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W.P.No.7249 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.08.2023

CORAM

THE HON'BLE **MR.JUSTICE C.SARAVANAN**

W.P.No.7249 of 2021

M/s.Abirami Engineering Construction & Co.,
5/217 D1 Teachers Colony,
Mohanur Road, Namakkal,
Pin Code 637 001,
Represented by its Partner
S.Abinaya Partner

... Petitioner

Vs.

1.The Commissioner of GST & Central Excise
Salem GST Commissionerate,
GST Bhavan, Bi, 1, Foulkes Compound,
Anaimeedu, Salem 636 001.

2.The Deputy Commissioner of Gst & Central Excise,
GST Bhavan Bi, 1, Foulkes Compound,
Anaimeedu, Salem 636 001.

3. The Manager,
Indian Bank,
31, Rangar Sannadhi Street,
Namakkal 637 001.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, for
issuance of a Writ of Certiorarified Mandamus, calling for the records



W.P.No.7249 of 2021

connected with C.No.IV/16/10/2019 GST Cell daed 29.12.2020 issued by the 2nd respondent with the approval of the 1st respondent and to quash the same as having been passed contrary to law and against Justice and fair play and consequently direct the respondents to accept the payment of the tax dues of Rs.2,83,14,330/- from the petitioner equal to the amount which was earlier made by them through RTGS mode vide cheque No.886305 dated 30.06.2020 and credited back to their current account, towards settlement of the dispute covered by show cause notice No.05/2018 ST/JC-SLM dated 06.06.2018 under the Sabka Vishwas (Legacy Dispute Resolution) Scheme 2019.

For Petitioner : Mr.N.Viswanathan

For Respondents : Mr.M.Santhanaraman
Senior Standing Counsel

ORDER

The petitioner had opted to settle dispute under the SVLDRS (Legacy Dispute Regulation) Scheme Rules, 2019 which announced and Finance Act, (No.2) 2019 with effect from 01.09.2019. The petitioner filed a declaration Form SVLDRS-1 on 29.12.2019. The Designated Authority issued SVLDRS-3 on 27.02.2020.



W.P.No.7249 of 2021

2. As per the aforesaid order in SVLDRS-3 dated 27.02.2020 was required to pay a sum of Rs.2,83,14,271/-. The petitioner appears to have issued a cheque for a sum of Rs.2,83,14,330/- for making payment through RTGS facility through the 3rd Respondent bank on 30.06.2020 . The amount was debited and thereafter was immediately re-credited to the petitioner's account. The petitioner was informed about the same by the Indian Bank vide its letter dated 02.07.2020.

3. In the aforesaid letter, it is stated that the request for transfer through RTGS was received from the petitioner on 30.06.2020 together with cheque No.886305 for a sum of Rs.2,83,14,330/- and that the aforesaid amount was transferred through RTGS on 30.06.2020 itself for a sum of Rs.2,83,14,271/-. In all accumulating a sum of Rs.2,83,14,330/-. It is further stated that the aforesaid amount of Rs.2,83,14,271/- amount was transferred through RTGS on 30.06.2020. In the said communication, the petitioner has been further informed that the aforesaid amount was re-credited from the petitioner's account on account on 01.07.2020 on account of mis-match in chalan amount. Relevant portion of the aforesaid communication read as under:-



W.P.No.7249 of 2021

WEB COPY

On 30.06.2020, we got RTGS request from you via cheque No.886305 to RBI of Rs.2,83,14,330/- . We have transferred the RTGS amount on 30.06.2020 itself for Rs.83,14,271, 1,00,00,000 and Rs.1,00,00,000/- accumulating a total of Rs.2,83,14,330/- . The amount is returned to your account on 01.07.2020 Mismatch in Challan amount is the reason for return of amount. As per our bank policy we are not able to Transfer more than one Crore in a single RTGS. The same we have informed the customer also.

4. Under these circumstances, the petitioner has sent several reminders to resend amount back to the beneficiary under the Scheme vide letter dated 03.07.2020, 24.07.2020, 03.09.2020 and 22.12.2020

5. By impugned communication dated 29.12.2020, the second respondent has informed the petitioner that there is no option to resend amount back to the beneficiary. The petitioner has thus filed this writ petition for quashing the impugned communication dated 29.12.2020 issued by the first respondent informing the petitioner that since due date for payment of tax under the scheme expired on 30.06.2020 and therefore rejecting the request of the petitioner cannot be accepted.



W.P.No.7249 of 2021

WEB COPY 6. The learned counsel for the petitioner has placed reliance on the following decisions:-

- i) **Shekhar Resorts Ltd., vs. Union of India**, 2023(68) G.S.T.L 225/2 Centax 99 (S.C)
- ii) **M/s.L.G.Chaudhary vs. Union of India**, R/Spl.L.A.No.12366 of 2021 dated 14.10.2022
- iii) **Subramaniya Siva Co-operative Sugar Mills Ltd., vs. Union of India**, 2022(67) G.S.T.L 424 (Mad.)
- iv) **Jai Guru Cables vs. Pr.Chief Commissioner of GST & C.Ex.Chennai**, 2022(65) G.S.T.L 404 (Mad.)
- v) **Malabar Erectors rep.by its Partner M.C.Abdul Rafeequ vs. Union of India and 4 Others**, W.P.No.9769 of 2020 dated 15.06.2021.

7. The learned Senior Standing Counsel for the respondents submit that there is no merits in the present writ petition. It is submitted that even, as per the decision cited by the learned counsel for the petitioner in the case of **Malabar Erectors rep.by its Partner M.C.Abdul Rafeequ vs. Union of India and 4 Others**, W.P.No.9769 of 2020 dated 15.06.2021, the benefit is not available to the petitioner. It is submitted that the scheme came to an end on 30.06.2020.



W.P.No.7249 of 2021

WEB COPY 8. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Senior Standing counsel for the respondents.

9. This Court in **Subramaniya Siva Co-operative Sugar Mills Ltd., vs. Union of India**, 2022(67) G.S.T.L 424 (Mad.) in para 22 to 24, held as under:-

22. The facts on record indicate that the amount of Rs.41,331.20 was indeed paid by the petitioner which however was re-credited back due to technical glitches. Therefore, the legitimate the benefit of the above scheme cannot be denied to the petitioner. Mistake is on account of the system evolved which failed to accept the payment.

23. Under these circumstances, the impugned orders passed and the communication stands quashed by permitting the petitioner to pay the amounts in respect of which attempt was made by the petitioner to pay through the 5th respondent RTGS (Real Time Gross Settlement) facility on 29.03.2020 within 30 days from the date of receipt of a copy of this order.

24. If the petitioner pays the aforesaid amount within a period of 30 days from the date of receipt of a copy of this order, the respondent shall bring a closure to the case of the petitioner by accepting the payment subject to the petitioner



WEB COPY



W.P.No.7249 of 2021

fulfilling other conditions of the scheme. In case, the petitioner fails to pay the amount within the aforesaid time, the 4th respondent shall pass appropriate orders on merits in accordance with law after hearing.

10. This Court in paragraph-15, in **Jai Guru Cables vs. PR.Chief Commissioner of GST & C.Ex., Chennai**, 2022(65) G.S.T.L 404 (Mad.) has been held as follows:-

15. The scheme is intended to allow chronic defaulters to pay the amount and buy peace. The delay in payment on account of technical glitches cannot come in the way of the petitioner to settle the dispute. I am therefore inclined to allow this writ petition. For the same reason, I am not able to accede to the views of this Court in W.P.No.5409 of 2021 (Covenant Insurance Surveyors and Loss Assessors Private Limited, Chennai v. Designated Committee, Chennai and Another) dated 30.11.2021. Under these circumstances, I am of the view that there is no jurisdiction in not accepting the declaration of the petitioner under the scheme or in not accepting the payment by the petitioner belatedly. I therefore direct the respondents to accept the payment from the petitioner, if the amount has not been paid or collected from the petitioner already, within a period of 30 days from the date of receipt of a copy of this order and bring a closure in true spirit of the Sabka Vishwas Scheme.



W.P.No.7249 of 2021

WEB COPY

11. The issue is covered in favour of the petitioner and therefore the writ petition deserves to be allowed. At the same time, a sum of Rs.2,83,14,271/- has remained with the petitioner after an amount of Rs.2,83,14,330/- was debited from the petitioner's Account after cheque issued by the petitioner on 30.06.2020 was cleared and re-credited.

12. The petitioner shall therefore pay interest at 7.5% being the bank interest on the aforesaid sum of Rs.2,83,14,271/- during the period commencing from 01.07.2020 at the date of re-credit of the amount till the date of payment. The petitioner shall pay the aforesaid amount together with interest at 7.5% p.a. within a period of 45 days from the date of receipt of a copy of this order. In case, the petitioner fails to pay the amount within the date stipulated herein, this order will stand automatically revoked *sine die* without further reference.



W.P.No.7249 of 2021

WEB COPY13. This writ petition stands disposed of with the above observation.

No costs.

10.08.2023

Index : Yes/No
Neutral Citation : Yes/No
kkd
To

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Salem GST Commissionerate,
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WEB COPY



W.P.No.7249 of 2021

C.SARAVANAN, J.

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W.P.No.7249 of 2021

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