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W.P.No.7875 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.7875 of 2022
and W.M.P.No.7875 of 2022

M/s.Sir Gujan Builder
Represented by its Partner S.Kumar
No.2/1A, Thopilnagar, Navavoorpirivu
Telungapalayam, Coimbatore-641 046.

.... Petitioner

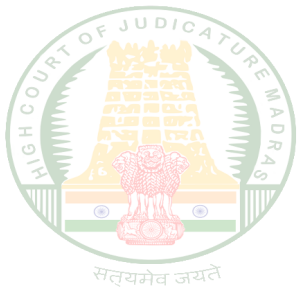
-Vs-

1.The Designated Committee
Sabka Vishwas Legacy Dispute Resolution
Scheme 2019, Coimbatore III Commissionerate
Coimbatore.

2.The Deputy Commissioner
Coimbatore Audit Circle II
Office of Deputy Commissioner of GST and
Central Excise, Rakavis Towers, 1065
Trichy Road, Ramanathapuram
Coimbatore 641 045.

.... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records relating to the show cause notice issued by the 2nd respondent bearing No.SCN No.31/2019 dated 26.11.2019 and quash the same and consequently direct the 1st respondent to issue a discharge certificate in form SVLDRS-4 for I.D.2412190000601 dated 24.12.2019 as the requisite liability of more than 50 per cent of the tax dues as per the said scheme has already been paid by the petitioner and quash the same.



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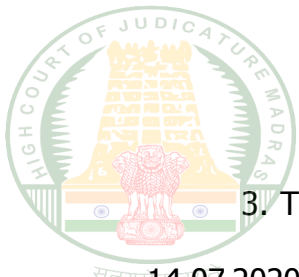
For Petitioner : Mr.G.Natarajan

For Respondents : Mrs.Hema Muralikrishnan
Senior Standing Counsel

ORDER

The prayer sought for herein is for a Writ of Certiorarified Mandamus calling for the records relating to the show cause notice issued by the 2nd respondent bearing No.SCN No.31/2019 dated 26.11.2019 and quash the same and consequently direct the 1st respondent to issue a discharge certificate in form SVLDRS-4 for I.D.2412190000601 dated 24.12.2019 as the requisite liability of more than 50 per cent of the tax dues as per the said scheme has already been paid by the petitioner and quash the same.

2. The petitioner, in respect of the due payable by way of service tax, opted to avail the Sabka Vishwas Scheme, 2019 where Form-1 was made pursuant to which Form-2 has been issued and based on which the amount determined has been paid and though the amount determined has been paid, the earlier e-communication suggested that still a sum of Rs.37,89,582/- has to be paid. When that was clarified by the petitioner, ultimately the amount payable by the petitioner has become NIL and this has also been disclosed by the Designated Committee under the Scheme.



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3. Therefore, when all these proceedings have been completed as early as on 14.07.2020, the only issue left is to issue Discharge Certificate under Form-4. When this was asked for by the petitioner by a request dated 07.02.2022, the same has been rejected by the Designated Committee by order dated 22.02.2022 in the following terms.

“ Kind reference invited to your letter dated 07.02.2022 on above subject wherein you had requested for issue of Discharge Certificate (SVLDRS 4).

The SVLDRS 4 was not issued by the Designated Committee at that point of time. Since there is no provision to manually process it now, your request to issue discharge certificate cannot be acceded to. Moreover, the only situation where manual processing is possible as per Board Instruction No.01/2021-CX dated 17.03.2021 covers only those cases where the High Court has decided the case in favour of the declarant and remanded the matter back to the concerned Designated Committee for fresh decision. Hence your request for issue of discharge certificate now is rejected.”

4. In view of the delay in giving the Discharge Certificate in Form-4 because of the said denial letter dated 22.02.2022, the Revenue has issued a show cause notice dated 26.11.2019 and that show cause notice is still pending. Therefore, challenging the earlier show cause notice dated 26.11.2019 and the present rejection order dated 22.02.2022 this writ petition has been filed.

5. Heard Mr.G.Natarajan, learned counsel appearing for the petitioner who



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would submit that, the entire amount as determined has been paid and the payment has been shown as NIL and in this regard the document taken from the website of the Sabka Vishwas Designated Committee dated 14.10.2020 itself has been filed before this Court and thereafter when a request has been made by the petitioner to issue Discharge Certificate in Form-4, the same has been rejected on the peculiar reason stating that manually it cannot be processed and a court order has to be obtained.

6. Mrs.Hema Muralikrishnan, learned Senior Standing Counsel appearing on behalf of the respondents, though made some attempt to sustain the order of rejection dated 22.02.2022, I am not impressed with the same because, the reason cited by the respondent through the order dated 22.02.2022 that, manual process can be undertaken only pursuant to the order passed in this regard by the court of Law. The said reason cited by the respondents which is impugned herein dated 22.02.2022 is totally unsustainable as it is an internal issue of the Designated Committee under the Scheme to go for an alternative mechanism to do it either manually or otherwise. Therefore, for such process, they need not wait for an order from this Court.

7. Nevertheless, since the order dated 22.02.2022 has been passed citing the said reason, which is under challenge in this writ petition, this Court has necessarily



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to show its indulgence and accordingly this Court is inclined to dispose of this writ

petition with the following order.

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- That the impugned order dated 22.02.2022 is set aside and a direction is given to the Designated Committee to manually process the request of the petitioner dated 07.02.2022 and issue a Discharge Certificate and needful as indicated above shall be undertaken within four weeks from the date of receipt of a copy of this order.
- As a sequel, the show cause notice issued by the Revenue dated 26.11.2019 also is liable to be set aside and it is accordingly set aside.

8. With the above directions, this writ petition is disposed of. No costs.

Consequently, connected miscellaneous petition is closed.

01.04.2022

Index : Yes/No
Internet : Yes/No
KST

To

- 1.The Designated Committee, Sabka Vishwas Legacy Dispute Resolution Scheme 2019, Coimbatore III Commissionerate, Coimbatore.
- 2.The Deputy Commissioner, Coimbatore Audit Circle II
Office of Deputy Commissioner of GST and Central Excise,
Rakavis Towers, 1065,Trichy Road, Ramanathapuram, Coimbatore 641 045.



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R. SURESH KUMAR, J.

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