 2498 and to forbear the respondents 2 and 3 from proceedings against the petitioner in any manner for recovery of the amounts due which are the subject matter of the said application of the petitioner till such time the SVLDR Scheme application is considered and decided.

For Petitioners : Mr.T.Saikrishnan
in all W.Ps

For Respondents : Mr.Rajnish Pathiyil
Senior Panel Counsel
for Customs and Indirect Tax for R1 to R3
in all W.Ps
R4 in W.P.No.33258 of 2022 served

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COMMON ORDER

This common order will govern the captioned four writ petitions and captioned 'Writ Miscellaneous Petition' ['WMP'].

2. This order has to be read in conjunction with and in continuation of earlier proceedings made in the previous listing dated 12.12.2022 which reads as follows:

> *'Learned counsel for writ petitioner submits that writ petitioner is a partnership firm and in the course of its business it hired tanker facilities. The tanker hire charges were classified as freight charges. This is the central issue is learned writ petitioner counsel's say.*

2. Be that as it may, writ petitioner in all the four writ petitions has opted to take 'Sabka Vishwas (Legacy Disputes Resolution) Scheme 2019 in Reference No. LD 2912190002582' [hereinafter 'said scheme' for the sake of convenience and clarity] route.

3. Though the writ petitioner has applied under the said scheme on 29.12.2019, the writ petitioner is yet to see the next step of the said scheme is learned counsel's further say.

4. Mr.Rajnish Pathiyil, learned Senior Panel Counsel for Customs and Indirect taxes accepted notice on behalf of Respondents 1 to 3, requested for a short accommodation to get instructions and revert to this Court. Registry to show the name of learned Revenue counsel in the next listing.

5. Notice to fourth respondent returnable in a week i.e., returnable by 19.12.2022. Private notice permitted. Learned counsel for writ petitioner is permitted to serve on the Standing Counsel for fourth respondent (if any).

List in the Admission Board on 19.12.2022.'

3. Today, Mr.T.Saikrishnan, learned counsel for writ petitioner in all the four writ petitions / petitioner in WMP and Mr.Rajnish Pathiyil, learned Senior Panel Counsel for Respondents 1 to 3 in all the four writ petitions / WMP are before this Court. To be noted, as regards private notice to fourth respondent Bank is concerned, affidavit of service dated 16.12.2022 bearing

S.R.No.41221 of 2022 has been filed and the same shows that the fourth respondent has been duly served on 14.12.2022 itself. Therefore, fourth respondent will also remain bound by this order.

4. The aforementioned 12.12.2022 proceedings made by this Court is telltale and it captures the scope of the writ petitions in a nutshell. Owing to the limited perimeter within which the captioned writ petitions perambulate, it may not be necessary to be detained by facts much less by more facts with granular particulars.

5. Adverting to earlier proceedings dated 12.12.2022, learned Revenue counsel submits that Respondents 1 to 3 are in the process of ascertaining the correct status of the petitioners' applications under said Scheme. To be noted, as earlier proceedings dated 12.12.2022 are being read as an integral part and parcel of this order, short forms / abbreviations used in the earlier proceedings shall continue to be used in the instant proceedings also for the sake of convenience and clarity.

6. As regards the first of the captioned four writ petitions i.e., W.P.No.33258 of 2022, the prayer is in two limbs and the second limb pertains to refund of a specified sum. To be noted, refund by the third

respondent to the writ petitioner. Refund as regards the first writ petition is concerned, it will be subject to the conclusion the first respondent arrives at, on considering and processing the writ petitioner's application under said Scheme.

7. In the light of the narrative thus far, captioned four writ petitions are disposed of with a simple directive to the first respondent to consider, process and conclude the writ petitioners' applications under said Scheme as expeditiously as the business of the first respondent would permit and in any event, within four weeks from today i.e., by 19.01.2022. Conclusion shall be duly communicated to the writ petitioners under due acknowledgement within seven working days from the date of disposal of writ petitioners' applications under said Scheme. Consequently, captioned W.M.P.No.32692 of 2022 is disposed of as closed. Though obvious, for the purpose of specificity, it is made clear that there is no expression of opinion or view in this order and the first respondent shall consider and process the applications of the writ petitioners under said Scheme on its own merits and in accordance with law.

Captioned writ petitions and WMP are disposed of in the aforesaid manner. There shall be no order as to costs.

19.12.2022

Index: yes/no

gpa

To

1. The Designated Committee
   By SVLDR Scheme
   GST & CE
   Division Coimbatore-1
   Coimbatore

2. The Commissioner
   Central GST and Central Excise
   Coimbatore Division
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   Central Excise
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4. M/s.ICICI Bank Ltd.,
   PRECOL Factory Premises
   Mettupalayam Road
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   Coimbatore- 641 020

M.SUNDAR, J.,

gpa

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