BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **17.04.2024**

CORAM:

THE HONOURABLE MR.JUSTICE **C.SARAVANAN**

W.P.(MD) No.6552 of 2022
and
W.M.P.(MD) No.5079 of 2022

Tvl.Jeya Sorna Agro Tech,
rep. By its Proprietor,
G.P.N.Suresh Kumar, ... Petitioner

/vs./

1.The Commissioner,
CGST and Central Excise,
O/o. the Commissioner of GST and Central Excise,
GST Bhavan, Central Revenue Building,
No.4, Lal Bahadur Shastri Road,
Bibikulam,
Madurai 625 002.

2.The Assistant Commissioner,
Headquarters,
GST Bhavan, Central Revenue Building,
No.4, Lal Bahadur Shastri Road,
Bibikulam,
Madurai 625 002.

3.The Assistant Commissioner,
CGST and Central Excise,

Dindigul I Division,
Post Box No.47, D.No.68,
Nehruji Nagar,
R.M.Colony Road,
Dindigul 624 001. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for records pertaining to the impugned Order-in-Original No.01/2022 in File No.C.No.IV/16/27/2019-ST Adjn in MAD-ST-000-ASC-01-2022 dated 06.01.2022 passed by the 3rd Respondent and consequently to direct the 2nd Respondent to accept the payment under Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 by considering the petitioner's representation dated 02.07.2020.

For Petitioner : Mr.B.Rooban

For Respondents : Mr.K.Prabhu
Junior Standing Counsel

ORDER

The petitioner had opted to settle the dispute under Sabka Vishwas (Legacy Dispute Resolution) Scheme Rules, 2019 under Chapter V of the Finance (No.2) Act, 2019. The petitioner had filed two such applications in SVLDRS-1, in response to which an acknowledgment appears to have been issued in SVLDRS-2 and an estimate in SVLDRS-3.

2.Insofar as the service tax liability in the show cause notice dated 23.04.2019 for the period between 2013-14 to 2015-16, the demand that was proposed on the petitioner was Rs.7,07,052/-. The petitioner received Form SVLDRS-3 in terms of Section 127 of the Finance (No.2) Act, 2019 r/w Rule 6 of the Sabka Vishwas (Legacy Dispute Resolution) Scheme Rules, 2019 on 25.02.2020. Under Section 127(5) of Chapter V of the Finance (No.2) Act, 2019, the petitioner was required to deposit the amount within the period 30 days from the date of receipt of a copy of the order. However, in the month of March, 2020, the country was under partial lock down and thereafter, complete lock down and thereafter intermittent lock down, by which time the petitioner had failed to pay the amount in time.

3.Earlier, an attempt was made by the petitioner to pay the amount through NEFT transaction on 30.06.2020. The transaction did not take place and therefore, the petitioner attempted to pay the amount on the same day through RTGS. It appears that the amount was initially debited from the petitioner's account and thereafter, re-credited back. Thus, the petitioner could not pay the amount in time, as a result of which, the benefit of the amnesty under Sabka

Vishwas (Legacy Dispute Resolution) Scheme Rules, 2019 under Chapter V of Finance (No.2) Act, 2019 came to be denied.

4.It is in this background, the petitioner has suffered an adverse order dated 06.01.2022 in Order in Original No.MAD-ST-000-ASC-01-2022 in file C.No.IV/16/27/2019-ST Adjn, whereby the demand proposed in the above mentioned show cause notice No.5/2019-ST bearing C.No.IV/12/15/2018-HPU dated 23.04.2019 demanding service tax for a sum of Rs.7,26,484/- has been confirmed for the period between 2013-14 to 2015-16 under Section 73 of the Finance Act, 1994.

5.The learned counsel for the petitioner would draw attention to the decision of this Court in W.P.(MD) No.4260 of 2022 ***(M/S.Jai Guru Cables, represented by its Proprietor, O.R.Mathiprakash Vs. The Principal Chief Commissioner of GST and Central Excise, Chennai and others)*** dated 01.04.2022 and would submit that the petitioner is entitled for similar relief.

6.On the other hand, the learned Standing Counsel for the respondents would submit that the last date for paying the amount expired on 25.03.2020. It is therefore, submitted that the petitioner did not pay the amount within the extended period on 30.06.2020 or thereafter. Therefore, there is no merit in the challenge to the impugned order.

7.That apart, it is submitted that the petitioner has an alternate remedy before the Appellate Commissioner in terms of Section 85 of the Finance Act, 1994 before the Commissioner of GST and Central Excise (Appeals), Madurai and therefore, the petitioner should be relegated to workout the remedy under Section 85 of the Finance Act, 1994. Hence, he prays for dismissal of this writ petition.

8.I have considered the arguments advanced by the learned counsel for the petitioner and the learned Standing Counsel for the respondents.

9.In this case, there is no dispute that the petitioner had made an attempt to pay the amount estimated in Form SVLDRS-3 dated 25.02.2020 on 30.06.2020 first by making NEFT transfer and thereafter by RTGS. Though the amount was debited, it was re-credited. It is probably on account of technical glitches in the system.

10.Be that as it may, the substantial benefit of amnesty under the aforesaid scheme cannot be denied to the petitioner subject to the petitioner depositing the estimated amount in Form SVLDRS-3 dated 25.02.2020 within a period of 30 days from the date of receipt of a copy of this order together with interest at 9% from 30.06.2020.

11.Subject to the payment of the amount quantified in Form SVLDRS-3 dated 25.02.2020 together with interest payable up to the date of payment at 9%, the impugned order shall stand quashed. Consequently, the respondents shall take steps to issue Form SVLDRS-4 and bring a closure to the dispute and settle the case of the petitioner, accordingly. In case the petitioner fails to pay the amount within the stipulated time, this writ petition shall be treated as having been dismissed.

12.The Writ Petition stands allowed, accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

17.04.2024

Index : Yes / No
Internet : Yes / No
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C.SARAVANAN, J.

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W.P.(MD) No.6552 of 2022

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