**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

**222**

**CM-3956-CWP-2025**
**IN/AND CWP-24016-2021**

**Date of decision: April 08, 2025**

**PLANET RETAIL HOLDING PRIVATE LTD**

**.....PETITIONER**

V/S

**THE UNION OF INDIA AND ORS**

**.....RESPONDENTS**

**CORAM: HON'BLR MR. JUSTICE ARUN PALLI**
**HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present: Mr. Jas Sanghavi, Advocate,
for the applicant-petitioner (through V.C.)

Mr. Rishabh Kapoor, Sr. Standing Counsel,
for CBIC-respondents (through V.C.)

**SUDEEPTI SHARMA, J.**

**CM-3956-CWP-2025**

The petitioner moved C.M. No. 3956 of 2025 for preponement of the matter from 24.07.2025 and for the disposal of the present writ petition in terms of judgment dated 15.02.2023 passed by this Court in CWP No. 15879 of 2020 titled as ***Quest Retail Pvt. Ltd.*** V/s ***Principal Commissioner CGST and Ors*** and the judgment dated 14.03.2022 of Bombay High Court in the case of ***Nilkamal Limited and Ors.*** v/s ***Union of India and Ors***, [2022 (11) TMI 1008-Bombay High Court.

On 20.03.2025, notice of the application was issued to the respondents. The case was adjourned for today i.e. 08.04.2025 and learned Sr. Standing Counsel for the respondents was directed to seek instructions.

Learned counsel for the respondents contends that he has received an *e-mail*, whereby he has instructions to state that the matter/facts of the instant petition is/are squarely covered by the judgment passed by this Court in CWP No. 15879 of 2020 titled as ***Quest Retail Pvt. Ltd.*** V/s ***Principal Commissioner CGST and Ors.,*** which was decided on 15.02.2023.

In view of the statement made by the learned counsel for the respondents, on instructions received by him through *e-mail* dated 08.04.2025 by Sh. Sunder Lal, Deputy Commissioner (Legal), CGST-Gurugram and with the consent of the parties, the matter is preponed from 24.07.2025 and is taken on Board today itself.

Application stands disposed of accordingly.

**CWP-24016-2021**

1. The challenge in the present writ petition is to the rejection of declaration in Form SVLDRS 1 ARN No. LD2712190002505 dated 27.12.2019 filed by the petitioner.

**BRIEF FACTS OF THE CASE**

2. The Petitioner is a member of the Retailers Association of India (hereinafter referred as "RAI"), and had taken various premises on Lease and License and/or Business Conducting basis from various Owners/Landlords. The owners/landlords were liable to pay the Service Tax on the renting/licencing of immovable property.

3. After multiple High Courts in India, upheld the validity of the levy of service tax on renting of immovable property and the substituted sub-clause (zzzz) to sub-section (105) of the Section 65 of the Finance Act, 1994, the Hon'ble Supreme Court, in appeal, passed an interim order dated 14.10.2011 directing the

members of RAI to deposit 50% of the arrears to the department within six months, furnishing a solvent surety for the balance 50% of the arrears, and filing of individual affidavits undertaking to pay the balance arrears of service tax and granted interim stay upon the fulfillment of the conditions.

4. The petitioner complied with the terms of the Interim Order dated 14.10.2011, and communicated the compliance to the then Commissioner of Service Tax and/or Deputy Commissioner of Service Tax, Gurugram.

5. Pending the final disposal of the Appeal, the "Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019" (Hereinafter referred to as "SVLDRS") was enacted having effect from 01.09.2019.

6. In light of the pending appeal of the RAI before the Hon'ble Supreme Court, and in compliance with the undertaking given to the Hon'ble Supreme Court to deposit 50% of the service tax amount, the petitioner was eligible to file a declaration under the Scheme under the litigation category. The petitioner submitted a declaration in Form SVLDR-1 bearing ARN No. LD271290002505 on 27.12.2019 under the Scheme.

7. However on 06.02.2020, respondent No. 4 rejected the declaration filed by the petitioner, *inter alia*, holding that the petitioner was not eligible to file the declaration as the appeal filed before the Hon'ble Supreme Court did not arise out of any show cause notice or demand of duty.

8. As per the pleadings, impugned rejection is directly contrary to the binding Circular No. 1073/06/2019-CX dated 29.10.2019, which specifically permits the members of the RAI to file a declaration to avail benefits under the SVLDRS Scheme.

9. The High Court of Bombay in the case of ***Nilkamal Limited and Ors*** v/s ***Union of India and Ors*** [2022 (11) TMI 1008 Bombay High Court), after considering the said circular, *inter alia*, held as under.-

> *"4. We have heard the learned Counsel for the parties.*
>
> *5.The Circular No. 1073/06/2019.CX more particularly clause (5) of the same reads thus:*
>
> *"(v) In many cases the assets of a tax defaulter are taken over by an Asset Reconstruction Company (ARC), and the department asks the ARCs to pay the outstanding dues. In another case, M/s. RIICO, a PSU of State of Rajasthan, has taken physical possession of the fixed assets of some of its borrowers who also happen to be tax defaulters. They have reported that they may be able to realise their dues, if they are allowed to settle the tax dues under the Scheme, and thereby removing an encumbrance on the disposal of the fixed assets. Similarly, M/s. Retailers Association of India have represented that in many cases, department has initiated proceedings against lessors for non-payment of service tax on rent on immovable property rented by their members. Hon'ble Supreme Court has allowed the lessees to file a Civil Appeal challenging the applicability of service tax in such matters, subject to the condition that they deposit appropriate pre-deposit as well as the remaining dues, if the case is decided against them eventually. It is clarified that such persons are allowed to file a declaration under the Scheme and avail the benefits. The remaining conditions of the Scheme such as withdrawal of*

*pending cases etc., apart from payment of dues as determined by the designated committee, will still need to be complied by them."*

*6. The circular clarifies that the Retailer Association of India has represented that the department has initiated proceedings against lessors for non-payment of service tax on rent over immovable property rented by the members. The Apex Court has allowed the lessees to file a Civil Appeal challenging the applicability of service tax subject to the condition that they deposit appropriate pre-deposit as well as the remaining dues if the case of the petitioners is decided against them eventually.*

*7. It is further clarified in the aforesaid circular that such members are allowed to file declaration under the Scheme and avail the benefits. The petitioners/lessors have filed appeals before the Apex Court. The said circular is clarificatory in nature. In view of the circular, the petitioners are allowed to file declaration under the Scheme and avail benefits subject to complying with the remaining conditions of the Scheme. The said circular is binding upon the respondent. In the light of above, the impugned orders rejecting the declaration filed by the petitioners are set aside.*

*8. Needless to state that the petitioners are required to comply with all the conditions under the Scheme for availing the benefit of the said scheme. Respondent shall reconsider the declarations of the petitioners and shall not reject it on the ground upon which impugned orders are passed."*

10. This Court in CWP No. 15879 of 2020 titled as ***Quest Retail Pvt. Ltd.*** V/s ***Principal Commissioner CGST and Ors.,*** relying upon the judgment of the Bombay High Court dated 15.02.2023 in the case of ***Nilkamal Limited and Ors*** v/s ***Union of India and Ors,*** set aside the impugned order and remanded the matter back to the designated Committee to pass a fresh order as per the clarificatory circular and judgment passed by Bombay High Court in ***Nilkamal Limited and Ors (supra).***

11. Since both the parties are *ad idem* that the present case is covered by the judgment passed by this Court in CWP No. 15879 of 2020 titled as ***Quest Retail Pvt. Ltd.*** V/s ***Principal Commissioner CGST and Ors.,*** which is decided on 15.02.2023 in terms of CWP No. 4174 of 2021 titled as ***Nilkamal Limited and others*** vs. ***The Union of India and others***, decided on 14.03.2022, therefore, we dispose of the present writ petition in the same terms.

12. In view of the above, the impugned order dated 27.12.2019 is set aside. The matter is remanded back to the designated Committee to pass a fresh order as per the clarificatory circular and judgment passed by Bombay High Court in ***Nilkamal Limited and Ors (supra).***

13. All the pending application(s), if any, also stand disposed of.

**(ARUN PALLI)**
**JUDGE**

**(SUDEEPTI SHARMA)**
**JUDGE**

**April 08, 2025**
pj

*Whether speaking/reasoned:* *Yes/No*
*Whether reportable:* *Yes/No*