IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2998 OF 2021

Innovative Antares Pvt. Ltd. … Petitioner

Versus

Union of India
represented by the Secretary
Department of Revenue
Ministry of Finance & Ors. … Respondents

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Mr. Bharat Raichandani with Mr.Rishabh Jain i/b. UBR Legal Advocates for the Petitioner.
Mr. Karan Adik with Mr. Ram Ochani for the Respondents.

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CORAM : NITIN JAMDAR &
ABHAY AHUJA, JJ.

DATE : 17 JANUARY 2023

P.C.:-

Heard the learned Counsel for the parties.

2. Rule. Rule made returnable forthwith. Taken up for disposal.

3. The Petitioner seeks a direction to the Respondents to allow the Petitioner to pay the amount of Rs. 7,69,317/- under Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 and to issue discharge certificate.

4. The Petitioner is a private limited company engaged in trading carpet tiles and false ceilings. The Petitioner is registered as a service provider under the provisions of the Finance Act, 1994. The Petitioner filed an electronic declaration on 31 December 2019 under Voluntary Disclosure Category of the Scheme of 2019 declaring Rs. 7,69,317/- as tax dues for the period from 1 April 2016 to 30 June 2017. Form SVLDRS-3 was issued by Respondent Nos. 4 and 5 on 10 February 2020 directing the Petitioner to make the payment of Rs. 7,69,317/- to avail the benefit of the Scheme of 2019.

5. It is the Petitioner's case that the Petitioner could not act pursuant to Form SVLDRS-3 in time in view of the lock down imposed due to Covid-19 pandemic. The payment date under the Scheme of 2019 was extended to 30 June 2020. The Petitioner made payment of Rs. 7,69,317/- on 24 June 2020 pursuant to Form SVLDRS 3, however, it was returned by the Bank, and the amount was refunded to the Petitioner's account. According to the Petitioner, thereafter the Petitioner tried multiple times to generate a new challan but was not successful.

6. On 15 July 2020, Respondent Nos. 4 and 5 communicated to the Petitioner by an e-mail calling upon the Petitioner to submit response to pay tax dues under the Scheme of 2019. The Petitioner responded by an e-mail dated 16 July 2020 that the Petitioner is willing to pay tax dues and requested Respondent Nos. 4 and 5 to

give opportunity to make the payment. According to the Petitioner, the Petitioner attempted on several occasions to make payment and considering that payment was made under the Scheme of 2019 under old challan, the Petitioner also requested Respondent No.3 to permit the Petitioner to pay under old challan.

7. Since no response was received, the Petitioner has approached this Court.

8. We have heard Mr. Bharat Raichandani, the learned Counsel for the Petitioner and Mr. Karan Adik, the learned Counsel for the Respondents.

9. The learned Counsel for the Petitioner submitted that the Petitioner, pursuant to Form SVLDRS-3, has made payment but the same was returned by the Bank and the proof thereof is placed on record. The learned Counsel submitted that it is because of the lock down imposed that situation has arisen and even after an e-mail was received on 15 July 2020 calling upon the Petitioner to give response for payment, the Petitioner had attempted to make payment but the Respondents did not issue new challan. The learned Counsel relied upon the decision of the High Court of Gujarat in the case of *M/s. L.G. Chaudhary Versus Union of India*[1] and contended that appropriate directions be given to the Respondents to accept the amount and give benefit of the Scheme of 2019. The learned

1 R/Special Civil Application No. 12366 of 2021 dated 14 October 2022

Counsel for the Respondents submitted that the Petitioner has approached this Court with delay and the Scheme of 2019 is already over, and no case is made out by the Petitioner for issuance of any direction. The learned Counsel submitted that the Petitioner has not made payment within the extended period.

10. As regards the eligibility of the Petitioner to avail the benefit of the Scheme of 2019 is concerned, the same is not in dispute. Form SVLDRS-3 was issued to the Petitioner. The fact that the period to deposit the amount was extended to 30 June 2020 is not in dispute. The Petitioner has placed on record the documents received from the Bank which shows that the Petitioner on 24 June 2020 had made payment of Rs. 7,69,317/- and the Petitioner has placed on record the Bank statement and RTGS slip acknowledgment of the Bank confirming the payment made out of which SMS was received from the Bank. In the reply affidavit, these facts have not been disputed.

11. In the case of *M/s. L.G.Chaudhary (supra),* the Division Bench of the High Court of Gujarat considered the identical situation where the Petitioner therein tried to make the payment through NEFT as per Form SVLDRS- 3 on 30 June 2020 and because of the technical problem on the part of the Bank, the payment was returned to the Petitioner. The Division Bench considered the law on the subject and the argument of the Respondents that the payment was not made within the time. The

Court held that since the Petitioner therein made *bona fide* attempt to make payment within the stipulated time, the petition was allowed and the Respondents were directed to accept the payment. In exercise of a writ jurisdiction, the Division Bench directed that the payment should be made along with interest.

12. The second aspect is that the Respondents on 15 July 2020 by an e-mail called upon the Petitioner and several other declarants that Form SVLDRS-3 was issued to them but payment is not made and whether the Petitioner is willing to pay the amount if opportunity is given. To which the Petitioner replied immediately next day stating that the Petitioner is ready to pay the amount. The Petitioner issued communications that the Petitioner is unable to pay under old challan as it was not allowed since the Scheme of 2019 having been closed but new challan was not issued to the Petitioner. There is no explanation or denial in the reply affidavit regarding the e-mail sent on 15 July 2020 calling upon the Petitioner and several other declarants to comply with Form SVLDRS-3, and non-issuance of new challan.

13. Considering these circumstances, we are of the opinion that indulgence as granted by the Division Bench of the High Court of Gujarat in the case of *M/s. L.G. Chaudhary (supra)* also needs to be extended to the case of Petitioner.

14. On the aspect of delay in filing the writ petition, the learned

Counsel for the Petitioner submitted that the Petitioner attempted various occasions to pay the amount and it took some time to collect that documents from the Bank. Also on this aspect, since the Petitioner has relied upon the decision in the case of *M/s.L.G.Chaudhary (supra)* on the ground that the facts are identical, it has to be noted that in the case of *L.G. Chaudhary (supra),* the interest amount as stipulated at the rate of Rs. 9% per annum was directed to be paid Considering the facts and circumstances of the present case, we are of the opinion that the interest at the rate of Rs. 6% per annum would be appropriate.

15. Therefore, following the decision in the case of *M/s. L. G. Chaudhary (supra),* we allow the petition and direct the Respondents to permit the Petitioner to pay the amount of Rs. 7,69,317/- under the Scheme of 2019 along with interest at the rate of Rs.6% per annum from 30 June 2020 till the date of payment. The Petitioner will deposit the amount with interest within four weeks from the date order is uploaded and thereafter the Respondents will take steps regarding issuance of necessary certificate within four weeks thereafter.

16. The writ petition is disposed of in above terms.

ABHAY AHUJA, J. **NITIN JAMDAR, J.**