IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 3265-2020
Date of decision:- 03.10.2023

M/s Rosmerta Technologies Ltd .... Petitioner

vs.

Union of India and ors. ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Amar Pratap Singh, Advocate with
Mr. Ankit Awal, Advocate
for the petitioner

Mr. Sourabh Goel, Sr. Panel counsel with
Ms. Gitika Sharma, Advocate
For the respondent-department.

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Ritu Bahri, J. (Oral)

1. Challenge in this petition is for quashing order dated 10.01.2020 (P-22) passed by respondent No. 4 declaring the petitioner ineligible under Section 125 (1) (e) of the Finance (No. 2), 2019 to file a declaration under the Sabka Vishvas (Legacy Dispute Resolution) Scheme, 2019. Further prayer is for issuance of direction to respondent No. 4 to accept the declaration dated 13.12.2019 (Annexure P-18) filed by the petitioner.

2. Learned counsel for the petitioner submitted that the petitioner was experiencing financial crunch in the business in the year 2017 and respondent No. 2 issued a letter dated 14.01.2019 (P-1), wherein it was brought to the knowledge of the petitioner that it has not made payment of tax in first quarter of the year 2017-18 and directed the petitioner to submit the documents. Thereafter, respondent No. 3 initiated an enquiry against the petitioner by issuing letter dated 24.01.2019 (P-2), as it had not filed Service Tax Return (ST-3) for the period from April 2017 to June, 2017 and had not paid the service tax accordingly, to which

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petitioner gave the reply dated 05.02.2019 (P-3). The petitioner also submitted the reply dated 06.02.2019 (P-4) in response to letter dated 24.01.2019 issued by respondent No. 3. The petitioner also submitted copy of challan amounting to Rs.8 lacs in the form of first installments towards the pending liability. Thereafter, the petitioner deposited an amount of Rs.7 lacs and intimated respondent No. 3, vide letter dated 19.02.2019 (P-5) along with copy of challan. The petitioner deposited another sum of Rs.15 lacs vide letter dated 08.03.2019 (P-6) and Rs.15 lacs on 12.03.2019 (P-7). Respondent No. 3 sent a letter dated 25.03.2019 (P-8) to the petitioner whereby respondent No. 3 acknowledged the deposit of Rs.45 lacs and the requested the petitioner to deposit the remaining amount with applicable interest and penalty by 31.03.2019. Respondent No. 3 again sent a letter dated 12.04.2019 to the petitioner requesting it to deposit the remaining amount with applicable interest and penalty (P-9). Thereafter, the petitioner again deposited a further sum of Rs.15 lacs and intimated respondent No. 3, vide letter dated 15.04.2019 (P-1). The petitioner then discharged its remaining liability of service tax with interest and penalty amounting to Rs.75.74 lac by depositing the final installment amount to Rs.15.74 lacs and intimated about the same to respondent No. 3, vide covering letter dated 27.04.2019 (P-11) This all entries were shown by the petitioner in its quarter return on 27.04.2019 (P-12) ending 30.06.2019. Thereafter, the respondent No. 3 issued a letter dated 13.05.2019 to the petitioner informing that on verification of service tax payment made by the petitioner after due date, the total interest liability comes to Rs.27,66,189/- and the petitioner has paid interest amounting to Rs.8,86,255/- and the petitioner was asked to pay the remaining amount of interest amounting to Rs.18,79,734/- along with applicable penalty at the earliest.

3. At the very outset, learned counsel for the petitioner has shown copy of letter dated 16.03.2023 and the same is taken on record as Annexure R-1. As

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per this letter written by Assistant Commissioner, Division-East-I, Gurugram to the Assistant Commissioner (Legal), CGST, Gurugram, it has been stated as under:-

> *1. The petitioner has submitted a letter dated 06.02.2019 to Anti Evasion Branch, Gurugram wherein they submitted a schedule for depositing the Service Tax amounting to Rs. 75 Lacs for the period 01.04.2017 to 30.06.2017. Subsequently, they deposited Rs. 8 Lacs on 06.02.2019, Rs. 7 Lacs on 19.02.2019, Rs. 15 Lacs on 09.03.2019 and Rs. 15 Lacs on 12.03.2019 (Total Rs. 45 Lacs).*
>
> *2. Thereafter, the Anti Evasion Branch issued letter on 25.03.2019 (Annexure P-8) and reminder dated 12.04.2019 (Annexure P-9) to the petitioner to deposit the remaining amount of Rs. 30 Lacs along with applicable interest and penalty.*
>
> *3. Pursuant to P-8 and P-9 above, the petitioner deposited Rs. 15 Lacs on 15.04.2019 and Rs. 15.74 Lacs on 26.04.2019 (Total Rs. 30.74 Lacs).*
>
> *4. Thereafter, the petitioner filed ST-3 return for the period April 2017 to June 2017 on 27.04.2019 wherein they declared Service Tax liability of Rs. 2,70,18,141/-. The said liability was deposited as per ST-3 in following manner:*
>
> *Through CENVAT : Rs. 2,03,50,280/-*
> *Through CASH: Rs. 66,67,861/-*
> *Interest: Rs. 8,86,255/-*
>
> *This amount deposited through CASH includes the amount already deposited in pursuance of letters dated 25.03.2019 & 12.04.2019.*
> *5. The said ST-3 was scrutinized by Anti Evasion Branch and upon scruitiny, they observed that the petitioner has short paid interest of Rs. 18,79,934/- for the said period. Accordingly. letter dated 13.05.2019 (Annexure P-13) was written to the petitioner to deposit the short paid interest amounting to Rs. 18,79,934/- along with applicable penalty.*
> *6. As per available records, the petitioner did not deposited the aforesaid amount as demanded vide letter dated 13.05.2019. Furthermore, no other tax was due beyond these letters.*

4. The grievance of the petitioner before this Court is that since the letter dated 13.05.2016 was issued before 30.06.2019, the case of the petitioner could not be rejected under Sabka Vishvas (Legacy Dispute Resolution) Scheme, 2019 on the ground that investigation was pending and

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the amount of duty was not quantified in the case of the petitioner on or before 30.06.2019.

5. Learned counsel for the petitioner has referred to circular dated 27.08.2019 (P-16) at page No. 97 of the paper book wherein as per clause (g), it has been stated that cases under an enquiry, investigation or audit where the duty demand has been quantified on or before the 30th day of June, 2019 are eligible under the scheme. Section 2 (6) defines “quantified” as a written communication of the amount of duty payable under the indirect tax enactment. It is clarified that such written communication will include a letter intimating duty demand or duty liability admitted by the person during enquiry, investigation or audit or audit report etc.

6. Since the amount of Rs.2,70,18,141 was quantified before 30.06.2019,the petitioner was eligible to file a declaration under the Amnesty Scheme.

7. In view of the above factual position, the writ petition is allowed and order dated 10.01.2020 (P-22) is set aside. The matter is remanded back to respondent No. 4 to pass fresh order under the Sabka Vishvas (Legacy Dispute Resolution) Scheme, 2019 (P-15) by treating the taking into consideration the letter dated 13.05.2019 (P-13) making the petitioner eligible under the scheme.

(RITU BAHRI)
JUDGE

(MANISHA BATRA)
JUDGE

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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

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