IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **07.02.2023**

CORAM

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

W.P.No.3587 of 2023
and
W.M.P.No.3647 of 2023

M/s.P.K.Japee & Co.
Represented by its Partner Yog Varun Japee ... Petitioner

Vs.

1.Deputy Commissioner of GST & Central Excise,
Anna nagar Division, Chennai North Commissionerate,
2054, 12th mail road, Newry Tower,
Anna nagar, Chennai - 40.

2.The Superintendent of GST and Central Excise,
Range II Purusawalkam Division,
Chennai North Commissionerate,
Newry Towers, 1st Floor,
2054, 12th mail road, Newry Tower,
Anna nagar, Chennai - 40.

3.The Designated Committee,
SVLDR Scheme GST & CE,
Chennai North Commissionerate,
Chennai - 40. ... Respondents

PRAYER: Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, call for the records on the file of the 1st respondent in the impugned show cause notice dated 28.04.2022 vide C.No.GEXCOM/SCN/ST/1187/2022-CGST-DIV-ANN-COMMRTE-CHENNAI (N) containing DIN:20220459 TK0000618698 and quash the same as illegal, contrary to the principles of law laid down by this Court and against the principles of natural justice and fairplay and direct the 3rd respondent to accept the payment made as per SVLDRS 3 and issue SVLDRS 4.

For Petitioner : Mr.P.Prithvi Chopda

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

ORDER

This Writ Petition has been filed challenging the impugned show cause notice dated 28.04.2022.

2. The petitioner had applied under the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 *(Hereinafter referred to as Scheme, 2019)*. Admittedly, they have not made the payments on or before the deadline fixed under the said Scheme. Admittedly, several extensions for

making the payments were also granted by the respondents and despite those extensions, the petitioner has not made payments. However, the petitioner would state that only due to the critical health condition of one of its partners, it was difficult to mobilize funds to make the payments as per the Scheme, 2019. Since payments have not been made by the petitioner on or before the deadline fixed under the Scheme, 2019, the impugned show cause notice dated 28.04.2022 has been issued.

3. The petitioner has also submitted a reply to the same on 11.05.2022. Even before a final order has been passed by the respondents, the petitioner has chosen to file this Writ Petition on the ground that they have been informed by the respondents in the personal hearing that the petitioner is liable pay the interest and penalty amount. The petitioner has also claimed that the entire tax liability has been paid to the respondents. The petitioner has raised several contentions in this Writ Petition and the same has also been reflected in the reply dated 11.05.2022 sent by the petitioner to the impugned show cause notice.

4. Being a show cause notice issued under Section 174 of the Central Goods and Services Tax Act, 2017 on account of the non payment of the

interest and penalty amount by the petitioner, the question of interfering with the impugned show cause notice will not arise, as the same has been issued only under authority prescribed under law. However, necessarily, the respondents will have to consider the reply dated 11.05.2022 submitted by the petitioner on merits and in accordance with law and only thereafter pass final orders after adhering to the principles of natural justice including granting the petitioner the right of personal hearing.

5. The learned counsel for the petitioner submits that the petitioner may be granted time to file an additional reply to the impugned show cause notice. No prejudice would be caused to the respondents if the petitioner is allowed to submit an additional reply.

6. For the foregoing reasons, this Writ Petition is disposed of by directing the petitioner to submit an additional reply to the impugned show cause notice dated 28.04.2022, within a period of two weeks from the date of receipt of a copy of this order. On receipt of the additional reply from the petitioner, within the stipulated time, the respondents shall pass final orders after giving due consideration to the earlier reply dated 11.05.2022 as well

as the additional reply, after affording a fair hearing to the petitioner including granting them the right of personal hearing within a period of two months thereafter. Till final orders are passed, no coercive steps shall be taken by the respondents against the petitioner. No Costs. Consequently, the connected Writ Miscellaneous Petition is closed.

07.02.2023

Index : Yes/No
Speaking Order : Yes / No
Neutral Citation Case: Yes / No
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To

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ABDUL QUDDHOSE. J.,

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