Form No. J.(2)
Item No.1

IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

HEARD ON: 06.02.2024
DELIVERED ON: 06.02.2024

CORAM:
THE HON'BLE MR. CHIEF JUSTICE T.S. SIVAGNANAM
AND
THE HON'BLE MR. JUSTICE SUPRATIM BHATTACHARYA

M.A.T. 79 of 2023
With
I.A. No. CAN 1 of 2023

Mr. Deepak Kumar Agarwal
Versus
The Designated Committee constituted under section 126 of the Finance Act, 2019 read with Section 121(k) & Ors.

Appearance:-

Mr. Arnab Chakraborty
Mr. Aniket Chaudhury ....**for the appellant**

Mr. Vipul Kundalia
Mr. Tapan Bhanja ....**for the respondents/CGST & CX Authority**

JUDGMENT

(Judgment of the Court was delivered by T.S. SIVAGNANAM, C.J.)

1. Affidavit of service filed in Court be taken on record.

2. This intra-Court appeal by the writ petitioner is directed against the order dated 15th December, 2022, by which the writ petition in W.P.A. 21395 of 2021 was disposed of by directing the appellant to submit a representation before the Central Board of Indirect Taxes and Customs against the

rejection of their application under Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 (for brevity, "the SVLDRS").

3. The department has pointed out a defect in this appeal, as there is a deficit Court fees of Rs.600/- to be paid by the appellant. This defect be rectified by the appellant during the course of the day, if not already paid.

4. We have heard Mr. Aniket Chaudhury, learned advocate for the appellant and Mr. Vipul Kundalia, learned advocate for the respondents/CGST & CX authority.

5. As could be seen form SVLDRS-1, the reason for rejection is stated that the applicant/appellant is a co-noticee, wherein the main applicant, M/s. Shakambhari Ispat & Power Limited has not yet applied and settled their case in SVLDRS and as such, the appellant's application cannot be processed and is rejected as per the provisions of the scheme.

6. According to the appellant, this information was made known through the portal on 4th November, 2020. This rejection of the application under the scheme was put to challenge in a writ petition and the learned writ court has directed the appellant to approach the Board by way of a representation.

7. To be noted that in terms of the instruction issued by the Government of India, Ministry of Finance, Department of Revenue, Central Board of Excise and Customs in Instruction No.01/2021-CX dated 17th March, 2021, it has been clarified that henceforth all references for grant of approval of manual processing of declarations need not be made to the Board and such cases can be processed manually by the concerned designated committees upon fulfilment of certain conditions. Therefore, if factually the company of

which the appellant is the Director had applied under the scheme and if their application had been accepted and settled, then the reason for rejection of the appellant's application is factually incorrect.

8. The company had also applied for the benefit under the scheme, which was processed and accepted and SVLDRS – 4 dated 12^{th} August, 2020 was issued under Section 127 of the Finance (No.2) Act, 2019 read with Rule 9 of the SVLDRS Rules, 2019 by the designated committee against the said declaration filed by the company.

9. At the relevant time, an appeal was pending before the Commissioner of Appeal, CGST & Central Excise, Siliguri (Appeal), Commissionerate. On receipt of the said form SVLDRS – 4, the Commissioner of Appeals by order dated 11^{th} November, 2020 has disposed of the appeal as deemed to have been withdrawn in accordance with the provisions of Section 127 (6) of the Finance (No.2) Act, 2019.

10. Thus, it is factually not in dispute that the main applicant viz., M/s. Shakambhari Ispat & Power Limited had applied under the scheme and the said application has been accepted and SVLDRS- 4 had been issued by the designated committee on 12^{th} August, 2020.

11. In such circumstances, the reason for rejection of the application of the appellant cannot be sustained.

12. For all the above reasons, the appeal along with the application (I.A. No. CAN 1 of 2023) are allowed and the order passed in the writ petition is set aside and consequently, the writ petition is allowed and the rejection of the appellant's application under the scheme is set aside and the matter stands remanded to the designated committee to take a fresh decision on the said

application as the designated committee has been empowered by the Board to do so in terms of the instruction dated 17th March, 2021.

13. The above direction be complied with by the designated committee as expeditiously as possible preferably within a period of four weeks from the date on which the server copy of this order is received by the committee.

14. No costs.

15. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

I agree.

(SUPRATIM BHATTACHARYA, J.)

Pallab/KS AR(Ct.)