IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.09.2023

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.25461 of 2023
and
W.M.P.No.24851 of 2023

M/S. UCFS Lojistics,
Rep. by its Prop: Kamatchi,
No.3/2, PKV Illam, Lafond Street,
Chintadripet, Chennai – 600 002. .. Petitioner

Vs.

The Assistant Commissioner of
Central GST & Central Excise,
Egmore Division,
Chennai North Commissionerate,
1st Floor, Newry Tower,
No.2054-1, Anna Nagar,
Chennai – 600 040. .. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the Show Cause Notice No.34/2022 (ST) dated 25.04.2022 issued by the respondent and to quash the same as barred by limitation, without authority of law and contrary to settled law.

For Petitioner : Mr.M.A.Mudimannan

For Respondent : Mr.V.Sundareswaran
Senior Standing Counsel

O R D E R

The petitioner has challenged the impugned show cause notice No.34/2022(ST) dated 25.04.2022 issued by the respondent.

2.It is the case of the petitioner that the impugned Show Cause Notice seeks to demand Service Tax allegedly payable by the petitioner for the period between June 2013-2014 to 2016-2017.

3.It appears that the petitioner had attempted to resolve the dispute under the Sabka Vishwas Legacy Dispute Resolution Scheme (SVLDRS) and had filed SVLDRS Form-1 under the "Arrears Category" for a sum of Rs.26,74,800/-.

4.The declaration also appears to have been accepted by the Department by issuance of Form SVLDRS-3 by directing the petitioner to pay the aforesaid amount as admitted. Since, the petitioner failed to pay the amount, the Department did not issue Form SVLDRS-3 under the Scheme. Therefore, the Department has issued the impugned notice.

5.It is the submission of the petitioner that the notice seeking to demand Service Tax is vague and not in accordance with the guidelines issued by the Board with regard to the issuance of Show Cause Notice.

6.That apart, it is submitted that by way of an amendment, Section 75(4)(b) of the Finance Act, 1994 was introduced in the year 2014. It is submitted that as per the said Section, it is specifically provided that in case proviso to Section 73(1) of the Finance Act, 1994 has been invoked and notices are issued, then adjudication has to be completed within a period of one year from the date of issuance of the Show Cause Notice.

7.It is submitted that in this case, admittedly the Show Cause Notice is dated 25.04.2022 and till the date of filing of the Writ Petition, it has not been adjudicated and therefore it is liable to be quashed.

8.That apart, it is submitted that the issue relates to tax liability on reverse charge basis was decided by the Tribunal in **M.P.Laghu Udyog Nigam Ltd., Vs. Commissioner of C.E., Bhopal**, 2014 (8) TMI 707 (T.Del). Despite the same, the present Show Cause Notice has been issued.

9.I have perused the affidavit filed in support of the present Writ Petition, the impugned Show Cause Notice and heard the learned counsel for the petitioner and the learned Senior Standing Counsel for the respondent.

10.The impugned Show Cause Notice cannot be challenged merely on the ground that it has not specified the period. The petitioner is aware of the amount of tax that was not paid by the petitioner. The petitioner has been issued with the letter dated 17.12.2018. That apart the petitioner has admitted the tax liability under the SVLDRS Scheme 2019, but has failed to pay the amount.

11.Considering the above, there is no merits in the present Writ Petition and the Writ Petition is liable to be dismissed and accordingly dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

14.09.2023

krk

Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

To

The Assistant Commissioner of
Central GST & Central Excise,
Egmore Division,
Chennai North Commissionerate,
1st Floor, Newry Tower,
No.2054-1, Anna Nagar,
Chennai – 600 040.

C.SARAVANAN, J.

krk

W.P.No.25461 of 2023

14.09.2023