IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.No.3429 of 2023 &
W.M.P.Nos.3496 & 3497 of 2023

M/s.Kayathri Consultants Private Limited,
Rep. by its Managing Director,
K.Sivakumar,
Door No.7, Dr.Muthulakshmi Street,
Valasaravakkam, Chennai-87. ... Petitioner

vs.

1.Union of India
Rep. by its Secretary,
Ministry of Finance,
Department of Revenue,
North Block New Delhi-110 001.

2.The Designated Committee under the
Sabka Vishwas (Legacy Dispute Resolution) Scheme 2019
Chennai Commissionerate, 5th Floor, MHU Complex,
Nandanam, Chennai-35.

3.The Commissioner of GST and CE
Chennai South Commissionerate,
692 MHU Complex,
Anna Salai, Chennai-35. ...Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India for writ of Certiorarified Mandamus calling for the records in relation to order in Original No.01/2020 (C) in file No. C.No.V/15/108/2019-CS-Adj dated 13.01.2020 on the file of the 3rd respondent and quash the same as it is in gross violation of principles of natural justice, judicial discipline is arbitrary, perverse and violative of Articles 14 and 19(1)(g) of the Constitution and consequently direct the 2nd respondent herein to issue Sabka Vishwas (Legacy Dispute Resolution) Scheme 2019S-4 in impugned SVLDRS 2019 Scheme Under SVLDRS No.1 No.LD1401200000972 dated 14.01.2020 with SVLDRS 3 No L270220SV301732 dated 27.02.2020 on the files of the 2nd respondent herein.

For Petitioner : Mr.K.Jayachandran

For Respondents : Mr.K.Umesh Rao,
Standing Counsel, Assisted by
Ms.G.Vardhini Karthick,
Junior Panel Counsel

ORDER

This writ petition has been filed challenging the order in original dated 13.01.2020 issued by the third respondent and consequently, direct the second respondent to consider the petitioner's application under the Sabka Vishwas (Legacy Dispute Resolution) Scheme 2019.

2. Heard Mr.K.Jayachandran, learned counsel for the petitioner and Mr.K.Umesh Rao, learned Standing Counsel assisted by Ms.G.Vardhini Karthick, learned Junior Panel Counsel appearing for the respondents.

3. The petitioner has applied under the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019. The order in original dated 13.01.2020 has been passed by the third respondent and the relevant portion of the order is extracted hereunder:

> *"(i) I demand an amount of Rs.52,07,603/- (Rupees Fifty Two Lakhs Seven Thousand Six Hundred and Three only) being the service tax payable during the period from 2014-15 to 2016-17 under Section 73(2) of the Finance Act, 1994;*
>
> *(ii) I demand Interest under Section 75 of the Finance Act, 1994 for the amount demanded under (i) above;*
>
> *(iii) I impose a Penalty of Rs.52,07,603/- (Rupees Fifty Two Lakhs Seven Thousand Six Hundred and Three only) under Section 78 of the Finance Act 1994;*
>
> *(iv) I impose a penalty of Rs.10,000/- (Rupees Ten thousand only) under section 77 of the Finance Act, 1994;*

(v) The penalty imposed shall be reduced to 25%, if the service tax demanded in Clause (i) above along with interest demanded at (ii) above is paid within Thirty days from the receipt of this order. The benefit of reduced penalty under the proviso shall be available only if the amount of such reduced penalty is also paid within Thirty days."

4. Sabka Vishwas (Legacy Dispute Resolution) Scheme is a settlement scheme introduced by the Central Government for resolution of tax disputes. The petitioner's grievance in this writ petition is that even though they had paid the estimated amount as determined by the respondents as per the aforementioned scheme on 30.06.2020 which is the deadline fixed under the scheme, the respondents have not till date considered the petitioner's application as the said amount was credited into the account of the respondents only on 01.07.2020 i.e., one day beyond the deadline.

5. The petitioner has also produced payment details obtained from Canara Bank where they are maintaining their bank account to show that on 30.06.2020, the petitioner had remitted a sum of Rs.19,18,967/- through

NEFT to the respondents towards Sabka Vishwas (Legacy Dispute Resolution) Scheme payment. Since the petitioner has made the payment on 30.06.2020 on the deadline date fixed under the scheme, the petitioner claims that the respondents ought to have accepted the petitioner's application under the Sabka Vishwas (Legacy Dispute Resolution) Scheme 2019.

6. Learned Standing Counsel appearing for the respondents has also received instructions from the respondents that the petitioner's payment was credited into the account of the respondents on 01.07.2020. However, he would submit that it is for the petitioner to establish that they had deposited the amount on 30.06.2020 itself.

7. Having produced proof before this Court in the form of payment details dated 30.06.2020 which is timed at 18.33.54 hours (6.33 pm), the statement of the petitioner that the payment of a sum of Rs.19,18,967/- which is the estimated amount payable by the petitioner under the Sabka Vishwas (Legacy Dispute Resolution) Scheme 2019 as per form SVLDRS-3 dated 27.02.2020 has been made to the respondents on 30.06.2020, has to

be believed as no contra evidence has been produced by the respondents to disprove the said statement made by the petitioner.

8. However, insofar as the challenge made to the impugned order in original dated 13.01.2020 is concerned, at this stage, this Court cannot interfere with the same as there are other terms and conditions which the petitioner have to fulfil for acceptance of their application under the Sabka Vishwas (Legacy Dispute Resolution) Scheme 2019. Once the petitioner is able to succeed in their application submitted under the Sabka Vishwas (Legacy Dispute Resolution) Scheme 2019, automatically the impugned order in original will go.

9. For the foregoing reasons, this writ petition is disposed of by directing the second respondent to process the application submitted by the petitioner under the Sabka Vishwas (Legacy Dispute Resolution) Scheme 2019 and consider issuance of Form SVLDRS-4 in favour of the petitioner on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this order.

10. With the aforesaid direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

14.02.2023

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Index:Yes/No
Internet:Yes/No
Speaking/Non-speaking orders

To

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North Block New Delhi-110 001.

2.The Designated Committee under the
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ABDUL QUDDHOSE, J.

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