BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **24.03.2023**

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THE HONOURABLE Ms.JUSTICE **P.T.ASHA**

W.P.(MD) No.4900 of 2023

S.Vasanthakumar ... Petitioner

/vs./

1.The Commissioner,
O/o. the Commissioner of Central GST and
Central Excise,
Central Revenue Building,
No.5, V.P.Rathinasamy Road,
B.B.Kulam, Madurai 625 002.

2.The Deputy Commissioner,
O/o. the Deputy Commissioner of Central GST and
Central Excise,
Madurai II Division,
No.5, V.P.Rathinasamy Road,
1st Floor, B.B.Kulam, Madurai 625 002.

3.The Joint Commissioner,
Member Designated Committee under Sabka Vishawas,
(Legacy dispute Resolution Scheme, 2019),
O/o. the Commissioner of Central GST and
Central Excise,
Madurai II Division,
No.5, V.P.Rathinasamy Road,

1st Floor, B.B.Kulam,
Madurai 625 002.

4.The Assistant Commissioner,
Member Designated Committee under Sabka Vishawas,
(Legacy dispute Resolution Scheme, 2019),
O/o. the Commissioner of Central GST and
Central Excise,
Madurai II Division,
No.5, V.P.Rathinasamy Road,
1st Floor, B.B.Kulam,
Madurai 625 002. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the 1st respondent to consider the petitioner's representation dated 22.02.2023 to accept the payment of Rs.4,75,751.20/- in terms of SABKA VISHWAS (Legacy Dispute Resolution) Scheme, 2019 towards Full and Final Settlement of tax dues in light of the orders made by this Court in Jai Guru Cables - Vs - The Principal Chief **Commissioner of GST** in WP (MD) No.4260/2022 dated 01.04.2022 within the time stipulated by this Court and consequently direct to revoke the proceedings of the Central Revenue Authorities in C.No.IV/09/49/2022 Act TN DIN - 20230259XO000000C789 dated 10.02.2023.

For Petitioner : Mr.S.Venkatasubramaniyan

For Respondents : Mr.N.Dilip Kumar
Standing Counsel

ORDER

This writ petition is filed by the petitioner for a Mandamus directing the first respondent to consider his representation dated 22.02.2023 to accept the payment of Rs.4,75,751.20/- in terms of SABKA VISHWAS (Legacy Dispute Resolution) Scheme, 2019 towards Full and Final Settlement of tax dues in light of the orders made by this Court in *Jai Guru Cables - Vs - The Principal Chief Commissioner of GST* in WP (MD) No.4260/2022 dated 01.04.2022 within the time stipulated by this Court and consequently direct to revoke the proceedings of the Central Revenue Authorities in C.No.IV/09/49/2022 Act TN DIN - 20230259XO000000C789 dated 10.02.2023.

2.It is the case of the petitioner that he is engaged in the business of erection, commission and installation services for which he has been regularly paying the service taxes for the services rendered by him. Before the GST regime had set in, the authority under the service tax found that the petitioner was due service tax to the Government for the year 2007 and had fixed service dues along with penalty by order dated 06.04.2012. Thereafter, the GST came into effect and the Government had floated a scheme in the year 2019, called SABKA VISHWAS

(Legacy Disputes Resolution) Scheme, 2019 *(herein after referred to as scheme)*. Under this scheme, the respondents 3 and 4 had directed the petitioner to pay a sum of Rs.4,75,751.20/- towards service dues and the penalty of Rs.17,59,920/-.

3.In the light of the COVID–19 pandemic situation and the ban on physical movement, the petitioner through his bankers had remitted the service tax dues of Rs.4,75,751.20/-, which was credited to the Government account. The petitioner was under the *bona fide* belief that he had complied with the orders of the authorities. However, on 17.02.2023, he received a notice dated 14.02.2023 from his bankers stating that they have received a letter dated 10.02.2023 from the Central Board of Indirect Taxes and Customs, instructing the bank to credit any money, which is due or may become due to his account and to hold the same, as if it is deemed to be credited to the Central Government account. It was only after the receipt of this letter that the petitioner came to the know that the amount had not been credited and immediately under cover of the letter dated 21.02.2023, he had forwarded a Demand Draft for the said sum to the second respondent herein. This was followed by another letter addressed to the first respondent on 22.02.2023 requesting him to consider accepting the belated payment under the scheme, in view of the various orders of this Court. The respondents, however, had not taken any action on the said representation and the account of the petitioner has been frozen. Therefore, left with no other alternative, the petitioner has filed the above writ petition.

4.The learned counsel appearing on behalf of the petitioner has made his submissions on the same lines as the contents of the affidavit and had submitted that the petitioner has shown his *bona fide* by remitting the amount as demanded by the authorities. It is also stated that the petitioner is willing to pay the interest on the said sum from the date of the re-crediting of the amount till the date of payment.

5.However, Mr.N.Dilipkumar, learned Standing Counsel for the respondents would submit that the scheme is for a limited period and is introduced only to help the assessees. Once the period of the scheme comes to an end, the authorities have no right to extend the said scheme. In the instant case, he would submit that it is rather unbelievable that the petitioner was unaware about the re-transfer of the amounts on 30.07.2020 and that they had become aware of it only in the Month of February, 2023, when the bank accounts were frozen. He would submit that the statement of accounts would clearly show that the account is a live account, where there are several transactions within a day itself.

6.Heard the learned counsels appearing on either side.

7.It is no doubt true that the scheme in question has a shelf life and it is not within the jurisdiction of the respondent to extend the time. However, it is also seen that the Court exercises its jurisdiction to give directions to the taxing authorities to consider receiving the payment belatedly to ensure that the assessee abides by the duty caused upon him to make the payment of taxes. Taking a cue from this earlier precedence and with the idea of bringing about the via media, the Writ Petition is disposed of with the following directions:-

> The respondents are directed to consider the representation of the petitioner dated 22.02.2023 and pass appropriate orders on merits and in accordance with law within a period of one month from the date of receipt of a copy of this order. While considering the representation of the petitioner, the respondents shall bear in mind the fact that the

entire amount had been paid by the petitioner on 30.07.2020 through RTGS.

However, there shall be no order as to costs.

24.03.2023

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No

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P.T.ASHA, J.

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