



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.13990 OF 2024

Agasti Sahakari Sakhar Karkhana Ltd.,
Akole, At Post Agastinagar,
Taluka Akole, District Ahmednagar
Through Managing Director,
Sudhir Chintaman Kapadnis
Age: 59 years, Occu.: Service,
R/o At Post Agastinagar,
Taluka Akole, District Ahmednagar

.. Petitioner

Versus

1. State of Maharashtra
Department of Goods and Service
Tax, Mantralaya, Mumbai.
2. The Commissioner,
Goods and Service Tax,
Mumbai.
3. The Joint Commissioner of
Sales Tax (Adm.)
Nashik Division, Nashik.

.. Respondents

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Ms. Anagha Kulkarni, Advocate for the petitioner.
Mr. R. S. Wani, AGP for respondent Nos.1 to 3/State.

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**CORAM : SMT. VIBHA KANKANWADI &
HITEN S. VENEGAVKAR, JJ.**

**RESERVED ON : 19 DECEMBER 2025
PRONOUNCED ON : 12 FEBRUARY 2026**

ORDER (Per Smt. Vibha Kankanwadi, J.) :-

. Present petition has been filed for challenging the order dated 21.09.2022 passed by Additional Commissioner of State Tax, Nashik Zone, Nashik and order dated 08.07.2020 passed by respondent No.3 thereby confirming the order dated 22.09.2019 passed by Designated Authority AHM-VAT-E-002 Deputy Commissioner of State Tax, Ahmednagar in respect of benefit of waiver in respect of dues for the period 1992-93, 1993-94, 1994-95, 1995-96, 1996-97 and 1999-2000.

2. Heard learned Advocate Ms Anagha Kulkarni for the petitioner and learned AGP Mr. R. S. Wani for respondent Nos.1 to 3/State.

3. Learned Advocate for the petitioner submitted that the petitioner is a Cooperative Sugarcane Factory registered under Maharashtra Cooperative Societies Act, 1960. The petitioner is holding a valid license under the provisions of Maharashtra Sugarcane Purchases Tax Act, 1961. The petitioner has to purchase sugarcane for the purpose of manufacturing sugar and by products from its members as well as from non members. This activity of purchase is taxed under the provisions of Maharashtra Purchase Tax On Sugarcane Act, 1962 and, therefore, the petitioner has to file returns. The petitioner is assessed by the respondents for levy of cane purchase tax. It is further submitted that the

respondent/Government of Maharashtra had undertaken to settle the disputed dues/arrears of tax interest and penalty or late fee under the ordinance “Maharashtra Settlement of Arrears of Tax, Interest, Penalty or Late Fee Act, 2019” (hereinafter referred to as the “Settlement Act”). The petitioner had preferred applications before the Designated Authority, Ahmednagar under Section 7(1) in form No.1 for the aforesaid years for settlement of dues. The Designated Authority then passed orders under Section 12(1) of the Settlement Act on 22.09.2019. It has been observed by the competent authority that the application filed by the petitioner under Section 7(1) form No.1 is found correct and complete. The applicant has made the payment of requisite amount as determined under Section 10 read with Section 4 of Settlement Act. The applicant is held eligible for the waiver. The corresponding post assessment interest or as the case may be, for the post assessment penalty also stand waived. Thus, the Designated Authority had allowed the applications of the petitioner, yet the authority gave direction to the Recovery Officer to take necessary entries to give effect to the waiver and the payments considered in the order. The Designated Authority while implementing the said order created misunderstanding. Though the waiver was made available to the petitioner, due to the said misunderstanding and misconception of factor, for reason known to the authority avoided, failed

and neglected and due to the said order, though the petitioner was granted benefit, is unable to get the relief of the same. Under the said circumstance, the petitioner challenged the order of implementation by filing Appeal under Section 13(1)(b) of the Settlement Act before respondent No.3. Respondent No.3 was in fact not expected and had no jurisdiction or power to examine the unchallenged issue and thereby conceded the issue of eligibility of the petitioner for the waiver of the amount. By exceeding his jurisdiction, respondent No.3 has dealt with the unchallenged issue regarding eligibility of petitioner for the waiver and perversely held that the petitioner is not entitled for the waiver while passing the impugned order dated 08.07.2020. When the petitioner found that respondent No.3 has passed erroneous order, he approached Additional Commissioner of Sales Tax, (Adm.) Nashik Zone, Nashik and by a common order dated 21.09.2022, the said authority has dismissed the applications/review applications filed by the petitioner under Section 17 of the Settlement Act on the ground that Section 13 of the said Act can be used only by the Commissioner, upon noticing any error so far as it is prejudicial to the interest of the revenue.

4. Learned Advocate for the petitioner has taken us through the documents, especially, the orders and pointed out that in the column of Amount of waiver sought First Phase, the figure has been shown as zero,

however, the bottom part of the order i.e. clause Nos.5 to 7 upheld the issue that the petitioner has paid the requisite amount under First Phase. The Deputy Commissioner of State Tax then held the applicant eligible for waiver of the amount as given in column No.(g) or (h) of the table, but in fact the column was not designated with (g) or (h) and then it was held that the corresponding post-assessment interest or as the case may be post-assessment penalty also held to be waived. In the Appeal, the petitioner submitted that the order that has been passed by the Deputy Commissioner of State Tax, Ahmednagar is vague and against the principles of natural justice. Though certain things have been admitted, yet in the waiver column, the amount that was shown was zero. In fact, the Deputy Commissioner in the order ought to have held that the applicant is eligible for the waiver of the amount, which has been entirely paid for the First Phase. Stereotype orders have been passed. The ratification in the last column showing amount zero ought to have been then corrected in the appeal, however, the appeal came to be rejected and then respondent/Additional Commissioner of State Tax, Nashik Zone, Nashik has misinterpreted Section 17 of the Settlement Act, 2019. When review is permissible, it cannot be restricted to one party. The only correction sought in the order ought to have been accepted and, therefore, the writ petition deserves to be allowed.

5. Learned AGP is relying on the affidavit-in-reply by Ms. Neha Sandip Deshmukh, the Joint Commissioner, State GST, Ahmednagar. It has been stated that the order that was passed on 22.09.2022 was by the Designated Authority under the Settlement Act in respect of in all six years returns. Before passing the order, the Designated Authority had issued defect memos for short payment of taxes. It was not replied by the petitioner, nor they have paid the said amount under the defect memos. The settlement orders were passed after adjusting the tax paid as 'requisite amount' against the undisputed tax quantum and no waiver was given against pending interest due to their payment of tax (less payment of tax) as per defect memo. The Designated Authority has allowed the applications as per the trade circular 9T of 2019 issued by Commissioner of Sales Tax, Maharashtra State, Mumbai dated 08.03.2019, which is based on the Maharashtra Settlement of Arrears of Tax, Interest and Penalty Act, 2019. After adjusting the requisite payment towards the undisputed tax, balance dues are available for recovery. No waiver/proportionate benefit was given to the petitioner in the settlement orders. The Designated Authority, in the said order itself, gave direction to the recovery officer under the relevant Act to take necessary entries to give the effect of waiver and payments considered in the order. Under such circumstance, even if, in the waiver column figure zero is

shown, the recovery is ordered in respect of the amount after the adjustment of the amount that was paid by the petitioner. The dues those were paid by the petitioner were undisputed tax amount, which is to be paid 100% i.e. full payment. The grounds in the Appeal preferred by the petitioner under section 13 of the Settlement Act are different than those have been mentioned in the writ petition. Therefore, the petitioner is misleading the Court. Even under Section 17 of the Settlement Act, the concerned authority has limited power to review the order only if the order to be reviewed is prejudicial to the interest of the revenue and, therefore, all the orders are legal requiring no interference.

6. The first and the foremost fact to be noted is that the Settlement Act, 2019 came into existence to provide for settlement of arrears of tax, interest, penalty or late fee, which were levied, payable or imposed respectively under the various Acts administered by the Goods and Services Tax Department and for the matters connected therewith or incidental thereto. We can therefore say that it was the Amnesty Scheme in a way that the said Scheme was introduced. It appears that on 08.03.2019, the Commissioner of State Tax, (GST), Maharashtra State, Mumbai had issued Trade Circular giving the procedure or guidelines as to how the provisions of Settlement Act, 2019 were to be implemented. It has been stated that the Ordinance provides for the settlement arrears

of tax, interest, penalty or late fee in Two phase. First phase was to last for three months and the Second phase was for one month. The First phase provides slightly higher waiver in respect of disputed tax, interest and penalty as compared to the waiver available in the Second phase. In order to understand the amount for which waiver was claimed by the petitioner, we will have to understand the definitions given in respect of disputed tax or undisputed tax. As per Section 2(g) of the Settlement Act, 2019 ‘disputed tax’ means other than un-disputed tax as defined in clause (q). Clause 2(q) of the Settlement Act, 2019 defines undisputed tax, which reads thus :-

“2. Definitions.--

(q) “un-disputed tax” means,--

- (i) the taxes collected separately under the Relevant Act ; or
 - (ii) the deductions allowed by the authorities in the statutory order for the taxes collected separately under the Relevant Act ; or
 - (iii) the taxes shown payable in the return or the revised return under the Relevant Act ; or
 - (iv) an amount claimed by the dealer as deductions or allowed by the designated authority as per rule 57 of the Value Added Tax Rules or similar rules made under other Relevant Act ; or
 - (v) an amount forfeited under the statutory order or excess tax collection shown in the return, revised return or, Audit report, as the case may be, submitted under the Relevant Act ;
- or

(vi) any amount of tax determined and recommended to be payable by the auditor, in the audit report submitted as per section 61 of the Value Added Tax Act, and accepted by the assessee either wholly or partly ; or
 (vii) the tax deducted at source (TDS) by the employer under the Relevant Act ; or
 (viii) the tax collection made under section 31A of the Value Added Tax Act ;”

7. Here, the petitioner has not provided the copy of the application in Form No.1 filed by it under Section 7 of the Settlement Act, 2019. However, we can gather it from the orders those were passed on 22.09.2019 in respect of each year, column No.3 was specifically in respect of amount of tax, interest, penalty or late fee outstanding as on the 1st April 2019 and in column Un-disputed Tax as per the applicant, the figure is zero, but then in the column as per the order it is Rs.14,95,306/- in respect of the period for which settlement was sought i.e. 1992-93 and the disputed tax that was shown is Rs.27,56,705/-. The amount that was paid and accepted to be paid by the petitioner is Rs.14,95,306/-. It is so reflected in the Column No.4 also. Same is the case for the subsequent years with change in figures. Being aggrieved by those orders, then the petitioner filed the Appeal under Section 13 of the Settlement Act, 2019. The grounds under appeal and the facts submitted by the applicants have been considered in Annexure ‘A’ and ‘B’ by the said

authority. The only thing that has been put by the Appellate Authority i.e. respondent No.3 is regarding the change in tabular form than it was reflected in the orders under challenge before him. It has been then specifically stated that tax payable as per returns for the year 1992-93 i.e. Rs.27,56,705/- have remained unpaid and likewise for other years also it has been so stated and, therefore, the authorities say that the waiver could not have been for the entire amount. Further, as per Section 10 of the Settlement Act, 2019, in respect of First Phase, for undisputed tax, amount to be paid is 100% of the amount in column B i.e. undisputed tax and the amount to be waived is nil. Only in respect of disputed tax, 50% is to be paid and for remaining 50% it would be waived. There is no averment in the present petition on behalf of the petitioner that what has been paid by them is disputed amount and, therefore, they were entitled for the waiver as per Section 10 of the Settlement Act, 2019. A detailed and speaking order has been passed by respondent No.3 by giving all the calculations and supported by the legal provision.

8. Petitioner has thereafter knocked the doors of Additional Commissioner of State Tax, Nashik Zone, Nashik under Section 17 of the Settlement Act, 2019, which runs thus :-

“17. **Review** – After an order is passed by the designated authority, the Commissioner may, on his own motion, at any

time within twelve months from the date of service of order, call for the record of such order and after noticing an error in such order, in so far as it is prejudicial to the interest of revenue, may serve on the assessee a notice and pass an order to the best of his judgment, where necessary.”

9. The first and the foremost fact to be noted is that as per the definition of the Act, the “Designated Authority” has been defined under Section 2(f) means the authority appointed under Section 3. Section 3 states that the Commissioner of State Tax, especially, the Commissioner for the purposes of this Act and sub-section (3) of Section 3 empowers the Commissioner to delegate his powers to the designated authorities by notification to be published in Official Gazette under sub-section (2) and such authorities shall within their jurisdiction, exercise the powers under Section 10 of the Value Added Tax Act or, as the case may be, under sub-section (2) of Section 4 and Section 5 of the Goods and Services Tax Act. The petitioner does not dispute that the Deputy Commissioner of State Tax, Ahmednagar is the Designated Authority. Section 17 gives power of review to the Commissioner to review the order passed by the Designated Authority on his own motion within twelve months from the date of service of order. Here, the Deputy Commissioner of State Tax, Ahmednagar had passed the orders on 22.09.2019, whereas the review applications were filed by the petitioner before the Additional Commissioner of State Tax, Nashik Zone, Nashik on 04.03.2021.

Therefore, it was beyond the period of twelve months from the date of the order passed by the Designated Authority as contemplated under Section 17 of the Settlement Act, 2019. The petitioner cannot interpret that after it has exhausted the remedy of Appeal under Section 13 and then filing the application under Section 17 would have given jurisdiction to the Additional Commissioner of State Tax, Nashik Zone, Nashik. We cannot interpret the provisions of the Act in a different way, which were not contemplated by the legislature. The interpretation requires that the unambiguous words should be given the same meaning as they appear in the statute. Therefore, rejection of those applications under Section 17 of the Settlement Act, 2019 are perfectly legal.

10. We do not find any substance in the submissions on behalf of the petitioner that the purpose for the review was only to get correction in the orders, as certain facts were admitted. It has been impressed again and again by the petitioner that when the Designated Authority had accepted the amount paid by the petitioner, then it automatically ought to have been reflected as the amount of waiver in the First Phase. When as per Section 10 of the Settlement Act, 2019 the determination of requisite amount and extent of waiver has been prescribed, then the appeal can be preferred only if the calculation has gone wrong. The Annexures 'A' and 'B' to the Settlement Act, 2019 are clear enough in this

regard. Therefore, taking into consideration these aspects, we do not find any merit in the writ petition. The respondent authorities were justified in dismissing the review. No case is made out for exercise of powers under Article 226 of the Constitution of India.

11. Hence, the writ petition stands dismissed.

[HITEN S. VENEGAVKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm