Pallavi/Mayur/Shubham

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 74 OF 2023

Astute Valuers and Consultants Pvt. Ltd.
6A, 2nd Floor, Vimal Udyog Bhavan,
Taikalwadi Road, Mahim
Mumbai – 400016 through its Director
Amit Dileep Sathe ...Petitioner

Versus

1. **Union of India,**
represented by the Secretary,
Department of Revenue,
Ministry of Finance, North Block,
New Delhi – 110 001.

2. **Central Board of Indirect Taxes and Customs**
Department of Revenue,
Ministry of Finance,
North Block, New Delhi – 110 001.

3. **Designated Committee**
Piramal Chamber, 8th Floor,
Jijibhoy Lane Lalbaug,
Parel – 400012.

4. **Superintendent,**
CGST (Audit-II), Mumbai,
Range-I Division-VII,
Mumbai Central Commissionerate,
8th Floor, Piramal Chambers,
Lalbaug, Mumbai – 400012

5. **Assistant Commissioner,**
CGST (Audit-II), Mumbai,
Range-I, Division-VII,
Mumbai Central Commissionerate,

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8th Floor, Piramal Chambers,
Lalbaug, Mumbai – 400012

6. **Deputy Commissioner,**
CGST & Central Excise,
Div-VII, Mumbai Central,
8th Floor, Piramal Chambers,
Jijibhoy Lane, Lalbaug,
Mumbai – 400 012 ...Respondents

Mr. Bharat Raichandani a/w Pritesh Kumar i/by UBR Legal Advocates for the Petitioner.

Mr. Subir Kumar a/w S. D. Deshpande for Respondent Nos.2, 4, 5 and 6.

CORAM : M.S. Sonak &
Advait M. Sethna, JJ.

RESERVED ON : 9 December 2025
PRONOUNCED ON : 12 December 2025

JUDGMENT : *(Per Advait M. Sethna, J.)* :-

1. The Petitioner has approached this Court by filing the present Petition under Article 226 of the Constitution of India praying for the following substantive reliefs which read thus:-

> *"(a) that this Hon'ble Court be pleased to issue a Writ of Quo Warranto or a writ in the nature of Certiorari or any other writ, order or direction under Article 226 of the Constitution of India calling for the records pertaining to the Petitioner's case and after going into the validity and legality of the provisions set aside and quash the show cause notice dated 16.03.2021 (Exhibit "A1") issued by Respondent No. 6 and show cause notice dated June, 2022 issued by Respondent No. 5 (Exhibit "A2");*

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(b) that this Hon'ble Court be pleased to issue a Writ of Certiorari or a writ in the nature of Certiorari or any other writ, order or direction under Article 226 of the Constitution of India calling for the records pertaining to the Petitioner's case and after going into the validity and legality of the provisions hold that discharge certificate dated 22.02.2020 discharges the Petitioner from the payment of any further duty, interest, penalty and late fees with respect to communication dated 22.03.2019;

(e) that this Hon'ble Court be pleased to issue a Writ of Certiorari or a writ in the nature of Certiorari or any other writ, order or direction under Article 226 of the Constitution of India calling for the records pertaining to the Petitioner's case and after going into the validity and legality of the provisions direct the Respondents to consider the declaration dated 14.12.2019 ARNNo.LD1412190000187 under investigation category, in terms of section 128 of the SVS, 2019 and accordingly grant of Rs.8,41,577.20/- made by the Petitioner to avail the benefit under the scheme."

2. Heard learned counsel for the parties and with their assistance we have perused the record.

3. Rule. With consent of the parties, the Rule is made returnable forthwith.

4. The fulcrum of the issue in the present proceedings relates to the correctness and legality of the Petitioner's case that after obtaining Discharge Certificate dated 22 February 2020 from the Respondents under the SVLDRS scheme, whether the Petitioner can still be fastened with any liability in terms of interest, by issuing a show cause cum demand notice in respect of a period, for which the Petitioner has already discharged such tax liability.

5. The facts relevant for the purpose of adjudication of the petition are set out below:-

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Factual Matrix:

6. The Petitioner is a private limited company *inter alia* engaged in providing advisory services. It is registered as service provider under the Finance Act, 1994.

7. An audit was conducted into the Petitioner's financial affair and records for the period 2013-2014 to 2017-2018.

8. An email dated 22 March 2019 was addressed by the fourth Respondent to the Petitioner intimating the Petitioner about certain discrepancy which were observed during the audit proceedings. Pursuant thereto, the Petitioner made payments of Rs.25,294/- and Rs. 24,738/- in light of the audit findings.

9. It was on 5 July 2019 that the Government proposed the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 ("**SVLDRS**" for short). It was notified on 21 August 2019 vide notification No. 4 of 2019 and was to come into effect from 1 September 2019 under the Finance Act, 2019.

10. Pursuant to the above, the Petitioner on 14 December 2019 filed an electronic declaration on the website of Central Board of Excise and Customs (CBEC) under the SVLDRS. This was done under the Arrears category and the Petitioner declared an amount of Rs.21,03,943/- as the tax dues. The Petitioner claims that there was an inadvertent error while filing the above application.

11. The Petitioner was eligible to file such declaration under the "enquiry, investigation or audit" category for an amount of Rs.41,91,121/-. Such amount was duly quantified by third Respondent much before 30 June 2019 as provided under Section 125(1)(e) of the Finance Act, to enable the Petitioner to the

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entitled and eligible for benefits under the SVLDRS.

12. The Petitioner filed an application Form SVLDRS-3 under Section 128 of the Finance Act, 2019 allowing the third Respondent to rectify the clerical errors. The Petitioner made payment of Rs.8,41,577.20/- as the amount quantified under the SVLDRS.

13. The third Respondent issued Form SVLDRS-4 i.e. Discharge Certificate dated 22 February 2020 on receipt of the above stated payment, certifying the full and final settlement of tax dues as per Form SVLDRS-3.

14. The fifth Respondent on 16 March 2021 issued the first show cause notice calling upon the Petitioner to pay interest on delayed payment of service tax of Rs.50,032/- (Rs.25,294/- and Rs.24,738) for the financial year 2014-2015 to 2015-2016.

15. The Petitioner by letter dated 21 December 2020 replied to the aforesaid show cause notice stating that it is not sustainable, mainly on the ground that the demand was made against the period, for which the liability of the Petitioner was already discharged.

16. The Petitioner by a letter dated 28 September 2021 responded to the summons dated 28 September 2021 issued by the sixth Respondent. The Petitioner once again clarified that after paying the additional amount of Rs.8,41,577.20/- in pursuance of the amount determined in Form SVLDRS-3 there is no pending liability towards interest. It is only discharge of liability as per Form SVLDRS-3 that the Petitioner was issued Form SVLDRS-4 that is the final Discharge Certificate, after which there is no pending

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liability of the Petitioner towards tax dues and/or interest.

17. In June 2022, the sixth Respondent issued another show cause notice calling upon the Petitioner to pay interest on non-payment of interest on delayed payment of service tax of Rs.20,87,178/- for the period April 2016 to June 2017. The Petitioner responded to the said show cause notice by its letter dated 28 September 2021 reiterating that the same are arbitrary, without jurisdiction and contrary to law.

18. The Petitioner being aggrieved by the show cause notices and the demand of interest mounted therein, filed the present Petition on 1 November 2022, assailing the impugned action of the Respondents.

Rival Contentions.

Case of the Petitioner:-

19. Mr. Raichandani at the outset would submit that with a view to put an end to the pending dispute raised by the Department vide observation dated 22 March 2019, the Petitioner decided to apply under the SVLDRS, under the Finance Act, 2019. Accordingly, the Petitioner filed its declaration in terms of the audit observations and queries raised. The Petitioner disclosed the tax dues i.e. Rs.21,03,943/- and paid 40% on the same to avail the benefit under the Scheme. This position as Mr. Raichandani would submit is undisputed.

20. Mr Raichandani would then submit that on receipt of the above payment the third Respondent issued a Form SVLDRS-4 i.e. Discharge Certificate on 22 February 2020. The third Respondent thus certified the receipt of payment from the Petitioner towards

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full and final settlement of tax dues as determined and quantified in Form SVLDRS-3. The Petitioner was thus discharged from paying any further duty, interest or penalty in respect of the communication from the fourth Respondent dated 22 March 2019.

21. Mr. Raichandani would contend that the issuance of the Discharge Certificate should have been the end of the matter. However, the Respondents to the complete shock and surprise of the Petitioner issued two show-cause notices dated 16 March 2021 followed by another dated June 2022. The Petitioner was called upon to pay interest of delayed payment of service tax of Rs.20,87,178/- for the period from April 2016 to June 2017. Mr. Raichandani would contend that such show-cause notices issued after the Discharge Certificate dated 22 February 2020 are completely without authority in law and without jurisdiction.

22. Mr Raichandani would emphatically reiterate that once Discharge Certificate has been issued by third Respondent towards full and final settlement of the tax dues as determined in Form SVLDRS-3 there could have been no further proceedings initiated by the Respondents. For such reason the action of the Respondents to issue show-cause notices and demand further interest of delayed payment is completely high-handed, contrary to the provisions of the Finance Act, 2019 and legally unsustainable.

23. Mr. Raichandani would contend that the total tax dues (disputed tax amount quantified as per audit observation) amounted to Rs.42,41,153/-, qua the Petitioner. Accordingly, the Petitioner would have been liable to pay 30% of the tax dues i.e. Rs.12,72,346/- to avail the benefit under the Scheme. Admittedly,

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the Petitioner had already paid/deposited Rs.21,37,210/- before the cut-off date of 30 June 2019 stipulated under Section 124(1)(a) of the Finance Act, 2019. Thus, the Petitioner was entitled to avail the deduction of the said amount duly deposited in terms of Section 124(2) of the SVLDRS 2019. Hence, no amount was payable under the Scheme to avail the benefit thereof.

24. Mr. Raichandani would contend that as noted in the Form SVLDRS-3 the Petitioner made an additional payment of Rs.8,41,577.20/-. Such additional amount should have been ordinarily refunded to the Petitioner as the Petitioner has fully discharged its tax liability towards the Respondents. Thus, the Respondents cannot enrich themselves at the cost of an inadvertent error made by the Petitioner by entering the details under the SVLDRS in the Arrears category instead of enquiry, investigation or audit category.

25. He would submit that Section 128 of the Finance Act, 2019 allows the third Respondent to suo moto rectify such clerical error which was evident on the face of the record which ordinarily should have been done by the third Respondent. Therefore, the declaration made by the Petitioner ought to have been considered as declaration under the audit category for availing the benefit under the SVLDRS and demand of Rs.8,41,577.20 ought to have been refunded to the Petitioner.

26. Mr. Raichandani to buttress his submission that the SVLDRS was introduced with an intention to clear all pending disputes relies on the decision of a coordinate Bench of this Court in ***Thought Blurb vs. Union of India and Ors***.[1] and ***Capgemini***

[1] 2020 SCC OnLine Bom 1909

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Technology Services India Ltd. vs. Union of India[2]. He would thus submit that the disregarding such clear intention of the SVLDRS as noted in the said decisions, the demand of interest and penalty on alleged belated payment of service tax is contrary to law.

27. Mr. Raichandani has further relied on the decisions of a coordinate Bench of this Court in ***Delight Fortune Pvt. Ltd. vs. Union of India***[3], where this Court held that issuance of notice for demand of interest and penalty is violative of Section 129 of the Finance Act 2019. So also, the Delhi High Court in the case of ***Bhawna Malhotra vs. Union of India and Ors.***[4] is relied upon. There the Court held that even if there is an error or mistake apparent on record made by a declarant in filing the SVLDRS application, it would still fall within the scope of Section 128 of the Finance Act, 2019 and the resultant benefit under the Scheme cannot be denied to the Assessee.

Case of the Respondents:-

28. Mr Subir Kumar, learned counsel for the Respondents would on the other hand refute the submissions made, arguments advanced and case put forth by the Petitioner, emphatically. He would at the outset refer to the affidavit-in-reply filed by Mr. Ajay Anand Arya, Deputy Commissioner, CGST and Central Excise Division dated 21 January 2023 and would adopt the averments made in the said reply affidavit. Mr. Subir Kumar has raised a preliminary objection. He would submit that the Petitioner had filed its declaration under SVLDRS on 14 December 2019 and

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Discharge Certificate was issued by the Respondents on 22 February 2020. However, the Petition is filed in the year 2022 against the demand notices dated 18 November 2020 followed by another dated 6 January 2021. Thus, the Petition suffers from delay and latches and ought to be dismissed on this ground alone.

29. Mr Subir Kumar would next submit that the Petitioner has filed the present Petition on a complete erroneous and misplaced understanding of the SVLDRS 2019. The Scheme proceeds on the basis that when an Assessee disputes the quantified amount during the audit, it does not apply to cases where the taxpayer accepts the amount quantified during the audit or enquiry. Thus, according to him, the contention of the Petitioner with regard to the applicability of the Scheme is misconstrued.

30. According to Mr. Subir Kumar, any amount paid by the Petitioner after having accepted the quantification pursuant to the audit cannot be subjected to any benefit under the SVLDRS 2019. Therefore, the payment made by the Petitioner for the sum of Rs.21,37,210/- can never be subject to the SVLDRS 2019.

31. According to Mr. Subir Kumar, the Petitioner has chosen not to file any Appeal or protest against quantification and determination of the amount of Rs.41,91,121/- and the Petitioner of its own instance took benefit under the SVLDRS Scheme 2019 not only that but the Petitioner also choose to file under the Arrears category for the balance of Rs.21,03,943/- in respect of which the Discharge Certificate dated 20 February 2020 was issued and the Petitioner by the third Respondent.

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32. Mr Subir Kumar would contend that the Petitioner has not paid any amount as deposited during the enquiry, investigation or audit which would be applicable to the Petitioner. However, the amount of Rs.21,37,210/- was paid as part-payment against the total expected liability of Rs.41,91,121/- plus interest. In view thereof, the Petitioner's reliance of Section 124(2) of the Finance Act, 2019 is not just and misconstrued but misplaced.

33. According to Mr. Subir Kumar in the instant case, there was no challenge made to the audit conduct on the Petitioner and it is the Petitioner who choose not to file any Appeal or claim refund for the voluntary payment. Therefore, the Petitioner cannot blow hot and cold and take a contrary stand to agitate that the Petitioner inadvertently for the applications under the wrong category with incorrect amount. Such stand of the Petitioner cannot be accepted.

34. Mr. Subir Kumar would contend that the show-cause notices issued to the Petitioner pertain to an amount which were belatedly paid prior to taking benefit under the SVLDRS 2019. The Respondent was therefore justified in issuing the said show-cause notice which was issued within the statutory framework and four corners of law.

35. Mr. Subir Kumar would contend that the Discharge Certificate is not for the tax liability already accepted and discharged. It is not for the amount already paid before the introduction of the SVLDRS 2019. Thus, the Respondents have committed no error much less any illegality in issuing the said show-cause notices.

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36. Mr. Subir Kumar would submit that the decisions cited in the case of ***Thought Blurb*** (supra), ***Bhawna Malhotra*** (supra) ***and Delight Fortune Pvt. Ltd.*** (supra) cited by the Petitioner in the Petition are completely inapplicable in the given facts and therefore, are of no assistance to the Petitioner.

37. Mr. Subir Kumar, in the context of his submissions urge that the Petition is devoid of merit and ought to be dismissed by this Court.

Rejoinder Submissions:-

38. Mr. Raichandani in his rejoinder submission has relied upon on the affidavit in rejoinder filed to the Respondent's reply dated February 2023. He has adopted the averments made in the said rejoinder.

39. Mr. Raichandani would in rejoinder contend that the preliminary objection raised by the Revenue in this case is completely misplaced. In such cases, the doctrine of latches cannot be invoked to dismiss just and legal claims of the Petitioner. This is particularly when the Revenue/Respondents have illegally reopened the matter despite issuance of the Discharge Certificate resulting in closure of the proceedings.

40. He would then rely on the Circular No.1072/05/2019/CX dt. 25 September 2019 to indicate that the Petitioner was only required to show the outstanding amount of tax due i.e. Rs.21,37,210/- and accordingly, the said declaration was filed, in conformity with the said Scheme and provisions of the Finance Act, 2019.

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41. In light of the submissions above, Mr. Raichandani would urge that the Petition be allowed.

Analysis:-

42. On a careful perusal of the record and proceeding, we find the Petitioner filed Form SVLDRS-1 on 14 December 2019. The Petitioner declared a sum of Rs.21,03,943/- as amount of tax dues referring the said audit objection dated 22 March 2019 raised by Superintendent, CGST (Audit-II) Mumbai. The entire tax amount in the said communication was determined and quantified at Rs.41,91,121/-. At this juncture, it is pertinent to note that such quantification/determination was done prior to the cut-off date of 30 June 2019, as stipulated under Section 125(1)(e) of the Finance Act, 2019. Thus, the Petitioner was eligible to file such declaration claiming for the tax benefit under the SVLDRS.

43. We advert to Section 124 of the Finance Act, 2019 which reads thus:-

> *"**124.** (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) 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) rupees fifty lakhs or less, then, seventy per cent. of the tax dues;*
>
> *(ii) more than rupees fifty lakhs, then, fifty per cent. of the tax dues;*
>
> *(b) where the tax dues are relatable to a show cause notice for late fee or penalty only, and the amount of duty in the said notice has been paid or is nil, then, the entire amount of late fee or penalty;*
>
> *(c) where the tax dues are relatable to an amount in*

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arrears and,—

(i) the amount of duty is, rupees fifty lakhs or less, then, sixty per cent. of the tax dues;

(ii) the amount of duty is more than rupees fifty lakhs, then, forty per cent. of the tax dues;

(iii) in a return under the indirect tax enactment, wherein the declarant has indicated an amount of duty as payable but not paid it and the duty amount indicated is,—

(A) rupees fifty lakhs or less, then, sixty per cent. of the tax dues;

(B) amount indicated is more than rupees fifty lakhs, then, forty per cent. of the tax dues;

(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 per cent. of the tax dues;

(ii) more than rupees fifty lakhs, then, fifty per cent. of the tax dues;

(e) where the tax dues are payable on account of a voluntary disclosure by the declarant, then, no relief shall be available with respect to tax dues.

(2) 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:

Provided that if the amount of predeposit or deposit already paid by the declarant exceeds the amount payable by the declarant, as indicated in the statement issued by the designated committee, the declarant shall not be entitled to any refund."

Juxtaposing the above statutory mandate to the facts of the given case, it is clear that as the amount of tax dues against the

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declarant were quantified before 30 June 2019, the Petitioner becomes eligible under the SVLDRS, when the dues are linked to an enquiry, investigation or audit.

44. At this juncture, we may observe that the tax liability of the Petitioner under audit was determined by the Respondents on 22 March 2019. Thus, the Petitioner was entitled for deduction of the amount deposited/paid under Section 124(2) of the Finance Act, 2019 under which the SVLDRS was promulgated.

45. Pursuant to the above, the application of the Petitioner was accepted and the Petitioner was required to pay Rs.8,41,577.20/- to avail the benefit under the said Scheme. Form SVLDRS-3 was issued to the Petitioner on 6 January 2020 evidencing payment of the said amount by the Petitioner. It is on complying with such requirement that Form SVLDRS-4 i.e. Discharge Certificate was issued by the third Respondent on 22 February 2020.

46. We may observe that Section 129 of the Finance Act provides for the issuance of the Discharge Certificate to be conclusive of the matter and the time period, which reads thus:-

> "*129. (1) Every discharge certificate issued under section 126 with respect to the amount payable under this Scheme shall be conclusive as to the matter and time period stated therein, and-*
>
> ***(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.***

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> *(2) Notwithstanding anything contained in sub-section (1),-*
>
> *(a) no person being a party in appeal, application, revision or reference shall contend that the central excise officer has acquiesced in the decision on the disputed issue by issuing the discharge certificate under this scheme:*
>
> *(b) the issue of the discharge certificate with respect to a matter for a time period shall not preclude the issue of a show cause notice.-*
>
> *(i) for the same matter for a subsequent time period; or*
>
> *(ii) for a different matter for the same time period;*
>
> *(c) in a case of voluntary disclosure where any material particular furnished in the declaration is subsequently found to be false, within a period of one year of issue of the discharge certificate, it shall be presumed as if the declaration was never made and proceedings under the applicable indirect tax enactment shall be instituted.*"

A bare perusal of the above indicates that the issuance of such Discharge Certificate is not just conclusive of the amount but also of the full and final settlement of tax dues, once the same is issued.

47. We find that despite issuance of the Discharge Certificate dated 22 February 2020 the Respondents demanded interest and penalty vide letter dated 18 November 2020. In the said communication the pending amount was stated to be Rs.20,87,178/-, whereas, interest of Rs.7,62,836/-. The Respondents not stopping here further issues show-cause notices dated 16 March 2021 and June 2022, *inter-alia*, calling upon the Petitioner to pay interest on delayed payment of service tax of Rs.20,87,178/- for the period April 2016 to June 2017.

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48. The Petitioner filed a detailed reply to the said show-cause notices, which is on record, which appears to have been overlooked by the Respondents. In fact, as a last straw on the camel's back, the Respondents have raised demands of interest on alleged delayed payments contrary to the provisions of Sections 124, 126 and 129 of the Finance Act, 2019. This is not a case where the Respondents allege any falsity, misstatement, mis-declaration, suppression or the like in the voluntary disclosure made in the declaration filed by the Petitioner, under the SVLDRS. In such situation, when a discharge certificate for the settlement of all tax dues has been issued, the demands raised by the show cause notices issued would be *ex facie* contrary to law.

49. We find much substance in the submissions of Mr. Raichandani. He has rightly submitted that had the Petitioner opted under the audit category for the entire amount quantified at Rs.41,91,121/- that too, much before the cut-off date of 30 June 2019 under the Finance Act, the Petitioner would have been liable to pay only 30% of the tax dues i.e. about Rs.12,72,346/- to avail the benefits under the said Scheme. Admittedly, the Petitioner had already deposited a sum of Rs.21,37,210/- before the statutory cut-off date of 30 June 2019. This is in conformity with Section 124(d) of the Finance Act, 2019.

50. Mr. Raichandani is justified in submitting that in light of such clear statutory provisions under the Finance Act, 2019, the Petitioner could not have been foisted with payment of any further amount to avail the benefit under the said Scheme. The record in these proceedings bears out that even after issuance of Form SVLDRS-3 on 6 January 2020 the Petitioner further deposited a

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sum of Rs.8,41,577.20/- which once again is not controverted by the Respondents.

51. Given the factual matrix, we are not able to accede to the submissions of Mr Subir Kumar who would contend that the Petitioner has not challenged the audit observations and amounts determined by the fourth Respondent and neither has chosen to file any appeal or claim refund for the voluntary payment. Such stand of the Respondent is misconstrued for reasons more than one.

52. The Petitioner, in the first place, being eligible under Section 124 of the Finance Act, 2019, had correctly filed declaration under Section 125 of the Finance Act, 2019 and none of the exceptions stipulated thereunder are applicable to the case of the Petitioner. Merely because the Petitioner had incorrectly filed its declaration under arrears category and not under audit, enquiry, investigation category would not deprive the Petitioner to claim relief which is available to the Petitioner eligible under the statutory framework of the Finance Act, 2019. So also, under the said Scheme the benefit available to the Petitioner was only to the extent as prescribed under Section 124 of the said Act.

53. Even going by the case of the Respondent, where the total amount of Rs.42,41,153/- quantified/determined as far back as in 22 March 2019 i.e. much before the statutory cut-off date of 30 June 2019, the Petitioner had paid more than 50% of the said sum payable under the said Scheme. Moreover, a conclusive Discharge Certificate dated 22 February 2020 for the said period was also issued by the third Respondent to the Petitioner. The contention of

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the Respondents that the show-cause notices were issued pertain to an amount which were belatedly paid prior to taking benefit under the SVLDRS, for the reasons set out above fail to persuade, much less convince us.

54. For the reasons discussed above, in our view, the demand of interest and penalty by issuance of show-cause notices dated 16 March 2021, June 2022 are *ex-facie* contrary to the Finance Act, 2019, and without authority in law. Needless to state that the actions of the Respondents ought to be within the conspectus and realm of Article 265 of the Constitution, which is the *sine qua non* for imposition of any tax.

55. We are not impressed with the preliminary objection taken by the Respondents in their affidavit-in-reply on the basis that the Petition is barred by delay and latches and ought to be dismissed on such ground alone. In this context, we find it apposite to note the statement of objects and reasons of the said SVLDRS which reads thus:-

> *"The scheme is a one time measure for liquidation of past disputes of central excise and service tax as well as to ensure disclosure of unpaid taxes by a person eligible to make a declaration. The scheme shall be enforced by the Central Government from a date to be notified. It provides that eligible persons shall declare the tax due and pay the same in accordance with the provisions of the scheme. It further provides for certain immunities including penalty, interest or any other proceedings under the Central Excise Act, 1944 or Chapter V of the Finance Act, 1994 to those persons who pay the declared tax dues."*

56. Considering the above, it becomes clear that the said Scheme having statutory force and backing under the Finance Act, 2019 gives an opportunity to assesse's like Petitioner to come

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forward and pay their tax dues and draw a closure to the long pending litigation. In such backdrop, we cannot non-suit a *bonafide* assessee like the present Petitioner merely on such plea of the Respondent which even otherwise, in the given facts, is not applicable.

57. The chronology of the events as noted (**supra**) clearly demonstrate that the Petitioner was *bonafide* pursuing the proceedings with the Respondents right from a time when the audit objections were raised on 22 March 2019. It would be a travesty of justice to shut the doors on the Petitioner in the given case when the Respondents themselves have issued a Discharge Certificate to the Petitioner indicating final settlement and a quietus to any further litigation.

58. We now advert to the decisions relied upon by Mr. Raichandani in ***Thought Blurb*** (supra) and ***Capgemini Technology Services India Ltd.*** (supra). In this context the coordinate Bench of this Court has gainfully referred to the statement of objects and reason behind the said scheme. It is observed that the scheme conceived as a one time measure as the twin objective of liquidation of past dues pertaining to Central Excise and Service Tax on one hand and disclosure of unpaid taxes on the other. Both are equally important; amicable resolution of tax dispute and interest of revenue. As an incentive, those making declaration and paying the declared tax in terms of the Scheme would be entitled to certain benefits in form of waiver of interest, fine, penalty and even immunity from prosecution, in certain cases. Thus, insistence by the Respondents, of demanding interest and penalty on the

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alleged belated payment of service tax would run contrary to the said decisions.

59. We have also perused and considered the decision of coordinate Bench of this Court in ***Delight Fortune Pvt. Ltd.*** (supra) and that of the Delhi High Court in ***Bhawna Malhotra*** (supra). The view taken by the Courts in these decisions stand for the proposition that issuance of a notice for demand of interest and penalty is violative of Section 129 of the Finance Act, 2019 (supra). The Delhi High Court in ***Bhawna Malhotra*** (supra) has held that even if there is an error or mistake apparent on record made by the declarant in filing the SVLDRS Application, it would still fall within the scope and ambit of Section 128 of the Finance Act, 2019 and consequently the benefit ought to be granted to the Assessee/Petitioner.

60. In light of the above discussion, we are not persuaded by the bald averment made in the affidavit-in-reply of the Respondents that these judgments are not applicable to the given facts. The Circular No.1072/05/2019-CX dated 25 September 2019 relied upon by the Petitioner in their rejoinder affidavit is in line with the judgments discussed (supra) and ought to be interpreted accordingly.

61. It would be apposite to advert to a recent decision of our Court in ***M/s. Unique Enterprises Vs. Union of India***[5] where this Court observed that the stand taken by the Respondents, *inter alia*, under Section 124 of the Finance Act contextually does not stand to reason. Such interpretation of the statutory provisions and the

[5] Writ Petition No.2343 of 2021 dated 2 December 2025

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said Scheme if accepted would render it unworkable and vulnerable to misuse. We cannot countenance such situation.

62. Before parting, we may observe that such Schemes as the SVLDRS are floated by the Government to strike a balance between amicable resolution of tax disputes and protecting revenue interest. This is vital in contemporary times. Such Schemes encourage *bonafide* Assessees to disclose unpaid taxes and bring a closure to the past disputes which ultimately result in a win-win situation for the stakeholders as also for the nation's economy. We are confident that the Government/executive would enforce such Schemes in accordance with law and under the applicable statutory framework. The authorities concerned would bear in mind its avowed object and purpose and ensure its smooth implementation, without unnecessary hurdles/bottlenecks and unwarranted technicalities. This would be a step forward in facilitating the vision of ease of doing business in India. We conclude with this optimistic solemn hope.

Conclusion:-

63. For all the above reasons, we are inclined to allow the Petition by making the Rule Absolute in terms of prayer clauses (a) and (e). We set aside the show cause notices dated 16 March 2021 (Exh.-A1) and June 2022 (Exh.-A2) and direct the Respondents to forthwith consider the declaration of the Petitioner dated 14 December 2019 under investigation category in terms of Section 128 of the Finance Act, 2019 and accordingly the grant of Rs.8,41,577.20/- made by the Petitioner to avail benefit under the said Scheme. Such exercise should be completed as expeditiously

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as possible, in any event not later than four weeks from the date of uploading of this order. We hold accordingly.

64. All parties to act upon an authenticated copy of this order.

(Advait M. Sethna, J) **(M.S. Sonak, J)**

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