IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **01.03.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.23601 of 2021
&
WMP Nos.24843 & 24845 of 2021

M/s. Jai Maruthi Interiors,
No.26, Selva Vinayakar Koil
Street, Old Washermanpet,
Chennai-600 021,
Represented by its Partner
Mr.S.Kesavan ... Petitioner

vs

1. The Designated Committee,
Sabka Vishwas (Legacy Disputes
Resolution Scheme), 2019
(Office of Commissioner of GST and
Central Excise, Chennai North Commissionerate)
26/1, Nungambakkam High Road,
Chennai-600 034.

2. Superintendent ofCGST and Central Tax,
Royapuram Range IV, Royapuram Division,
Chennai North Commissionerate,
459, Anna Salai, Ananda Complex, 2nd Floor,
Teynampet, Chennai-600 018. ... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the First Respondent bearing SVLDRS-3 No.L290220SV300936 dated 29/02/2020, quash the same and direct the First Respondent to calculate the correct amount payable under 'Litigation' Category of the Sabka Vishwas (Legacy Disputes Resolution Scheme), 2019, besides directing the First Respondent to reckon the deposits of tax to the tune of Rs.34,47,959/- and interest to the tune of Rs.11,41,343/-, totalling Rs.45,89,302/- to be adjusted against the correct amount payable to the tune of Rs.47,13,239/-, leaving the balance payable by the Petitioner as Rs.1,23,937/- within such time as this Court may direct and issue discharge certificate after such payment.

For Petitioner : Mr.T.R.Ramesh

For Respondents : Mr.K.Mohanamurali
Senior Standing Counsel

ORDER

The petitioner challenges an order dated 29.02.2020 in respect of the application filed by the petitioner under the Sabka Vishwas Legacy Disputes Resolution Scheme-3 (SVLDRS-3).

2. The petitioner was an assessee under the erstwhile Service Tax regime under the Finance Act, 1994. Proceedings relating thereto culminated in an order-in-original dated 09.07.2019. Such order was carried in appeal by the petitioner on 20.08.2019. The appeal was disposed of on 20.05.2020. Meanwhile, upon introduction of SVLDRS, the petitioner filed a declaration in SVLDRS-1 under the category “litigation” on 26.12.2019. According to the petitioner, the first respondent failed to recognize the payment of interest to the extent of Rs.11,41,343/- while computing the amount pre-deposited by the petitioner in Form SVLDRS-2. In addition, the petitioner contends that the categorization of the petitioner's application as “arrears” was incorrect because the final hearing of the original adjudication took place after 30.06.2019. The present writ petition was filed in the above facts and circumstances.

3. Learned counsel for the petitioner invited my attention to

paragraph 9 of the order-in-original dated 09.07.2019, and pointed out that it is recorded therein that the hearing was not concluded until after a month beyond 31.05.2019. If the said one month is taken into consideration, learned counsel submits that the application filed by the petitioner would fall within the category of litigation. The next contention of learned counsel is that the amount paid towards interest was not taken into consideration. In support of this submission, learned counsel refers to the declaration in Form SVLDRS-1 by the petitioner and points out that the pre-deposit amount specified therein was a sum of Rs.48,29,294/-, which is inclusive of the interest component of Rs.11,41,343/-. By referring to sub-section 2 of Section 124 of the Scheme, learned counsel submits that the expression used therein is "any amount paid as pre-deposit". Therefore, he contends that this includes amounts paid by way of interest. In support of this contention, learned counsel relies on the judgment of this Court in *Vamsee Overseas Marine Pvt. Ltd. v. Commissioner of Service Tax, Chennai (Vamsee Overseas), 2021 (47) G.S.T.L. 463 (Mad.),* particularly paragraph 8 thereof.

4. Mr.Mohanamurali, learned senior standing counsel, appears on behalf of the respondents. As regards the contention that the petitioner's case falls within the category 'litigation', he points out that the final hearing took place on 31.05.2019. Since the final hearing took place prior to 30.06.2019, he submits that the case was correctly categorized as falling under “arrears”. He also referred to the categorization indicated in Form SVLDRS-2 in this connection. As regards the claim towards interest, learned senior standing counsel submits that the petitioner was provided a personal hearing and did not place before the first respondent evidence of payment of interest. Therefore, he submits that the pre-deposit amount was specified as Rs.34,47,959/- and tax liability was computed on that basis.

5. The order in original dated 09.07.2019 is on record. Paragraph 9 thereof records expressly that the final hearing took place on 31.05.2019. The admitted position is that no hearing was held

thereafter. While learned counsel for the petitioner points out that the adjudicating authority waited for one month thereafter, the fact that the adjudicating authority waited for one month before issuing orders does not mean that the final hearing took place after 30.06.2019. Hence, the conclusion that the petitioner's case falls within the category "arrears" and not within the category "litigation" contains no infirmity.

6. The other aspect on which the order was challenged was non-consideration of interest. As contended by learned counsel for the petitioner, sub-section 2 of Section 124 uses the expression "any amount paid as pre-deposit". This provision was interpreted by this Court in *Vamsee Overseas* wherein it was held that the applicant under the Scheme is entitled to credit in respect of interest payment also. In order to claim credit for interest, it is necessary for the petitioner to place on record relevant documents and establish the claim. This exercise cannot be undertaken by this Court. However, in order to enable the petitioner to place relevant documents before the

respondents, the impugned order calls for interference.

7. For the reasons indicated above, the impugned order is set aside only with regard to the computation of pre-deposit amount and the matter is remanded for reconsideration. The first respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue fresh orders within a maximum period of three months from the date of receipt of a copy of this order.

8. W.P.No.23601 of 2021 is disposed of on the above terms. Consequently, connected miscellaneous petitions are closed. No costs.

01.03.2024

Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes / No

kal

To

1. The Designated Committee,
   Sabka Vishwas (Legacy Disputes
   Resolution Scheme), 2019
   (Office of Commissioner of GST and
   Central Excise, Chennai North Commissionerate)
   26/1, Nungambakkam High Road,
   Chennai-600 034.

2. Superintendent ofCGST and Central Tax,
   Royapuram Range IV, Royapuram Division,
   Chennai North Commissionerate,
   459, Anna Salai, Ananda Complex, 2nd Floor,
   Teynampet, Chennai-600 018.

SENTHILKUMAR RAMAMOORTHY J.

kal

W.P.No.23601 of 2021
&
WMP Nos.24843 & 24845 of 2021

01.03.2024