IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.08.2023

CORAM

THE HONOURABLE MR.JUSTICE **C.SARAVANAN**

W.P.No.1144 of 2022
and
W.M.P.Nos.1209 and 1210 of 2022

M/s.Peri Software Solutions Private Limited,
Represented by its Director and Authorized Signatory,
Mr.V.Sasikumar,
Peri Knowledge Park,
Mannivakkam, Chennai – 600 048. ... Petitioner

Vs

1.The Commissioner,
Office of Commissioner of GST and Central Excise,
Chennai South, 692, M.H.U.Complex,
5th Floor, Annasalai, Nandanam,
Chennai – 600 035.

2.The Designated Authority,
Commissionerate/DGGI,
Chennai South Commissionerate

3.The Assistant Commissioner,
Circle VI, Audit II Commissionerate,
Office of the Commissioner of GST and Central Excise,
692, 6th Floor, MHU Complex,
Anna Salai, Nandanam,
Chennai – 600 035.

4.The Superintendent,
Office of the Superintendent of Central GST and
Central Excise,
Vadapalani Division : Range-IV,
Chennai South Commissionerate.

5.The Assistant Commissioner,
Head Quarters Preventive Unit (Legacy Cell),
Office of the Commissioner of GST and Central Excise,
Chennai South Commissionerate,
GST Nilayam, MHU Complex,
Nandanam, Chennai – 600 035. ... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the impugned proceedings of the first respondent in Original-in-original No.35/2021(C) in C.No.1V/15/59/2020 CS(Adj)/DIN-20211-59L000016731A, dated 29.10.2021 and quash the same as passed beyond the period of limitation, passed in violation of the principles of natural justice and the provisions of the Finance Act, 1994 and also passed in violation of the Discharge Certificate issued in Form SVLDRS-4 by the second respondent on 29.06.2020 under the Sabka Vishwas (Legacy Dispute Resolution) Scheme 2019.

For Petitioner : Mr.P.Rajkumar

For Respondents : Mr.V.Sundareswaran
Senior Panel Counsel

ORDER

Heard the learned counsel for the petitioner and the learned Senior Panel counsel for the respondents.

2.The petitioner has challenged the impugned Order-in-Original No.35/2021(c) passed by the respondent. The impugned order of the respondents precedes a Show Cause Notice dated 29.12.2020, wherein, it was concluded that the petitioner had not paid tax for a sum of Rs.59,52,18,210/-. This Show Cause Notice was issued without considering the partial settlement of the dispute under the SVLDRS Scheme, 2019. Out of the total taxable turn over of the petitioner, the petitioner appears to have declared a sum of Rs.20,86,56,232/- in the regular return filed by the petitioner in ST-3.

3.The petitioner opted to settle the dispute for an amount of Rs.29,46,72,556/- under the aforesaid scheme which was accepted by the Designated Authority under the provisions of the aforesaid Scheme on 29.06.2020. Thus, only a difference of Rs.30,05,45,654/- towards export Revenue, pure agent and exempted revenue was to be adjudicated by issuance of Show Cause Notice pursuant to investigation by the order. However, the Show Cause Notice was issued on 29.12.2020 by one of the officer who was incidentally part of the Designated Authority under the scheme while settling the dispute of the petitioner under the aforesaid Scheme on 29.06.2020.

4. The show cause notice that was issued on 29.12.2020 preceded a series of communication exchanged between the petitioner and the officers of the Department namely the Headquarters Preventive. The petitioner appears to have responded to the same and had given documents on 23.12.2020. In the reply dated 29.01.2021 to the Show Cause Notice dated 29.12.2020, the petitioner appears to have claimed exemption on the export turnover and exemption under Notification No.12/2013-ST dated 01.07.2013.

5. The respondents have partly dropped the demand proposed in the Show Cause Notice dated 29.10.2021 vide Order-in-Original No.35/2021(c) to the extent, the dispute that was settled under the SVLDRS Scheme on 29.06.2020. However for the balance amount, the

respondent has concluded that the petitioner has not furnished any documents in para 12.4 of the impugned order.

6. In the counter, the respondents have admitted that the petitioner has furnished the documents although incomplete documents. It is submitted that the petitioner ought to have properly explained the particulars with proper documents.

7. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Senior Panel Counsel for the respondents.

8. The respondents ought to have particularized the details and shortfall on the part of the petitioner in failing to produce necessary documents before confirming the demand while passing the impugned Order-in-Original.

9. Considering the above, the Court is inclined to set aside the impugned order in so far as which seeks to demand service tax on the

petitioner on the export turnover and the claim of exemption under Notification No.12/2013-ST dated 01.07.2023 and remands the case back to the respondents to redo the exercise. The respondents shall consider the reply of the petitioner and additional representation given by the petitioner on 21.12.2020 followed by another representation dated 23.12.2020.

10. In any event, the petitioner is directed to file a consolidated reply giving all the particulars together with the documents. This exercise shall be carried out by the petitioner within a period of six weeks from the date of receipt of a copy of this order.

11. The respondents shall pass denovo order on the surviving issues within a period of six weeks thereafter. Needless to state, before passing such order, the petitioner shall also be heard.

12. This writ petition stands disposed of with the above observations. No costs. Consequently, connected writ miscellaneous petitions are closed.

25.08.2023

Index: Yes/ No
Internet : Yes/No
Speaking/Non-speaking Order
Neutral Citation : Yes/No
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To

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C.SARAVANAN,J.
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