

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.7889 OF 2024

Badrilal Ghasiram Choudhary,
Proprietor of M/s.Badrilal Ghasiram Choudhary .. Petitioner

Versus

Union of India & Ors. .. Respondents

Mr.Chetan Kotecha, Advocate for the Petitioner.

Mr.Maya Majumdar a/w Sangeeta Yadav, Advocates for Respondents.

**CORAM :B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.**
DATE : APRIL 08, 2025

P. C.

1. Mentioned. Taken out of turn by consent learned advocates of the parties. Heard the learned advocates for the parties.
2. Rule. Rule is made returnable forthwith at the request of and with consent of Parties.
3. The Writ Petition assails the Order-in-Original No.-NSK/CGST-ST/COM/049/2023-24 dated 07.03.2024 (“impugned

order”) arising out of Show Cause Notice No F No V(ST)15-199/Commr. Adj/ B G Choudhary/2021-2022/1127 Nasik dated 20.04.2021, passed by Respondent No.2. According to the Petitioner, the impugned order is passed in complete violation of principles of natural justice and fair play.

4. In the present matter Respondent No.2 issued a Show Cause Notice dated 20.04.2021 to the Petitioner demanding Rs.2,32,64,372/- as service tax liability.

5. It is the contention of the Petitioner that the Petitioner has settled the dispute by applying in Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 and filed a declaration in SVLDRS-1 on 09.12.2019 under the category of “investigation, Enquiry or Audit” with sub-category “Audit” under ‘the scheme’ towards full and final settlement of Service Tax/Penalty dispute of Rs.1,97,09,571/-.

6. The Petitioner further contends that the Application of the Petitioner under the Scheme was allowed by the Appropriate Authority and the Petitioner has paid the outstanding Tax liabilities amounting to

Rs.1,97,09,571/- and Discharge Certificate dated 30.06.2020 has been issued on the same by the GST Authority in favour of the Petitioner.

7. Ms. Majumdar appears on behalf of the Respondent, and on instructions, stated that after issuance of the Show Cause Notice the Petitioner did settle the dispute by paying the outstanding amount by availing the Sabka Viswas Scheme. However, the Petitioner did not attend the personal hearings, notice of which was served on the Petitioner. Respondent finding no other alternative passed the *ex parte* order.

8. Ms.Majumdar further stated that she has taken instructions from the Department which has cross checked whether in fact duty Discharge Certificate was issued in favour of the Petitioner. Ms. Majumdar states that office of Respondent No.2 has confirmed that the Discharge Certificate was in fact issued on 30.06.2020. Ms. Majumdar, therefore, in all fairness, stated that this Petition is required to be allowed.

9. Hence accepting the statement made by the advocate for the Respondents we allow the Writ Petition. We hereby quash and set

aside the Order-in-Original No. - NSK/CGST-ST/COM/049/2023-24 dated 07.03.2024 issued by the Commissioner CGST & C Ex Nashik. However, there shall be no order as to costs.

10. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[FIRDOSH P. POONIWALLA, J.]

[B. P. COLABAWALLA, J.]