IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5259 OF 2021

Magestic Premises Private Ltd. ...Petitioner

Versus

Union of India,
Through The Secretary Ministry of Law
And Justice & Anr. ...Respondents

WITH
WRIT PETITION NO.5260 OF 2021

Meridian Buildpro Pvt. Ltd. ...Petitioner

Versus

Union of India,
Through The Secretary Ministry of Law
And Justice & Anr. ...Respondents

****

Mr. Sujit Mashal i/by M/s. Nashikwala Law Office for the Petitioner.

Mr. Jitendra B. Mishra a/w. Mr. Dhananjay Deshmukh for the Respondents in WP/5259/2021.

Mr. Jitendra B. Mishra a/w. Ms. Sangeeta Yadav for Respondents in WP/5260/2021.

****

CORAM : G. S. KULKARNI,
JITENDRA JAIN, J.J.

DATED : 3rd JULY, 2023.

P.C.

1. Rule. Respondents waives service. By consent, the petition is heard finally.

2. By this petition under Article 226 of the Constitution of India, the Petitioner has prayed for the following reliefs:-

> *"(a) Issue a writ of mandamus to the Respondents, or any other appropriate writ, direction or order of this Hon'ble Court in the nature of writ of mandamus, to directs the Respondents to accept and allow the Petitioner to pay/deposit the said sum of Rs.3,87,303/- as per Forms annexed as Exhibit-D and Exhibit-E hereto, and for this purpose such necessary directions be issued to the Respondents to do all deeds and things which are necessary and expedient to facilitate the payment of the said amount of Rs.3,87,303/- by the Petitioner in accordance with the said Sabka Vishwas (Legacy Dispute Resolution Scheme) 2019.*
>
> *(b) That pending the hearing and final disposal of this Petition, Respondents should be restrained, by an order and injunction of this Hon'ble Court, from continuing and/or proceeding with the said Show Cause Notice dated 11th April 2019.*
>
> *(c) For interim and ad-interim reliefs in terms of prayer clause (b) above."*

3. Brief facts relevant for the present proceedings are as under:-

(i) The Petitioner is a company engaged in construction business and is registered under the Goods and Service Tax Act, 2017.

(ii) On 11th April 2019, the Petitioner was issued a show cause notice by Respondent no.2 calling upon the Petitioner to pay sum of Rs.12,91,009/-. When the adjudication of the said show cause notice was pending, the Respondents introduced Sabka Vishwas (Legacy Dispute Resolution Scheme) 2019 (hereinafter referred as "SVLDR Scheme"). The object of the scheme was to resolve dispute under the Service Tax and Central Excise Act and other indirect tax enactment. The object was also that the Respondents recover the tax immediately and also to reduce the pending litigation before various Authorities and the Courts.

(iii) On 30th December 2019, the Petitioner made an application in Form-1 under SVLDR Scheme. The said form was processed by the Respondents and a challan was generated in Form No.3 for making payment of Rs.3,87,302.70/- with respect to the dispute raised in the show cause notice.

(iv) On 19th March 2020, the Petitioner made payment by RTGS of Rs.3,87,303/- as per Form No.3 issued by the Respondents. However, on account of technical glitch, the said payment came to be reversed. Thereafter, on account of pandemic, there was a complete lock down in the country from 20th March 2020, when everything had come to a stand still. During the interregnum, the Petitioner also changed its place of business.

(v) On 7th December 2020, the Petitioner addressed a letter to the Respondents narrating the above facts and requesting the Respondents to accept the payment of Rs.3,87,303/-, so that the Petitioner can take the benefit of the Scheme. The Respondents having failed to respond, the Petitioner has filed the present petition for reliefs as set above.

(vi) It is in the above circumstances, the present petition is filed praying for the reliefs as noted above.

4. Heard learned counsel for the Petitioner and learned counsel for the Respondents.

5. The SVLDR Scheme was introduced with the object of reducing the litigation. Looking at the object of the Scheme, it is to be construed liberally. The said scheme also proposed to reduce the litigation pending before various forums. The scheme is beneficial to the Government, inasmuch as, the amount locked up in litigation is freed and the Government is able to recover the tax immediately. Therefore, the Scheme is beneficial for all the stake holders. Also the year 2020 was marked with pandemic. Although, in the India the lockdown was announced from 20th March 2020, the fear of pandemic started feeling in India much prior to the declaration of lockdown. During the lockdown, the limitation period for all the proceedings was extended from time to time under the orders of the Supreme Court. The Petitioner has contended that the Petitioner too bore the burnt of the pandemic and of the lockdown, since its business was also affected. The Petitioner also in the meantime changed its place of business which resulted in the disruption of its accounts department. Under the said scheme, the Petitioner made payment on 19th March 2020, but on account of technical glitch, the said payment was reversed by the Banking Authorities. It is under this background that the Petitioner, in our view, should be given one more opportunity to enable it to make payment so as to give effect to the above objective of the Scheme to reduce the litigation.

6. Similar issue had come up before the Co-ordinate Bench of this Court in Writ Petition No.1468 of 2021 in the case of **Shri Arjun Amarjeet Rampal Vs. Union of India & Ors.** when this Court vide order dated 30th March 2023 after analysing the object of the Scheme, directed the Petitioner to pay the amount under SVLDR Scheme directed the Respondents to issue necessary Certificate as per SVLDR Scheme.

7. In our view, based on the facts stated above following the decision of the Co-ordinate Bench, the present Petitioner needs to succeed. We accordingly dispose of the petition by the following order:-

(a) Petitioner to make the payment of Rs.3,87,303/- under the SVLDR Scheme within a period of four weeks from the date of uploading of the order.

(b) Petitioner on having made the payment Respondents would issue the final certificate as per SVLDR Scheme within a period of two weeks from the date of communication of the payment having made.

WRIT PETITION NO.5260 OF 2021

8. The facts in the present petition are similar to the facts in Writ Petition No.5259 of 2021. This Court has passed a detailed order in Writ Petition No.5259 of 2021 and for the reasons stated in the Writ Petition No.5259 of 2021, the present Petition is disposed of in terms of the following order:-

(a) Petitioner to make the payment of Rs.2,57,358/- under the SVLDR Scheme within a period of four weeks from the date of uploading of the order.

(b) Petitioner having made the payment, Respondents would issue the final certificate as per SVLDR Scheme within a period of two weeks from the date of communication of the payment having made.

9. Both the Petitions are disposed of in the above terms. No order as to costs.

[JITENDRA JAIN, J.] **[G. S. KULKARNI, J.]**