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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 8599/2022 & CM APPL. 25885/2022(Interim Relief)

THE COMMISSIONER OF CGST AND CENTRAL EXCISE DELHI SOUTH .....Petitioner

Through: Mr. R. Ramachandran, Sr. Standing Counsel with Mr. Prateek Dhir, Adv.

versus

SMART RANGERS PVT LTD .....Respondent

Through: Mr. Midhun Aggarwal, Adv.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

<u>O R D E R</u>

% **28.01.2025**

1. The **Commissioner of Central Goods and Services Tax and Central Excise**[1] petitions this Court by way of Article 226 of the Constitution, seeking to assail the Order-in-Appeal dated 31 December 2020 passed by the Commissioner of Central Tax (Appeals). The said appeal itself had come to be instituted by the respondent seeking to impugn an order passed by the Designated Committee under the **Sabka Vishwas (Legacy Dispute Resolution) Scheme Rules, 2019**[2].

2. The Commissioner would argue that the appeal was clearly not maintainable since the order of the Designated Committee is conferred finality and is one which is made under a special dispensation which is provided for by **Finance Act (No. 2) 2019**[3] and which had introduced

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[1] Commissioner
[2] SVLDRS
[3] Finance Act

the SVLDRS.

3. Mr. Ramachandran, learned counsel representing the writ petitioner, has taken us through the various provisions which came to be introduced by virtue of the Finance Act and more particularly to those appearing in Chapter V thereof, to submit that the Designated Committee had clearly found that the application as made for settlement would not be maintainable on account of an ongoing investigation.

4. Our attention was drawn to the conditions of eligibility which are stipulated in Section 125 and which reads as follows: -

> "**Declaration under Scheme**
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> **125.** (1) All persons shall be eligible to make a declaration under this Scheme except the following, namely;—
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> (a) who have filed an appeal before the appellate forum and such appeal has been heard finally on or before the 30th day of June, 2019;
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> (b) who have been convicted for any offence punishable under any provision of the indirect tax enactment for the matter for which he intends to file a declaration;
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> (c) who have been issued a show cause notice, under indirect tax enactment and the final hearing has taken place on or before the 30th day of June, 2019;
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> (d) who have been issued a show cause notice under indirect tax enactment for an erroneous refund or refund;
>
> (e) who have been subjected to an enquiry or investigation or audit and the amount of duty involved in the said enquiry or investigation or audit has not been quantified on or before the 30th day of June, 2019;
>
> (f) a person making a voluntary disclosure,—
>
> > (i) after being subjected to any enquiry or investigation or audit; or
> >
> > (ii) having filed a return under the indirect tax enactment, wherein he has indicated an amount of duty as payable, but has not paid it;
>
> (g) who have filed an application in the Settlement Commission for settlement of a case;

> (h) persons seeking to make declarations with respect to excisable goods set forth in the Fourth Schedule to the Central Excise Act, 1944 (1 of 1944).
>
> (2) A declaration under sub-section (1) shall be made in such electronic form as may be prescribed."

5. As is manifest from the above, the SVLDRS contemplated such persons being eligible to apply for settlement and who would otherwise not fall within the exclusions contemplated under clauses (a) to (h) of Section 125(1).

6. The respondent has at no stage disputed the factum of an investigation being undertaken by the writ petitioner in respect of its affairs. In fact, and as is evident from a copy of the declaration which was filed by it before the Designated Committee, it had of its own volition shown that it fell in the category of a person under investigation and enquiry. The fact of an enquiry and investigation being ongoing was also not disputed before us. It was the aforesaid undisputed facts which constrained the Designated Committee to proceed to reject the application which had been made.

7. We have no doubt in holding that under the scheme of the Finance Act read alongside the provisions of the SVLDRS, a statutory appeal was clearly not maintainable. This since a decision of the Designated Committee was accorded finality therein. We find that the appellate authority has rendered no finding contrary to what was found by the writ petitioners, namely, of the respondent being ineligible to claim benefit of the scheme in light of an ongoing investigation. In the absence of that aspect being disputed, the application under the SVLDRS itself was not maintainable.

8. We thus find ourselves unable to appreciate how a perceived violation of the principles of natural justice would have redeemed the

cause of the writ petitioner. This, since in light of the admitted ineligibility, no prejudice could be said to have been caused and nor could any benefit have been accorded to the petitioner by according an opportunity of hearing. Accordingly and for all the aforesaid reasons, we find merit in the challenge which stand raised.

9. The writ petition is accordingly allowed. The impugned order dated 31 December 2020 is hereby quashed and set aside.

YASHWANT VARMA, J.

HARISH VAIDYANATHAN SHANKAR, J.

JANUARY 28, 2025/*akc*