IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2024

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.2715 of 2022
and
W.M.P.No.2885 of 2022

M/s.Indira Projects & Development (T) Pvt Ltd,
Represented by its Managing Director,
Mr.N.Bhupesh,
116, Annasalai,
Little Mount,
Saidapet, Chennai. ... Petitioner

Vs.

1.The Joint Commissioner,
O/o. Commissioner of GST & Central Excise,
Chennai South Commissionerate,
692, M.H.U.Complex,
Nandhanam
Chennai – 600 035.

2.The Designated Committee,
Commissioner of Goods and Service Tax,
8th Floor, BSNL Building,
Greams Road,
Chennai – 600 003. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records of the first respondent pertaining to his impugned order in Order-in-Original No.43/2021 – JC dated 30.11.2021 and quash the same as illegal and unconstitutional consequently direct the second respondent to consider and pass orders on the petitioner's application dated 23.12.2019 made under the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 by accepting the remaining tax due of Rs.48,19,449/- more particularly within a time frame as may be stipulated by this Court.

For Petitioner : Mr.R.Venkataraman
Senior Advocate
for Mr.J.Pooventhrrarajan

For Respondents : Mr.K.Mohana Murali
Senior Standing Counsel

ORDER

Heard the learned Senior Counsel for the petitioner and the learned Senior Standing Counsel for the respondents who appeared through Video Conferencing and also perused the affidavit filed in support of the present writ petition.

2. The Petitioner has challenged the Impugned Order in Original No.43/2021-JC dated 30.11.2021. By the Impugned Order, the proposals in the Show Cause Notice No.11/2020 dated 11.06.2020 has been confirmed by the 1st Respondent.

3. It is a specific case of the Petitioner that the Petitioner had opted to settle the dispute under the provisions of the Sabka Vishwas Dispute Resolution Scheme, 2019 as announced under the Finance Act (No.2) Bill, 2019.

4. It is submitted that the Petitioner was required to pay an amount under the aforesaid scheme latest by 30.06.2020. However, the Petitioner could not pay the amount as there were technical glitches in the portal disabling the Petitioner from remitting the amount pursuant to determination in Form-III dated 17.01.2020.

5. The learned counsel for the Respondents on the other hand would submit that issue is now covered against the Petitioner in terms of the Order passed by this Court on 30.11.2021 in the case of **Convenant**

Insurance surveyors and Loss Assessors Private Limited vs. **The Designated Committee, Subka Vishwas (Legacy Dispute Resolution) Scheme, 2019**, rendered in W.P.No.5409 of 2021.

6. The facts are not in dispute. The petitioner had opted to settle the dispute under the Sabka Vishwas (Legacy Dispute Resolution) Scheme announced by Finance Act No.2 of 2019. There is also no dispute that the petitioner had opted to file a declaration in Form SVLDRS-1 on 23.12.2019 which was acknowledged by the respondent and Form SVLDRS-3 was also issued to the petitioner on 17.01.2020. After adjusting the pre-deposit made by the petitioner for a sum of Rs.25,00,000/-, the amount due and payable by the petitioner was Rs.48,19,449/-. This amount was to be paid by the petitioner within 30 days as per Rule 7 of the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019.

7. During the interregnum, the Government had issued Notification No.01/2020-Central Excise (N.T) dated 14.05.2020, whereby, the time was extended till 30.06.2020. However, on account of outbreak of

Covid – 19 pandemic which remained unabated for a period of two years brought the large scale disruption of social and economic activities not only in India but world over. Taking note of the same, the Hon'ble Supreme Court has also come to the rescue of the assessee and the litigants. Thus, delay in making payment is excusable.

8. During the interregnum on 11.06.2020, the respondents have issued Show Cause Notice No.11/2020. This has ultimately culminated in an impugned Order-in-Original No.43/2021-JC dated 30.11.2021. Thus, the aforesaid order which has impugned herein has presented itself as a *fait accompli*, locking the doors of the petitioner to settle the dispute under the Sabka Vishwas (Legacy Dispute Resolution) Scheme, Order-in-Original No.43/2021-JC dated 30.11.2021 has also been passed during the period when the entire country was still under intermittent lock down. This Court has come to the rescue of the assessee under similar circumstances by allowing the assessee to settle the dispute under the aforesaid scheme subject to the assessee/litigants paying the amount payable together with reasonable interest.

9. Considering the same, I am inclined to allow this writ petition by quashing the impugned Order-in-Original No.43/2021-JC dated 30.11.2021 passed by the first respondent and direct to bring a closure to the dispute subject to the petitioner depositing the balance amount of Rs.48,19,449/- together with interest at 9% from 01.07.2020 till the date of payment. This amount shall be paid by the petitioner within a period of 30 days from the date of receipt of a copy of this order. Subject to the petitioner depositing the aforesaid amount within the period specified above, the second respondent namely the Designated Committee shall issue necessary Form bringing the closure to the Service Tax dispute of the petitioner.

10. Accordingly, this Writ Petition stands allowed. No costs. Consequently, connected writ miscellaneous petition is closed.

04.09.2024

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No
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To

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C.SARAVANAN, J.

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