IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.09.2024

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The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.7754 of 2022
and
W.M.P.Nos.7770 & 7773 of 2022

M/s. Prakash Gold Palace Pvt. Ltd.,
Rep. by its Director,
Mr.P.Mukesh Kumar Jain.

...Petitioner

Vs.

1. The Designated Committee
   Sabkaviswas Legacy Dispute Resolution Scheme
   Principal commissioner (GST and Central Excise)
   Chennai North Commissionerate
   26 Mahatma Gandhi Road
   Nungambakkam, Chennai – 600 034.

2 The Senior Intelligence Officer
Directorate General of GST Intelligence (DGGI)
Chennai Zonal Unit, 8th Floor,
BSNL Building Tower II Greams Road,
Thousand Lights, Chennai 600 006.

3 The Principal Additional Director General

Directorate General of GST Intelligence (DGGI)
Chennai Zonal Unit,
8th Floor, BSNL Building Tower II Greams Road
Thousand Lights, Chennai – 600 006. .Respondents

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for records in ARN No.LD2312190003699 dated 23.12.2019 and ARN. No LD1301200001240 dated 13.01.2020 filed by the petitioner under the Sabkavishwas (Legacy Dispute Resolution) scheme 2019 and to quash the rejection orders passed by the 1st respondent which is available in the schemes portal and to further direct the 1st respondent to reconsider the petitioner's application filed under the said scheme, 2019.

For Petitioner : M/sA.Shabnam Banu

For Respondents : Mr.Rajnish Pathiyil
Senior Panel Counsel

Order

The challenge in this Writ Petition is to the orders passed by the first respondent, whereby, the applications filed by the petitioner under the Sabkavishwas (Legacy Dispute Resolution) Scheme 2019 (hereinafter, referred to as, 'the Scheme') was rejected and to quash the same and consequently, to direct the first respondent to reconsider the petitioner's application filed under the said Scheme.

2. M/s.A.Shabnam Banu., learned counsel for the petitioner would submit that the disputed period, pertaining to which, the petitioner is liable to pay tax is for the AYs 2016-17 and 2017-18. The learned counsel contended that the petitioner has paid the entire tax and the respondent-Department also issued letters dated 19.01.2017, 04.04.2017 and 15.07.2017 intimating the petitioner about the payment of all outstanding dues, however, initiated proceedings for not paying the penalty/interest, hence, the petitioner intended to avail the Sabkavishwas (Legacy Dispute Resolution) Scheme 2019 and accordingly, filed Applications seeking for waiver of interest/penalty, since the entire disputed amount has already been paid by the petitioner even before the introduction of the Scheme; however, since there were some error in filing the such applications, the petitioner withdrawn the applications which were filed on 23.12.2019 and 27.12.2019 and filed fresh Application on 13.01.2020, however, the respondent-

Department without considering the payment of tax amount, simply rejected the applications stating that the quantification was not done. Hence, the learned counsel prayed for setting aside the same.

3. hat in the present case, since the amount was not quantified, the applications were rejected, however, since it has been submitted by the petitioner that the entire disputed tax liability has been discharged, the applications filed by the petitioner for availing the Scheme would be considered in accordance with law and hence, sought for appropriate orders.

4. I have given due considerations to the submissions made on either side and perused the materials available on record.

5. It is the case of the petitioner that excise duty for the entire alleged disputed period for AYs 2016-17 and 2017-18 was arrived at by the respondent-Department for a value of Rs.5,86,32,847/- and the petitioner has paid entire disputed tax and insofar as, penalty/interest is concerned, seeking waiver of the same, the petitioner intended to avail the benefits conferred under the Scheme, called as "Sabkavishwas (Legacy Dispute Resolution) Scheme 2019"and accordingly, filed Application in Form I on 23.12.2019 and 27.12.2019. However, the petitioner, after the filing of such applications, was put to knowledge that the applications dated 23.12.2019 and 27.12.2019 were applied by the petitioner under the wrong category, "Arrears" and "Voluntary Disclosure", instead of "Investigation/Audit", that, in order to correct the discrepancy in categorizing under the Scheme, the petitioner subsequently filed fresh Application on 13.01.2020 under the correct category, i.e. "Investigation/Audit" and also sent a representation to the first respondent asking them to consider the applications dated 13.01.2020 and to record the previous applications dated 23.12.2019 and 27.12.2019 as withdrawn. However, the respondent rejected the applications dated 23.12.2019 and 13.01.2020 on the ground that the petitioner-Company is ineligible to avail the benefits under the Schemes, as there is ongoing investigation and the tax liability is not quantified till 30.06.2019.

5.1 However, on perusal of the acknowledgement letters issued by the Central Board of Excise and Customs, viz., the E-8 returns dated 19.01.2017, 04.04.2017, 15.07.2017, it is clearly stated that the return of excisable goods cleared at @ 1%/2% duty for the period in dispute has been submitted successfully. Thus, the petitioner has paid the entire disputed tax and in fact, the respondent-Department themselves issued letters (referred to supra) with regard to the petitioner's discharge of the tax liability. Therefore, the petitioner is now liable to pay only the penalty/interest and seeking waiver of penalty/interest, the petitioner has filed applications under the Scheme. However, the first respondent, without taking into consideration of the letters issued by the Department, which was with regard to the discharge of entire tax liability on the part of the petitioner, in a mechanical manner, rejected the applications, as if, the amount has not been quantified.

5.2 Thus, the first respondent has committed a serious flaw in mechanically rejecting the petitioner's applications on the ground that quantification has not been done, unless and otherwise, quantification has not been done, the excise duty for the entire alleged disputed period would not have been arrived at a sum of Rs.5,86,32,847/- and there wouldn't have been any occasion for the petitioner in remitting the entire outstanding dues. Therefore, this Court is of the view that impugned orders of rejection have been passed in a mechanical manner and further, the petitioner was not heard before passing such rejection orders, resulting in violation of principles of natural justice. Hence, this Court is inclined to set aside the impugned orders of rejection.

6. Accordingly, the Writ Petition is allowed, the impugned orders of rejection dated 23.12.2019 and 13.01.2020 are set aside, and the matters are remitted back to the first respondent for fresh consideration, in which case, the first respondent is directed to consider the the petitioner's applications based on the communication issued by the Central Board of Excise and Customs Department dated 19.01.2017, 04.04.2017 and 15.07.2017 and dispose of the applications in accordance with law, after affording an opportunity of personal hearing to the petitioner. No costs. Consequently, connected Miscellaneous Petitions are closed.

10.09.2024

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Index : yes/no
Neutral Citation : yes/no

To

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Krishnan Ramasamy,J.,

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