IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2024

CORAM

THE HON'BLE **MR.JUSTICE C.SARAVANAN**

W.P.No.2973 of 2022
and
W.M.P.Nos.3142 and 3144 of 2022

M/s.Yorozu JBM Automotive Tamil Nadu Private Limited,
Plot No.B5 & B6, Sipcot Industrial Park,
Vengadu Village Pillaipakkam,
Sriperumbudur – 602 105. ... Petitioner

Vs.

The Designated Committee,
Sabka Vishwas Legacy Disputes Resolution Scheme, 2019,
Chennai Outer Commissionerate,
Newry Towers,
2054-I, II Avenue, Anna Nagar West,
Chennai – 600 040. ... Respondent

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorarified Mandamus to quash the FORM SVLDRS – 3 bearing No.L120520SV300036 dated 12.05.2020 and direct the respondents to issue Form SVLDRS 3 afresh by accepting the declaration made in Form SVLDRS 1.

For Petitioner : Mr.M.Karthikeyan

For Respondent : Mr.T.Ramesh Kutty
Senior Standing Counsel and
Mr.B.Sivaraman
Junior Standing Counsel

ORDER

The Petitioner is before this Court against the Impugned Order in Form SVLDRS-3 dated 12.05.2020 bearing reference: L120520SV300036.

2. The facts of the case are that the Petitioner had a dispute on the activity carried out by the Respondent under the provisions of Central Excise Act, 1944 read with Cenvat Credit Rules, 2004.

3. Earlier the Petitioner had suffered Order in Original No.12 of 2017 dated 30.03.2017 in the hands of the Assistant Commissioner of Central Excise (Formerly Chennai-IV Commissionerate). Aggrieved by the aforesaid Order dated 30.03.2014, the Petitioner preferred an appeal before the Appellate Commissioner in A.No.359 of 2017 (CXA-II) (CH-IV) dated 14.06.2017.

4. The Appellate Commissioner vide Order in Appeal.No.293 of 2018 (CTA-I) dated 19.06.2018 rejected the appeal filed by the Petitioner. Aggrieved by the same, the Petitioner filed Central Excise Appeal No.293 of

2018 on 31.07.2018.

5. The Petitioner appears to have pre-deposited 7.5% of the disputed tax before the Appellate Commissioner and the balance 2.5% of the disputed tax before the Tribunal as is required under Section 35F of the Central Excise Act, 1944 as amended from 2014. Meanwhile, the Parliament in Finance (No.2) Act, 2019 announced Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019.

6. The Petitioner opted to settle the dispute under the aforesaid Scheme and filed declaration in Form SVLDRS-1 on 30.12.2019. Wherein, the Petitioner declared a total tax liability of Rs.12,96,099/- being 30% of the tax liability confirmed by the Assistant Commissioner of Central Excise vide Order in Original No.12 of 2017 dated 30.03.2017 and has affirmed by the Appellate Commissioner vide Order in Appeal No.293/2018 (CTA-I) dated 19.06.2018.

7. In Form No.SVLDRS-1, the Petitioner has clearly stated that the Petitioner has deposited a sum of Rs.4,32,033/- and therefore the Petitioner was required to pay a balance of Rs.8,64,066/- (Rs.12,96,099 – Rs.4,32,033)

alone.

8. The 1st Respondent namely the Designated Authority issued Form No.SVLDRS-2, whereby the Petitioner was called upon to pay the entire 30% of the disputed tax as per Section 124 of the Finance (No.2) Act, 2019. Therefore, the Petitioner responded by filing its objection in Form No.SVLDRS-2A on 17.03.2020.

9. The Designated Authority namely the Respondent herein by a communication in Form No.SVLDRS-2A dated 17.03.2020 fixed the personal hearing originally on 19.03.2020 and thereafter on 23.03.2020.

10. It is the case of the Petitioner that the Petitioner was admitted to appear on 23.03.2020. However, the Petitioner could not appear as country was bracing for a lock down which was imposed from 24.03.2020 and public offices were not functioning due to the impending outbreak of Covid 19 pandemic.

11. In this connection, the learned counsel for the Petitioner has also drawn attention to original e-mail dated 23.03.2020 attaching the

submissions and recording the proof of payment and thereafter the Petitioner has sent another e-mail dated 29.12.2020. However, by then the Respondent has already issued Form No.SVLDRS-3 confirming amount in Form No.SVLDRS (2) dated 12.05.2020.

12. The learned counsel for the Petitioner submits that the denial of amnesty under the scheme is unjust as the Petitioner was ready and willing to pay the balance amount.

13. The learned counsel for the Petitioner further submits that the petitioner could not participate in the personal hearing fixed on 23.03.2020 due to the technical glitches and later due to the outbreak of Covid-19 pandemic.

14. The Respondent in their Counter Affidavit has stated that there is no confirmation of the pre-deposit amount of Rs.4,32,033/- from the Jurisdictional Range Officer and that the Petitioner neither appeared for physical hearing nor submitted any reply as prescribed under Section 127 of the Finance (No.2) Act, 2019.

15. Having considered the submissions made by the learned counsel for the Petitioner and having perused the counter filed on behalf of the Respondent and having considered the provisions of Chapter V of the Finance (No.2) Act, 2019 containing Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019, I am of the view that the Petitioner deserves the case to be settled under the aforesaid Scheme as the personal hearing could not have taken up on 23.03.2020 due to outbreak of Covid 19 pandemic and thereafter the lock down that was imposed officially with effect from 24.03.2020.

16. The Petitioner has also brought to the knowledge of this Court that subsequently during the pendency of the Writ Petition, the Petitioner has also deposited by the balance amount of Rs.8,64,066/-.

17. Considering the above, I am inclined to dispose this Writ Petition by directing the Respondent to issue Form IV to settling the case of the Petitioner under this Scheme subject to the Petitioner depositing interest amount on the belated payment of Rs.8,64,066/- at 9% from the due date i.e.

from 30.06.2020.

18. This amount of interest shall be paid by the Petitioner starting from 30.06.2020 till the date of payment of the aforesaid amount of Rs.8,64,066/- on 25.02.2022. Subject to the Petitioner paying the amount, the Respondent shall close the case of the Petitioner as having settled under the aforesaid scheme by issuing necessary form to the Petitioner.

19. The Writ Petition stands disposed of with the above observations and directions. No cost. Consequently, connected Miscellaneous Petitions are closed.

13.08.2024

Index : Yes/No
Speaking/Non-speaking Order
Neutral Citation :Yes/No
rgm

To

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C.SARAVANAN, J.

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