

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

245

CWP-15879-2020 (O&M)

Date of decision:- 15.02.2023

QUEST RETAIL PRIVATE LIMITED

.... Petitioner

VS

PRINCIPAL COMMISSIONER CGST AND ANOTHER

...Respondents

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

Present: Mr. Mukul Singla, Advocate for the petitioner.

Mr. Anshuman Chopra, Senior Standing Counsel
for the respondents.

Ritu Bahri, J. (Oral)

Learned counsel for the petitioner has referred to the judgment of the division Bench of High Court of Bombay passed in Writ petition No. 4174 of 2021, ***Nilkamal Limited and others Vs. The Union of India and others***, decided on 14.03.2022, wherein by referring to the circular No.1073/06/2019, it is clarified that Retailor Association of India, who have initiated proceedings against the lessors for non-payment of service tax on rent over immovable property and such members are allowed to file a declaration under the Scheme Sabka Vishwas (Legacy Dispute Resolution) Scheme 2019 (for short 'SVLDRS') and the cases can be considered for availing the benefit of that scheme. The circular is clarificatory in nature. It is further observed that the petitioner will

comply with all the conditions under the Scheme for availing the benefit of the said scheme.

Learned counsel for the respondent is not able to dispute this judgment.

In the present case, the petitioner is engaged in rendering services and is duly registered with the respondent as service provider. The communication sent to the petitioner that they are in the process of rejecting his application for consideration under the SVLDRS is Annexure P-9 and final order is Annexure P-11, where the following remarks are given:-

“Remarks:

This declaration has been filed under Category 'LITIGATION' and sub-category 'APPEAL PENDING' with Forum 'Supreme Court'. Accordingly, an opportunity of Personal Hearing was given to the declarant on 10.01.2020, wherein they were asked to produce any Show Cause Notice or Order-in-original issued from the department for consideration of their declaration under the Scheme. PH was attended by their authorised representative, who admitted that no such document was issued to them in this matter. Hence, the position of the department was explained to them regarding their ineligibility in the Scheme.”

Keeping in view the judgment passed by the Bombay High Court ***Nilkamal Limited's case*** cited (supra), present writ petition is allowed. Order Annexure P-11 is set aside and matter is

remanded back to the designated Committee to pass a fresh order as per the clarificatory circular and judgment passed by Bombay High Court *Nilkamal Limited's case* cited (supra).

(RITU BAHRI)
JUDGE

(MANISHA BATRA)
JUDGE

15.02.2023
pooja saini

<i>Whether speaking/reasoned</i>	: Yes/No
<i>Whether reportable</i>	: Yes/No