IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2026

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.20678 & 20685 of 2023
and
W.M.P.Nos.20034 & 20042 of 2023

W.P.Nos.20678 of 2023

M/s.SDC Engineering Projects Pvt. Limited
Represented by its Director Mr.M.Thirumurugan
No.31/49, Defense Officers Colony
Nandambakkam
Guindy, Chennai 600 032. ... Petitioner in both W.P.Nos.

Vs.

1.The Deputy Commissioner of CGST & CE
Guindy Division
No.692, M.H.U. Complex, 8th Floor
Anna Salai, Nandanam
Chennai 600 035.

2.The Deputy Director
O/o.the Director General of GST Intelligence,
Coimbatore Zonal Unit
No.155-1, Lakshmanan Street
Behind Ukkadam Bus Stand
Ukkadam, Coimbatore 641 001. ... Respondents in W.P.No.20678/2023

W.P.No.20685 of 2023

1.Designated Committee
Under the Sabka Vishwas- (Legacy Dispute Resolution) Scheme, 2019
Chennai-South Commissionerate
Chennai.

2.The Deputy Commissioner of CGST & CE
Guindy Division
No.692, M.H.U. Complex, 8th Floor
Anna Salai, Nandanam
Chennai 600 035.

3.The Deputy Director
O/o.the Director General of GST Intelligence,
Coimbatore Zonal Unit
No.155-1, Lakshmanan Street
Behind Ukkadam Bus Stand
Ukkadam, Coimbatore 641 001. ... Respondents in W.P.No.20685/2023

Prayer in W.P.No.20678/2023: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, calling for the records on the file of the Respondents and quash the impugned notice in Show Cause Cum Demand Notice No.05 / 2021-ST dated 15.03.2021 issued by the 2nd Respondent and consequential order in Order-In-Original No.27/2022 dated 25.03.2022 passed by the 1st Respondent under the provisions of Section 73 of the Finance Act 1994 as illegal and not in accordance with law.

Prayer in W.P.No.20685/2023: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, directing the 1st Respondent to issue Form 4 under the Sabka Vishwas - (Legacy Dispute

Resolution) Scheme, 2019 ('SVLDRS, 2019) for the period between 01.10.2015 to 31.03.2016.

For Petitioner in both W.P.Nos. : Mr.R.Sivaraman

For Respondents in both W.P.Nos. : Mr.S.R.Sundar
Senior Standing Counsel

COMMON ORDER

By this common order, both these Writ Petitions are disposed of.

2. In W.P.No.20678 of 2023, the petitioner has challenged the Show Cause Cum Demand Notice No.05/2021-ST dated 15.03.2021 issued by the second respondent and the consequential order in Original No.27/2022 dated 25.03.2022 passed by the first respondent.

3. In W.P.No.20685 of 2023, the petitioner has sought for a direction to the 1st respondent to issue Form 4 under Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 (SVLDRS 2019) for the period between 01.10.2015 to 31.03.2016.

4. By the impugned order, the demand proposed in the Show Cause Notice has been confirmed against the petitioner. The dispute pertains to service tax liability of the petitioner under provisions of the Finance Act, 1994 which was continued even after repeal of the later enactments by virtue of Section 173 of the respective GST Enactments came into force with effect from 01.07.2017 in view of Section 174 of the respective GST Enactments.

5. It appears that the petitioner was subjected to investigation proceedings and summons were issued to the petitioner on 29.05.2019. It is in this background, the petitioner was issued with the impugned Show Cause Notice impugned in W.P.No.20685 of 2023 which has culminated in the impugned order dated 25.03.2022 of the 1st respondent under Section 73 of the Finance Act, 1994.

6. During the interregnum, the Parliament enacted Sabka Vishwas-(Legacy Dispute Resolution) Scheme, 2019 in Chapter V of Finance (No.2) Act, 2019. The Scheme gave an avenue to assessee who were in arrears of tax under the provision in Chapter V of Finance Act, 1994 and various other enactments to settle the tax dispute on payment of tax at the rate specified therein.

7. The petitioner appears to have filed an application Form 1 SVLDRS on 21.12.2019 and sought for waiver of penalty imposed under Section 78 of the Finance Act, 1994 and interest under Section 75 of the said Act, confirmed by the Impugned Order in Original dated 25.03.2022 passed by the first respondent.

8. There is also no dispute that the petitioner has discharged the tax liability on 19.09.2019 which stands appropriated by the impugned order.

9. It is in this background that the petitioner prayed for a Writ of Mandamus to direct the first respondent namely, the Designated Committee under the aforesaid Scheme to issue Form 4 for the tax period between 01.10.2015 to 31.03.2016 covered by the impugned order dated 25.03.2022.

10. It is the case of the petitioner that the petitioner is entitled to have the case resolved under the aforesaid scheme as the petitioner has already discharged the tax liability even prior to issuance of the impugned Show Cause Cum Demand Notice No.05/2021-ST dated 15.03.2021.

11. The learned counsel for the respondents drew the attention of this Court to the allegation in the Show Cause Notice to state that the petitioner was not entitled to settle the dispute under the aforesaid Scheme.

12. A reference was made to Section 125(1)(f) of the Finance (No.2) Act, 2019 as per which a person making a "voluntary disclosure", after being subjected to any enquiry or investigation or audit; or having filed a return under the indirect tax enactment, wherein he has indicated an amount of duty as payable, but has not paid the tax, is not entitled to make a declaration under the Scheme.

13. Section 124(1)(d) of the Finance (No.2) Act, 2019 deals with the relief under the Scheme which has been extracted as under:

*"**Section 124: Relief available under Scheme:-***

(1) Subject to the conditions specified in sub-section (2), the relief available to a declarant under this Scheme shall be calculated as follows:

(a)….

(b)….

(c)….

(d) Where the tax dues are linked to an enquiry, investigation or audit against the declarant and the amount quantified on or before the 30th day of June, 2019 is

*(i) rupees fifty lakhs or less, then, **seventy percent of the tax dues:***

*(ii) more than rupees fifty lakhs, then, **fifty percent of the tax dues:"***

14. Section 124(2) of the Finance (No.2) Act, 2019 states that the relief calculated under sub-section (1) shall be subject to the condition that any amount paid as predeposit at any stage of appellate proceedings under the indirect tax enactment or as deposit during enquiry investigation or audit, shall be deducted when issuing the statement indicating the amount payable by the declarant. Thus the relief available to a declarant under this Scheme shall be calculated after deducting any amount paid as per deposit at any stage of appellate proceedings under the specified indirect tax enactment or amount paid as deposit during **enquiry, investigation** or **audit.**

15. Under Section 125(1) of the Finance (No.2) Act, 2019 there is an embargo as per which certain categories of persons are excluded from filing declaration for settling the tax dispute under the provision.

16. Section 125(1)(f) of the Finance (No.2) Act, 2019 reads as under:

"Section 125 : Declaration under Scheme:

(1) All persons shall be eligible to make a declaration under this scheme except the following, namely:-

(a)….
(b)….

(c)....
(d)....
(e)....
(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."

17. A reading of the above Scheme particularly, Section 125(1)(f)(i) of the Finance (No.2) Act, 2019, which has been extracted above, makes it clear that there is an embargo on the petitioner from availing the benefit of the aforesaid Scheme as payment was made by the petitioner only on 19.09.2019 after summons had been issued to the petitioner on 29.05.2019.

18. This is also the position settled by this Court in ***Flinto Learning Solutions Pvt. Ltd., Vs. Joint Commissioner of Service Tax (South), Chennai,*** in W.P.No.264 of 2021wherein this Court held that merely because Form SVLDRS-3 has been issued to the Assessee on 07.01.2020 ipso facto would not mean that the Assessee will be entitled to settle the dispute under the said Scheme, if there is an embargo for such an Assessee from filing an application for settling the dispute under the Scheme.

19. Thus, there is no merits in these present Writ Petitions. It is therefore as such liable to be dismissed. However, liberty is granted to the petitioner to challenge the impugned order dated 25.03.2022 in the manner known to law before Appellate Authority within a period of 30 days from the date of receipt of a copy of this order.

20. In case, such an appeal before the Appellate Authority is filed within such time, the Appellate Authority shall consider and dispose the appeal on merits and in accordance with law, as expeditiously as possible without further reference to limitation.

21. Accordingly, W.P.No.20678 of 2023 is dismissed with liberty and W.P.No.20685 of 2023 is dismissed. No costs. Consequently, Connected Writ Miscellaneous Petitions are closed.

05.02.2026

Index : Yes/No
Neutral Citation : Yes/No
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C.SARAVANAN, J.

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