IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On	28.11.2024
Pronounced On	24.01.2025

CORAM :

THE HONOURABLE MR. JUSTICE C.SARAVANAN

W.P.Nos.27248 of 2021 and 4329 of 2022
and
W.M.P.Nos.28764, 28765 of 2021 and 4440, 4444, 4445, 4446 of 2022

W.P.No.27248 of 2021

M/s.Laundary Projects India Pvt Ltd,
Represented by its Directors,
Ms Durga Das & Mr Balachandar
Old No.33, New No.61, MGR Road,
3rd Floor, Kalashetra Colony, Beasant Nagar,
Chennai – 600 090. ... Petitioner

Vs.

1.The Joint Commissioner of GST and
Central Excise,
Chennai South Commissionerate,
5th Floor, 692, MHU Complex,
GST Nilayam, Nandanam,
Chennai – 600 035.

2.The Commissioner of GST and Central Excise,
Chennai South Commissionerate,
5th Floor, 692, MHU Complex,
GST Nilayam, Nandanam,
Chennai – 600 035.

3.The Branch Manager,
HDFC Bank Limited,
795, ITC Centre, Anna Salai,
Opp to TVS
Chennai – 600 002.

4.The Branch Manager,
HDFC Bank Limited,
Mahatma Gandhi Road,
T31, 7th Ave, Shastri Nagar,
Beasant Nagar, Chennai.

5.The Assistant Commissioner of GST and
Central Excise,
Perungudi Division,
Chennai South Commissionerate,
8th Floor, 692, MHU Complex,
GST Nilayam, Nandanam,
Chennai – 600 035. ... Respondents

(R5 impleaded vide Order dated 25.05.2023
made in W.M.P.No.15683 of 2023 in
W.P.No.27248 of 2021)

Prayer in W.P.No.27248 of 2021**:** Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records on the file of the first respondent and quash the impugned order in C.No.IV/16/208/2020-SVS dated **30.03.2021** passed by the first respondent revoking Form SVLDRS 4 issued under the Sabka Vishwas (Legacy Dispute Resolution) Scheme 2019 in respect of ARN No.LD3112190012716.

W.P.No.4329 of 2022

R.Balachandar ... Petitioner

Vs.

1.The Assistant Commissioner of GST and
Central Excise,
Chennai South Commissionerate,
8th Floor, 692, MHU Complex,
GST Nilayam, Nandanam,
Chennai – 600 035.

2.The Commissioner of GST and Central Excise,
Chennai South Commissionerate,
5th Floor, 692, MHU Complex,
GST Nilayam, Nandanam,
Chennai – 600 035.

3.The Branch Manager,
HDFC Bank Limited,
Habibulla Road Branch,
No.34, Habibulla Road,
Parthasarathi Puram,
T.Nagar, Tamil Nadu – 600 017.

4.The Branch Manager,
HDFC Bank Limited,
Beasant Nagar Branch,
T-21, 7th Avenue, Shastri Nagar,
Besant Nagar, Chennai,
Tamil Nadu – 600 090.

5.The Branch Manager,
HDFC Bank Limited,
Gopalapuram Branch,
221, Avvai Shanmugham Salai,
Gopalapuram,
Chennai – 600 086. ... Respondents

Prayer in W.P.No.4329 of 2022**:** Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the first respondent and quash the impugned Notice in C.No.V/15/ST/08/2019-Adj dated **23.11.2021** issued by the first respondent and direct the first respondent to refund the sum of **Rs.22,55,537.66** appropriated from my Bank Account Numbers 5010 0329 3914 99, 5020 0055 6926 87 and 5020 0040 3258 77 maintained with third respondent.

For Petitioner (in both W.Ps)	: Ms.N.V.Lakshmi
For Respondents (in both W.Ps)	: Mr.M.Santhanaraman Senior Standing Counsel for R1 and R2

COMMON ORDER

In W.P.No.27248 of 2021, the petitioner M/s.Laundry Projects India Private Limited (petitioner Company) has challenged the Impugned Order dated **30.03.2021** passed by the 1st respondent.

2. By the Impugned Communication dated **30.03.2021**, Discharge Certificate issued in **Form SVLDRS-4** dated **07.03.2020** pursuant to declarations made by the petitioner in **Form SVLDRS-1** dated **31.12.2019** has been revoked.

3. In W.P.No.4329 of 2022, the petitioner, a Director of M/s.Laundry Projects India Private Limited, the Writ Petitioner in W.P.No.27248 of 2021, has challenged the Impugned Recovery Notice dated **23.11.2021** issued by the 1st respondent under Section 87 of the Finance Act, 1994 to the 3rd, 4th and 5th respondents therein.

4. The specific case of the petitioner is that the petitioner in W.P.No.27248 of 2021 had suffered an adverse order in the hands of the 2nd respondent the Commissioner of GST and Central Excise vide Order-in-Original Nos.1 & 2 of 2019 dated **20.02.2019**.

5. Aggrieved by the aforesaid Order-in-Original Nos.1 & 2 of 2019 dated **20.02.2019**, the petitioner had preferred an appeal before the Customs Excise Service Tax Appellate Tribunal (for short 'Tribunal') on **25.07.2019** which was acknowledged vide Bill No.413862019. The appeal was filed with a delay without payment of any fees for the application filed for condonation of delay.

6. The defect was also pointed out by the Registry of the Tribunal on **17.10.2019** which was however not duly complied by the petitioner. Under

these circumstances, the Tribunal after numbering the appeal of the petitioner against the aforesaid Order-in-Original Nos.1 & 2 of 2019 dated **20.02.2019** passed by the 2nd respondent, dismissed the petitioner's Appeal vide Miscellaneous Order No.40649 of 2019 dated **07.11.2019**.

7. Meanwhile, the Parliament enacted the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 in Chapter V of the Finance Act, 2019. The petitioner Company decided to settle the case under the aforesaid Scheme. Under these circumstances, the petitioner filed a declaration in **Form SVLDRS-1** on **31.12.2019** and had admitted the total tax liability of **Rs.2,99,44,722/-** and penalty of **Rs.2,08,85,391.00/-**. In **Form SVLRDS-1**, the petitioner also declared pre-deposit of **Rs.1,34,00,999.00/-**.

8. After deducting the amount to be deposited, the petitioner calculated that a sum of **Rs.15,71,362/-** was payable by the petitioner in terms of Section 124(1)(a)(ii) of the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 in Chapter V of the Finance Act, 2019.

9. On **14.02.2020**, the Designated Authority also issued **Form SVLDRS-3** and gave the relief for a sum of **Rs.1,49,27,361/-**. After adjusting a sum of **Rs.1,25,14,356/-** (purportedly pre-deposited), the balance payable was determined as **Rs.25,57,505/- [Rs.1,49,27,361/- - Rs.1,25,14,356/-]**.

10. The petitioner appears to have also paid the aforesaid amount of **Rs.25,57,505/-** under the Scheme and thus the Designated Authority issued Discharge Certificate to the petitioner in **Form SVLDRS-4** on **03.07.2020**.

11. By the Impugned Order dated **30.03.2021**, the aforesaid Discharge Certificate dated **03.07.2020** in **Form SVLDRS-4** has been revoked on the ground that no appeal was pending as on **30.06.2019** and therefore the petitioner was held ineligible for the benefit of the aforesaid Scheme.

12. Pursuant to the Communication dated **30.03.2021** impugned in W.P.No.27248 of 2021, the bank account of the petitioner in W.P.No.4329 of 2022, who is the Director of the said Company of the petitioner in W.P.No.27248 of 2021 has been attached by the 3rd respondent / HDFC Bank

under Section 87 of the Finance Act, 1994. It is therefore submitted that he has been nominated and therefore he would require further time for reporting instructions.

13. The learned counsel for the petitioner submits that although the petitioner in W.P.No.27248 of 2021 had filed an appeal against the Order-in-Original No.1&2 of 2019 dated **20.02.2019**, the petitioner had by mistake stated that the appeal was filed on **25.06.2019**. It is submitted that the declaration that was filed in **Form SVLDRS – 1** on **31.12.2019**, even if it was inaccurate would not *ipso facto* dis-entitle the petitioner in W.P.No.27248 of 2021 to settle the dispute under the provisions of the aforesaid Scheme.

14. The learned counsel for the petitioner further submits that even otherwise even if the petitioner was not entitled to settle the dispute under the litigation category, the petitioner would have been still entitled to settle the dispute under the provisions of the aforesaid Scheme under the Arrears of Tax category and therefore submits that the Order dated **30.03.2021** impugned in W.P.No.27248 of 2021 is unsustainable. It is submitted that at best, the petitioner can be asked to pay 10% of the differential tax which was accepted vide **Form SVLDRS – 4** dated **03.07.2020**.

15. The learned counsel for the petitioner therefore submits that the powers under Section 129 of the Scheme cannot be pressed against the petitioner on account of failure to make proper declaration as the powers are restricted only to circumstances in case of a declaration under “voluntary disclosure”.

16. Specifically, the learned counsel for the petitioner would draw attention to Section 129(2)(c) of the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 in Chapter V of the Finance Act, 2019. It is therefore submitted that since the petitioner's declaration was not under the “voluntary disclosure”, the Order dated **30.03.2021** impugned in W.P.No.27248 of 2021 was liable to be quashed.

17. Opposing the prayer, the learned Senior Standing Counsel for the first and second respondents would submit that the petitioner has made a wrong declaration in **Form SVLDRS – 1** on **31.12.2019** under the litigation category [sub-category Appeal pending] when indeed no appeal was pending before CESTAT on the cut off date i.e., **30.06.2019**.

18. That apart, it is submitted that the petitioner's appeal was also dismissed by the Tribunal. The appeal was filed only on **25.07.2019**. In any event, it was dismissed by a Miscellaneous Order dated **07.11.2019**. It is submitted that the power to grant Immunity / Discharge Certificate under the provisions of the aforesaid Act would also imply that there is an inherent power to revoke the same. There is a mis-declaration by the declarant unfairly claiming an advantage of the aforesaid Scheme.

19. Specifically, the learned Senior Standing Counsel for the first and second respondents would referred to Section 21 of the General Clauses Act, 1897 which is *pari materia* with Section 15 of the Tamil Nadu General Clauses Act, 1891. He would draw attention to a decision of the Division Bench of this Court in W.P.No.26062 of 2017 rendered on **08.06.2018**. A specific reference was made to Paragraphs 19 and 20 which read as under:-

> "*19.It is evident that as per Section 3 of the Tamil Nadu Preservation of Private Forest Act, the respondent is empowered to confer permission in favour of an individual land owner to sell, alienate or mortgage the lands which falls within a private forest. When such a power is conferred on the respondent, for violation of any of the conditions incorporated therein, the respondent is equally empowered to rescind, revoke, amend or vary the order granted in favour of the land owner. In this context, reference can be made to Section 15 of the Tamil Nadu General Clauses*

Act, 1891 which reads as follows:-

> *"15.Where an Act confers a power to make any rules or by-laws, or to issue notifications or orders, the power shall be construed as including a power exercisable in the like manner and subject to the like consent and conditions, if any, to rescind, revoke, amend or vary the rules, by-laws, notifications or orders."*

20.Thus, the powers conferred on the respondent under Section 3 of The Tamil Nadu Preservation of Private Forest Act includes the powers to rescind, revoke or vary the earlier order passed by him, as indicated in Section 15 of The Tamil Nadu General Clauses Act, 1891. In other words, the powers conferred on the respondent under Section 3 of the Tamil Nadu Preservation of Private Forest Act to grant No Objection Certificate to the petitioner to alienate the land belonged to her will certainly empower the respondent to cancel such order for reasons to be recorded by the respondent. Therefore, it is futile on the part of the petitioner to contend that the order passed by the respondent in exercise of power under 3 of The Tamil Nadu Preservation of Private Forest Act is without authority of law and the said contention is liable only to be rejected."

20. He further submits that recovery proceedings against the Director of the Company can be initiated in terms of Section 89 of the Central Goods and Services Tax (CGST) Act, 2017, as the Finance Act, 1994 stands substituted into the Central Goods and Services Tax (CGST) Act, 2017.

21. I have considered the arguments advanced by the learned Counsel for the petitioner and the learned Senior Standing Counsel for the first and second

respondents. I have also perused the provisions of Chapter V of the Finance Act, 2019 containing the provisions of the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019. I have also perused the Affidavits and Counter Affidavits filed in the respective Writ Petitions on behalf of the petitioner and the respondents.

22. There is no dispute that the petitioner is and was entitled to settle the dispute under the provisions of Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 in respect of amounts due from the petitioner under Order-in-Original Nos.1 & 2 of 2019 dated **20.02.2019**. This is evident from a reading of Section 125 of the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 in Chapter V of the Finance Act, 2019.

23. The difficulty has arisen is on account of incorrect declaration filed by the petitioner in **Form SVLDRS-1** on **31.12.2019** and under the "litigation category" [i.e., pending appeal] when indeed no appeal was pending before the Tribunal on **30.06.2019** against Order-in-Original Nos. 1 & 2 of 2019 dated **20.02.2019** as on **30.06.2019**.

24. The petitioner filed an appeal before the Tribunal only on **25.07.2019** but had mis-declared the date of filing of the said appeal before the Tribunal as **25.06.2019** and thus wrongly claimed the relief under Section 124(1)(a)(ii) of the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 in Chapter V of the Finance Act, 2019 which has been granted.

25. The petitioner was entitled to relief only under Section 124(1)(c)(ii) of the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 in Chapter V of the Finance Act, 2019 as no appeal was pending on **30.06.2019**. **Form SVLDRS-1** declaration filed on **31.12.2019** should have been under "amount in arrears" as no appeal was pending on **30.06.2019**.

26. Thus, the relief which the petitioner in W.P.No.27248 of 2021 was entitled to was under Section 124(1)(c)(ii) of the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 in Chapter V of the Finance Act, 2019 and under Section 124(1)(a)(ii) of the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 in Chapter V of the Finance Act, 2019.

27. The expression "amount in arrears" has been defined in Section 121 of the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 in Chapter V of the Finance Act, 2019. The said definition reads as under:-

> "*Section 121. In this Scheme, unless the context otherwise requires,-*
>
> *(a).....*
>
> *(b).....*
>
> *(c) "**amount in arrears**" means the amount of duty which is recoverable as arrears of duty under the indirect tax enactment, on account of-*
>
> *i. no appeal having been filed by the declarant against an order or an order in appeal before expiry of the period of time for filing appeal; or*
>
> *ii. an order in appeal relating to the declarant attaining finality; or*
>
> *iii. the declarant having filed a return under the indirect tax enactment on or before the 30th day of June, 2019, wherein he has admitted a tax liability but not paid it."*

28. For the sake of clarity, the respective sub-clauses in Section 124(1) of the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 in Chapter V of the Finance Act, 2019 are reproduced below:-

<table>
<tr><td colspan="2">Section 124(1):- Subject to the conditions specified in sub-section (2), the relief to a declarant under this Scheme shall be calculated as follows:-</td></tr>
<tr><td>(a) Where the tax dues are relatable to a Show Cause Notice or one or more appeals arising out of such Notice which is pending as on the 30th day of June, 2019, and if the amount of duty is,-
i. ...
ii. more than rupees fifty lakhs, then, fifty per cent, of the tax dues.</td><td>(c) Where the tax dues are relatable to an amount in arrears and,-
i. ....
ii. the amount of duty is more than rupees fifty lakhs, then, forty per cent of the tax dues.</td></tr>
</table>

29. Since the petitioner filed its appeal against Order-in-Original Nos. 1 & 2 of 2019 dated **20.02.2019** only on **25.07.2019**, therefore there was no appeal pending as on **30.06.2019**. Therefore, the petitioner was not entitled to the relief under Section 124(1)(a)(ii) of the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 in Chapter V of the Finance Act, 2019.

30. On the other hand, the petitioner could claim relief only under Section 124(1)(c)(ii) of the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 in Chapter V of the Finance Act, 2019, since no appeal was filed against Order-in-Original Nos. 1& 2 of 2019 dated **20.02.2019** as on

30.06.2019.

31. As per Section 129(1) of the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 in Chapter V of the Finance Act, 2019, every Discharge Certificate issued under Section 126 with respect to the amount payable under the Scheme shall be conclusive as to the matter and the time period stated therein. Further, under the aforesaid provision:-

> *a. the declarant shall not be liable to pay any further duty, interest, or penalty with respect to the matter and time period covered in the declaration;*
>
> *b. the declarant shall not be liable to be prosecuted under the indirect tax enactment with respect to the matter and time period covered in the declaration;*
>
> *c. no matter and time period covered by such declaration shall be reopened in any other proceeding under the indirect tax enactment.*

32. There is however an exception to Section 129(1) under Clause (c) to sub-section (2) to Section 129 of the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 in Chapter V of the Finance Act, 2019. As per Clause (c) to Section 129(2) of the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 in Chapter V of the Finance Act, 2019, it shall be presumed as if no declaration was made and the proceeding under the applicable Indirect Tax

Enactment shall be instituted within a period of one year of issue of the Discharge Certificate in **Form SVLDRS-4** where any material particular furnished in the declaration is subsequently found to be false in case of "voluntary disclosure".

33. Further, under Section 125 (f) of the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 in Chapter V of the Finance Act, 2019, no declaration can be filed under "**voluntary disclosure**", under the following two circumstances, namely:-

> *i. after being subjected to any enquiry or investigation or audit; or*
>
> *ii. having filed a return under the indirect tax enactment, where in he has indicated an amount of duty payable as payable, but has not paid it.*

34. If such an application / declaration was filed, no relief was available with respect to tax dues under Section 124(1)(e) of the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 in Chapter V of the Finance Act, 2019.

35. The expression "**voluntary disclosure**" has also not been defined in the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 in Chapter V of

the Finance Act, 2019. However, the fact remains that the petitioner in this case admittedly had not filed the declaration in **Form SVLDRS-1** on **31.12.2019** under "voluntary disclosure".

36. Since the declaration in **Form SVLDRS-1** dated **31.12.2019** that was filed by the petitioner was not under the "**voluntary disclosure category**", the rigours of clause (c) to sub-section (2) to section 129 (1) of the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 in Chapter V of the Finance Act, 2019 cannot be pressed against the petitioner.

37. The petitioner ought to have filed a correct declaration under "Amount in Arrears category" as defined in Section 121(c) of the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 in Chapter V of the Finance Act, 2019 as no appeal was pending on **30.06.2019**.

38. Since the declaration in **Form SVLDRS-1** dated **31.12.2019** filed by the petitioner under the "litigation category" [i.e., pendency of appeal] was incorrectly filed and should have been filed under "Amount in Arrears Category", the amount that was payable by the petitioner would have higher.

39. It has to be observed that though under Section 129(1) of the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 in Chapter V of the Finance Act, 2019, every "Discharge Certificate" issued under Section 126 of the said Scheme with respect to the amount payable under the Scheme is deemed to be conclusive as to the matter and the time period stated therein, it would not however mean that the errors committed while determining the correct relief to a declarant under Section 124 of the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 in Chapter V of the Finance Act, 2019 cannot be corrected by the Designated Authority or any other Authority who succeeds the Designated Authority. This is evident from a reading of Section 21 of the General Clauses Act, 1891. As per Section 21 of the General Clauses Act, 1891, the power to issue order includes power to amend, vary or rescind such orders.

40. It would not either preclude the Designated Authority from determining the correct amount that would be payable by a declarant under the said Scheme and / or demand the correct amount. It would also not mean that **Form SVLDRS-4** dated **07.03.2020** cannot be revoked under Section 129(2)(c) of the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 in Chapter V of the Finance Act, 2019, if correct amount is not paid. Eventuality under

Section 129(1)(2)(c) of the Scheme will apply only in case of “voluntary disclosure”.

41. Since the petitioner was otherwise entitled to relief under Section 124(1)(ii) of the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 in Chapter V of the Finance Act, 2019, the benefit of the Scheme cannot be denied, provided the petitioner pays the correct amount.

42. Therefore, the Impugned Communication dated **30.03.2021** cannot be said to be strictly in consonance with Section 129(2)(c) of the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 in Chapter V of the Finance Act, 2019 in revoking the Discharge Certificate in **Form SVLDRS-4** dated **07.03.2020**. Nevertheless, powers are vested with the Designated Authority under the said Act to correct the mistake in the Discharge Certificate in **Form SVLDRS-4**, if the Designated Authority was mislead and an improper declaration is filed by a declarant. If the petitioner wants the benefit of the Scheme, the petitioner should pay the correct amount together with interest.

43. The admitted tax liability of the petitioner was **Rs.2,99,44,722/-**

under **Order-in-Original Nos.1 and 2 of 2019** dated **20.02.2019**. The petitioner is therefore entitled only to a relief of 40% on the aforesaid admitted tax liability confirmed against the petitioner vide Order-in-Original Nos. 1& 2 of 2019 dated **20.02.2019** in terms of Section 124(1)(c)(ii) of the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 in Chapter V of the Finance Act, 2019.

44. Thus, the petitioner has to pay 60% and not 50% of aforesaid admitted tax liability of **Rs.2,99,44,722/-**.

45. In other words, the amount that is payable under the scheme is **Rs.1,79,66,833,20/-**, it being 60% of the aforesaid tax liability of **Rs.2,99,44,722.00/-** less any pre-deposit. The calculation of the amount payable under the Scheme both by the petitioner and the respondent in **Form SVLDRS-1** dated **31.12.2019** and **Form SVLDRS-3** dated **14.02.2020** were respectively incorrect. Admitted fact is that a total amount of **Rs.1,34,00,999/-** has been paid by the petitioner.

46. Therefore, the amount that is payable by the petitioner under the

provisions of the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 in Chapter V of the Finance Act, 2019 would be the net amount of **Rs.45,65,834.20/- [Rs.1,79,66,833,20/- - Rs.1,34,00,999.00/-]** and not **Rs.15,71,362.00/-** as was determined in **Form SVLDRS-3** dated **14.02.2020**. Thus, there is deficit amount of **Rs.29,94,472.20/- [Rs.45,65,834.20/- - Rs.15,71,362/-]** has to be paid by the petitioner.

47. Since the petitioner was otherwise entitled to the benefit of the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 in Chapter V of the Finance Act, 2019, the Court is of the view, the petitioner should pay the aforesaid deficit amount of **Rs.29,94,472.20/- [Rs.45,65,834.20/- - Rs.15,71,362/-]** within a period of 30 days from the date of receipt of this order together with interest at 9% from the due date of issuance of **Form SVLDRS-3** dated **14.02.2020** on such belated payment to have the case settled under the Scheme.

48. Subject to the petitioner complying with the above requirements, the Communication dated **30.03.2021** impugned in W.P.No.27248 of 2021 shall stands quashed.

49. Since there is no enabling machinery under the provisions of the Finance Act, 1994 which enables the Department to recover the tax due from the Directors of the Company which is in arrears of tax, recovery / attachment of Bank Accounts of the Directors of the defaulting Company namely M/s.Laundry Projects India Private Limited, the Impugned Communication dated **23.11.2021** seeking to attach the Bank Accounts of the individual Directors purportedly in exercise of powers conferred under Section 87 of the Finance Act, 1994 has to be held to be without jurisdiction.

50. It also appears that a sum of **Rs.22,00,000/-** has been recovered from the account of the petitioner in W.P.No.4329 of 2022, who is the Director of the said Company on **10.01.2022**. This amount can be adjusted against the aforesaid deficit amount of **Rs.29,94,472.20/- [Rs.45,65,834.20/- - Rs.15,71,362/-]** subject to the petitioner in W.P.No.4329 of 2022 consenting to the same.

51. In view of the above discussion, these Writ Petitions are disposed of with the following directions / observations:-

i. Since there is no provision to recover the dues of the writ petitioner in W.P.No.27248 of 2021 M/s.Laundry Projects India Private Limited (from the Directors of M/s.Laundry Projects India Private Limited) under the Scheme of the provisions of the Finance Act, 1994, the Communication dated **23.11.2021** impugned in W.P.No.4329 of 2022 shall stands quashed with consequential relief.

ii. the writ petitioner in W.P.No 27248 of 2021 M/s.Laundry Projects India Private Limited shall pay the aforesaid deficit amount of **Rs.29,94,472.20/- [Rs.45,65,834.20/- - Rs.15,71,362/-]** within a period of 30 days from date of receipt of this order.

iii. the writ petitioner in W.P.No 27248 of 2021, M/s.Laundry projects India Private Limited shall also pay interest at 6% from the due date on the aforesaid amount of **Rs.29,94,472.20/- [Rs.45,65,834.20/- - Rs.15,71,362/-]** till **10.01.2022** or **Rs.7,94,472/- [Rs.29,94,427.20/- - Rs.22,00,000/-]** subject to the petitioner in W.P.No.4329 of 2022 adjusting / consenting a sum of **Rs.22,00,000/-** and on the balance amount from **11.01.2022**.

iv. subject to payment of the aforesaid amounts stipulated above, the Communication dated **30.03.2021** bearing reference C.No.IV/16/208/2020-SVS impugned in W.P.No.27248 of 2021 shall stand quashed. The respondents shall thereafter issue fresh Discharge Certificate in **Form SVLDRS-4** to the petitioner in W.P.No.27248 of 2021.

v. The directions contained herein is however without prejudice to any other actions that may be initiated against the petitioners in the respective Writ Petitions under the provisions of the Finance Act, 1994 in case the petitioner in W.P.No.27248 of 2021 fails to comply with any of the directions / stipulations contained herein.

vi. There shall be no order as to costs. Connected Writ Miscellaneous Petitions are closed.

24.01.2025

Neutral Citation : Yes / No

jas / arb

To:

1.The Assistant Commissioner of GST and
Central Excise,
Chennai South Commissionerate,
8th Floor, 692, MHU Complex,
GST Nilayam, Nandanam,
Chennai – 600 035.

2.The Commissioner of GST and Central Excise,
Chennai South Commissionerate,
5th Floor, 692, MHU Complex,
GST Nilayam, Nandanam,
Chennai – 600 035.

3.The Joint Commissioner of GST and
Central Excise,
Chennai South Commissionerate,
5th Floor, 692, MHU Complex,
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Chennai – 600 035.

4.The Assistant Commissioner of GST and
Central Excise,
Perungudi Division,
Chennai South Commissionerate,
8th Floor, 692, MHU Complex,
GST Nilayam, Nandanam,
Chennai – 600 035.

C.SARAVANAN, J.

jas / arb

Pre-delivery Common Order in
W.P.Nos.27248 of 2021 and 4329 of 2022
and
W.M.P.Nos.28764 & 28765 of 2021,
4440, 4444, 4445, 4446 of 2022