



W.P.Nos.11785, 12957 of 2020
& W.P.Nos.3320 & 3322 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved On	15.09.2022
Pronounced On	30.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
and
THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.11785, 12957 of 2020
& W.P.Nos.3320 & 3322 of 2022
and
W.M.P.Nos.16034/2020 & 3453/2022

W.P.No.11785 of 2020

M/s.Win Power Engineering (P) Ltd.,
Represented by its Director
T.K.Kumar

... Petitioner

vs.

1.The Designated Committee
Sabka Vishwas Legacy Disputes Resolution
Scheme, 2019
(Commissioner of GST & Central Excise &
Joint Commissioner of GST & Central Excise)
Chennai Outer Commissionerate,
Newry Towers,
2054-I, II Avenue, Anna Nagar West,
Chennai 600 040.



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& W.P.Nos.3320 & 3322 of 2022

2. The Commissioner of Central Taxes and Central Excise,
Chennai Outer Commissionerate,
Newry Towers 2054-I, IInd Avenue,
Anna Nagar West, Chennai 600 040.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus calling for the records leading to the issue of impugned order of rejection of SVLDRS declaration filed vide ARN No.130120003572 dated 13.01.2020 by the respondent and to quash the same and consequently direct the respondent to accept the said declaration in ARN No.1301200003572 dated 13.01.2020 and process for issue of Discharge Certificate in SVLDRS Form 4 as the requisite liability of more than 50% of the tax dues as per the said scheme has already been paid by the petitioner.

For Appellant : Mr.G.Natarajan

For R2 : Mr.A.P.Sreenivas
Senior Standing Counsel
Assisted by Mr.H.Siddarth
Junior Standing Counsel

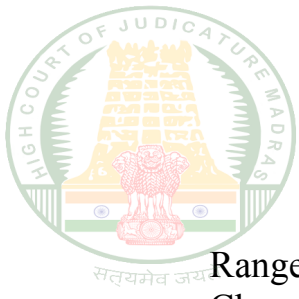
W.P.No.12957 of 2020

M/s.True Value Homes India Pvt.Ltd.,
Represented by its Managing Director & Chairman
N.Ravichandran

... Petitioner

vs.

The Designated Committee
Sabka Vishwas (Legacy Disputes Resolution) Scheme,
Chennai North Commissionerate,



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& W.P.Nos.3320 & 3322 of 2022

Range IV, Nungambakkam,
Chennai 600 034.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus calling for the records pertaining to the impugned rejection order passed by the Respondent in respect of application No.LD3112190017424 dated 31.12.2019 filed by the petitioner under the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 and quash the same and further direct the respondent to accept the said application No.LD3112190017424 dated 31.12.2019 and issue a discharge certificate in Form SVLDRS-4 in terms of Rule 9 of Sabka Vishwas (Legacy Dispute Resolution) Scheme Rules, 2019.

For Appellant : Mr.Vijay Narayanan
Senior counsel
Assisted by Mr.Abishek Jenasenan

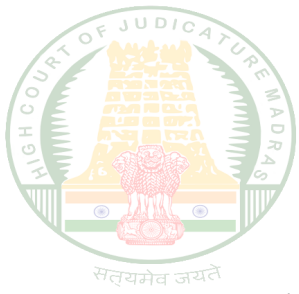
For R2 : Mr.Rajinish Pathiyil
SPC

W.P.No.3320 of 2022

M/s.True Value Homes India Pvt.Ltd.,
Represented by its Managing Director & Chairman
N.Ravichandran

... Petitioner

vs.



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& W.P.Nos.3320 & 3322 of 2022

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1. Union of India
Represented by its Secretary,
Department of Revenue,
Ministry of Finance,
North Block, New Delhi.
 2. The Principal Additional Director General,
Directorate General of Goods and Service
Tax Intelligence
Chennai Zonal Unit,
8th Floor, Tower-II, BSNL Building,
No.16, Greams Road,
Chennai 600 006.
 3. The Additional Director General(Adjudication)
Directorate General of Goods
and Service Tax Intelligence,
Mumbai Zonal Unit,
3rd Floor, N.M.Barg, Ballard Estate,
Fort, Mumbai 400 001.
- ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorari calling for the records pertaining to impugned Show Cause Notice bearing SCN.No.47 of 2020 in F.No.INV/DGCEI/CHZU/ST/150/2016/7110 dated 25.09.2020 issued by the 2nd respondent and quash the same.

For Appellant : Mr.Vijay Narayanan
Senior counsel
Assisted by Mr.Abishek Jenasenan



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W.P.Nos.11785, 12957 of 2020
& W.P.Nos.3320 & 3322 of 2022

For R2 & R3 : Mr.Rajinish Pathiyil
SPC

W.P.No.3322 of 2022

M/s.True Value Homes India Pvt.Ltd.,
Represented by its Managing Director & Chairman
N.Ravichandran

... Petitioner

vs.

1.Union of India

Represented by its Secretary,
Department of Revenue,
Ministry of Finance,
North Block, New Delhi.

2. The Principal Additional Director General,
Directorate General of Goods and Service
Tax Intelligence
Chennai Zonal Unit,
8th Floor, Tower-II, BSNL Building,
No.16, Greams Road,
Chennai 600 006.

3.The Additional Director General(Adjudication)
Directorate General of Goods
and Service Tax Intelligence,
Mumbai Zonal Unit,
3rd Floor, N.M.Barg, Ballard Estate,
Fort, Mumbai 400 001.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of



W.P.Nos.11785, 12957 of 2020
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India, to issue a writ of Certiorari calling for the records relating to
Notification No.22/2014-Service Tax dated 16.09.2014 issued by the 1st
respondent and quash the same.

For Appellant : Mr.Vijay Narayanan
Senior counsel
Assisted by Mr.Abishek Jenasenan

For R2 & R3 : Mr.Rajinish Pathiyil
SPC

COMMON JUDGMENT

S.VAIDYANATHAN, J.

And

C.SARAVANAN, J.

By this common order, all these four (4) Writ Petitions are being disposed. W.P.No.11785 of 2020 has been filed by **M/s.Win Power Engineering (P) Ltd.**, represented by its Director Shri.T.K.Kumar.

2. W.P.No.12957 of 2020 and W.P.Nos.3320 & 3322 of 2022 have been filed by **M/s.True Value Homes India Pvt. Ltd.**, represented by its Managing Director and Chairman N.Ravichandran.

3. Issues involved in W.P.No.11785 of 2020 and W.P.No.12957 of



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& W.P.Nos.3320 & 3322 of 2022

2020 are identical. These two writ petitions have been filed by the

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respective petitioners for the following relief:-

W.P.No.11785 of 2020 (Win Power Engineering (P) Ltd.)	W.P.No.12957 of 2020 (True Value HomesIndiaPvt. Ltd.)
For issuance of a writ of Certiorarified Mandamus calling for the records leading to the issue of impugned order of rejection of SVLDRS declaration filed vide ARN No.1301200003572 dated 13.01.2020 and process for issuance of Discharge Certificate in SVLDRS Form 4 as the requisite liability of more than 50% of the tax dues as per the said Scheme has already been paid by the petitioner	Writ petition has been filed to issue a writ of Certiorarified Mandamus calling for the records pertaining to the impugned rejection order passed by the respondent in respect of application No.LD3112190017424 dated 31.12.2019 filed by the petitioner under the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 and quash the same and further direct the respondent to accept the said application No.LD311219007424 dated 31.12.2019 and issue a discharge certificate in Form SVLDRS-4 in terms of Rule 9 of Sabka Vishwas (Legacy Dispute Resolution) Scheme Rules, 2019.

4. Earlier, these two Writ Petitions were listed before a Court presided over by a Single Judge as per the roster. By an order dated 03.11.2020, W.P.No.10230 of 2020 etc. batch were directed to be listed along with these two Writ Petitions.

5. However, it transpires that W.P.No.10230 of 2020 etc. batch



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were disposed of by a learned Single Judge of this Court by an order dated 01.03.2021.

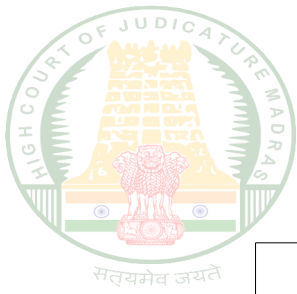
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6. Meanwhile, during the dependency of these two writ petitions, the petitioner in W.P.No. 12957 of 2020 has also received a Show Cause Notice under Section 73 of the Finance Act, 1994 after completion of investigation.

7. The petitioner in W.P.No.12957 of 2020 (**True Value Homes India Pvt. Ltd.**) thus filed W.P.Nos.3320 & 3322 of 2022 to challenge the Show Cause Notice and the notification under which the jurisdiction was assumed to issue the Show Cause Notice.

8. These writ petitions have been filed for the following reliefs:-

<i>W.P.No.3320 of 2022</i>	<i>W.P.No.3322 of 2022</i>
<i>For issuance of a Writ of Certiorari, to call for the records pertaining to the impugned Show Cause Notice dated 25.09.2020 bearing reference SCN No.47/2020 in F.No. INV/DGCEI/ CHZU/ ST/ 150/ 2016/ 7110 issued by the second respondent Principal Additional Director General, Directorate General of Goods and Service Tax Intelligence,</i>	<i>For issuance of a Writ of Certiorari, to call for the records relating to the Notification No.22/2014-Service Tax dated 16.09.2014 issued by first respondent Secretary, Department of Revenue, Ministry of Finance, Union of India and quash the same.</i>



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<i>W.P.No.3320 of 2022</i>	<i>W.P.No.3322 of 2022</i>
<i>Chennai Zonal Unit and quash the same.</i>	

9. By an order dated 23.02.2022, a learned Single Judge of this Court directed the Registry to list all these four writ petitions together for a common disposal.

10. Thereafter, the learned Single Bench has referred these four Writ Petitions to be listed before the Division Bench vide order dated 09.03.2022 in view of an apparently conflicting dictum of the Division Bench of this Court in **Vital Rao Jayaprakash Vs. The Designated Committee under the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 and others**, dated 23.02.2022 in W.A.No.2450 of 2021.

11. By the said decision, the Division Bench of this Court has confirmed the decision of the learned Single Judge of this court in W.P.No.12635 of 2020 and thus dismissed the appeal against order dated 17.09.2020 in the said Writ Petition.



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12. Pursuant to the same, a note was prepared and placed before the Hon'ble Chief Justice. The then Hon'ble Chief Justice vide Order dated 24.03.2022 ordered for grouping of these four Writ Petitions before a Division Bench for a final disposal. Thus, these cases are before us.

13. We have considered the arguments advanced by Mr.Vijay Narayanan, the learned Senior Counsel assisted by Mr.AbishekJenasenan, the learned counsel for the petitioner in W.P.Nos.12957 of 2020 and W.P.Nos.3320 & 3322 of 2022 and Mr.G.Natarajan, the learned counsel for the petitioner in W.P.No.11785 of 2020.

14. We have also considered the arguments advanced by Mr.A.P.Srinivas, the learned Senior Standing Counsel and Mr.H.Siddarth, Junior Standing Counsel (Customs and GST) for the second respondent in W.P.No.11785 of 2020 and Mr.Rajnish Pathiyil, the learned Senior Panel Counsel for the respondent in W.P.Nos.12957 of 2020 and for the first and second respondent in W.P.Nos.3320 & 3322 of 2022.

15. We have also considered the case laws/ decisions of the Courts



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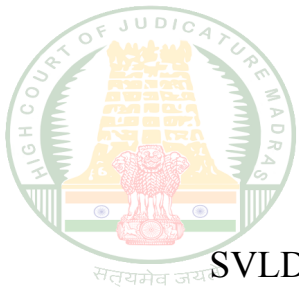
relied on in support of their respective contentions.

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16. The point for consideration in :-

- (i) W.P.No.11785 of 2020 is whether the case of the petitioner falls within the purview of the exception in Section 125(1)(e) of the SVLDRS, 2019 or not? If so, whether or not the petitioner was wrongly denied the benefit of SVLDRS, 2019? and
- (ii) W.P.No.12957 of 2020 is whether the case of the petitioner falls within the purview of the exception in Section 125(1)(e) or under Section 121(c)(iii) r/w Section 123(e) & 124(1)(iii)(A) of the SVLDRS, 2019? If so, whether or not the petitioner was wrongly denied the benefit of SVLDRS, 2019?

17. Before we proceed to answer the above issues, we shall first answers to reference. To answer the reference before us, it will be useful to refer the prayer in W.P.No.12635 of 2020 filed by the petitioner **Vital Rao Jayaprakash** against **The Designated Committee** under the



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SVLDRS, 2019 and the final decision of the learned Single Judge in

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W.P.No.12635 of 2020 vide order dated 17.09.2020. They read as

under:-

Prayer	Order
For issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining in Form SVLDRS-1 bearing ARN No. LD1401200001786 dated 14.01.2020 on the file of the First Respondent herein and to quash the entry made rejecting the Declaration on the grounds of ineligibility as illegal unconstitutional and consequently direct the First respondent to consider and accept the declaration filed by the petitioner against the Audit quantification of admitted duty to the tune of Rs.32 08 952/- as per the provisions of the Act and the Circulars issued by the department under the Scheme.	The impugned order is dated 14.01.2020 and the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 was itself in force only till 30.06.2020. The Writ petition has been filed on 08.09.2020 long after the closure of the scheme. This writ petition is hence not maintainable and, dismissed. Consequently, connected Miscellaneous Petitions are closed. No costs

18. As mentioned above, the above decision of the learned Single Judge was confirmed by the Division Bench in W.A.No.2450 of 2021 vide its order dated 23.02.2022. The Division Bench has examined the issue and concluded as follows:-

“ 11. On appreciation of the factual matrix of the case, this court finds that there are no merits



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in this writ appeal for the simple reason that on 28.05.2019, a search was conducted in the premises of the appellant, pursuant to which, the appellant submitted a letter dated 13.06.2019 admitting such investigation and produced certain documents in continuance of the same. When such being the case, the appeal is hit by the provisions of Clause 121(r) and 125 (1) (e) of the Scheme, thereby making himself ineligible to invoke section 127(2) of the scheme. The relevant clauses contained under the scheme are reproduced hereunder:-

"121. In this scheme, unless the context otherwise requires:-

(r) "quantified", with its cognate expression, means a written communication of the amount of duty payable under the indirect tax enactment"

125. (1) All persons shall be eligible to make a declaration under this Scheme except the following, namely

(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;

12. Thus, it is evident that for availing the benefits of the scheme, one of the conditions precedent is that the tax liability of the tax payer ought to have been quantified. Even though the appellant had submitted



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a letter dated 13.06.2019, much before the date of closure of the scheme, the fact remains that his tax liability has not been quantified and therefore he cannot avail the benefits of the scheme. In fact, the letter dated 13.06.2019 has been given by the appellant for the purpose of quantification of service tax liability in the ongoing investigation pending against him, which itself is a disqualification for the appellant to avail the benefits of the scheme. The appellant, in the letter dated 13.06.2019, did not claim the benefits of the scheme, but only requested the respondents to quantify the tax liability payable by him. The letter dated 13.06.2019 is self-explanatory and it reads as under:-

"In respect of undergoing investigation relating to the non-payment of service tax, the documents, as mentioned below is submitted herewith for quantification of service tax liability."

13. Thus, the letter dated 13.06.2019 would clearly indicate that the appellant furnished certain documents only for quantification of the service tax liability and there is no whisper that he intended to avail the benefits of the scheme. Secondly, the letter also indicates that as on 13.06.2019, the service tax liability of the appellant has not been quantified, which is one of the preconditions to avail the benefits of the scheme. Therefore, the rejection of the application of the appellant by the first respondent herein is proper.

14. Even otherwise, as rightly pointed out by the learned Judge, the writ petition itself was filed after the period specified under the scheme came to an end, while so, no direction could be issued to the



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respondents to entertain the application of the appellant under the scheme. In such view of the matter; we do not find any illegality in the order passed by the learned Judge dismissing the writ petition of the appellant.

15. In the result, we confirm the order dated 17.09.2020 passed by the learned Judge in W.P. No. 12635 of 2020 and consequently we dismiss this writ appeal. No costs. Connected miscellaneous petition is closed.”

19. It was in this background, by an order dated 09.03.2022 in these four writ petitions, a Single Judge made a reference to be answered by the Division Bench. The reason for making the reference is as follows:-

*“3. However, before taking up the cases for hearing, M/s.M.Sheela, learned Senior Panel Counsel for Central Government, appearing for the respondents has brought to the notice of this Court about the recent decision of the Hon'ble Division Bench of this Court made in **W.A.No.2450 of 2021 dated 23.02.2022** in the case of **VitalRao Jayaprakash Vs. The Designated Committee under the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 & others.***

4. By relying upon the said decision, the learned Senior Panel Counsel appearing for the respondents would submit that, even on maintainability of these writ petitions, the issue has been decided by the writ court, which has



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been confirmed by the Hon'ble Division Bench, where the stand taken was that, the Scheme itself was over by 30.06.2020, before which, if writ petition was filed for any reason, that could be entertainable. However, beyond 30.06.2020, if any writ petition is filed, that could be rejected as the same was filed beyond the scheme period, therefore, on that ground, the writ petition can be rejected. Accordingly, it was rejected by the writ court, which was confirmed by the Hon'ble Division Bench in the said order (cited supra), approving the said decision made by the writ court.

*5. In view of the same, by making these submissions, the learned Senior Panel Counsel appearing for the respondents relied upon the following dictum of the Hon'ble Division Bench in the case of **Vital Rao Jayaprakash Vs. The Designated Committee (cited supra)**, which is reproduced hereunder for quick reference:*

“14. Even otherwise, as rightly pointed out by the learned Judge, the writ petition itself was filed after the period specified under the scheme came to an end, while so, no direction could be issued to the respondents to entertain the application of the appellant under the scheme. In such view of the matter, we do not find any illegality in the order passed by the learned Judge dismissing the writ petition of the appellant.”

6. By citing the said decision of the Hon'ble Division Bench, since the learned Senior Panel Counsel raised the preliminary objections with regard to the maintainability of these writ petitions, which is stoutly opposed by the



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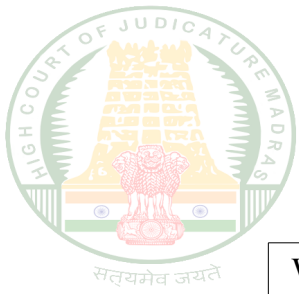
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learned counsel appearing for the petitioners/assesseees, I am of the view that, since there has been an order passed by the Hon'ble Division Bench, where, according to the learned counsel for the petitioners that the limitation extended by the Hon'ble Supreme Court of India by suo-moto writ petition with effect from 15.03.2020, which has been time and again extended up to recently with a rider of extension of further 90 days, has not been brought to the notice of the Hon'ble Division Bench, that issue since has not been taken into account before giving this view of the Hon'ble Division Bench, confirming the stand taken by the writ court in the said writ appeal, the issue can be re-agitated.

7. In order to resolve this controversy, I feel that the said issue now raised by both sides on the limitation as well as the maintainability of these writ petitions can best be resolved by the Hon'ble Division Bench. Hence, I am of the view that, this matter can be referred to the Hon'ble Division Bench for the said purpose.

8. Hence, I request the Registry to place the matter before the Hon'ble Chief Justice for taking an appropriate decision.”

20. The respective petitioners filed applications under SVLDRS, 2019 and the following two writ petitions on the below mentioned dates:-



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W.P.No.	Name	Date of application	Date of Filing of the respective Writ Petitions.
11785 of 2020	Win Power Engineering Pvt. Ltd.	09.11.2019	
		13.01.2020*	27.08.2020
12957 of 2020	True Value Homes Pvt. Ltd.	31.12.2019**	14.09.2020

(*On the same date applications were auto rejected in the system which have been impugned in these two writ petitions).

21. If order dated 17.09.2020 of the learned Single Judge in W.P.No.12635 of 2020 as affirmed by the Division Bench in **Vital Rao Jayaprakash Vs. The Designated Committee**, is to be accepted as the binding precedent, W.P.No.11785 of 2020 and W.P.No.12957 of 2020 are to be dismissed without further discussion.

22. We are however of the view, that the rejection of applications filed by the respective petitioners and communication of the same after the scheme has expired did not bar the respective petitioners from challenging the impugned orders rejecting their application under the SVLDRS,2019.



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23. If the benefit of SVLDRS, 2019 was otherwise available and wrongly denied to the respective petitioners, then, it cannot be denied to the respective petitioners notwithstanding the fact the period for which the scheme was to be in operation had expired. Further, the purpose behind the Scheme is to bring an end to the legacy cases.

24. Had the petitioner immediately challenged the impugned orders rejecting their declaration as soon as it was communicated to them before the so called expiry period under SVLDRS,2019, could it be said that the petitioners were barred from proceeding further and the Court was barred from passing a final order? In our view, the writ petitions could not have been dismissed.

25. It is important to bear in mind the object of SVLDRS,2019 which is discernible from a reading of the statement by the Finance Minister, Nirmala Sitharaman:

“GST has just completed two years. An area that concerns me is that we have huge pending litigations from pre-GST regime. More than Rs.3.75 lakh crore is blocked in litigations in



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service tax and excise. There is a need to unload this baggage and allow the business to move on. I, therefore, propose, a Legacy Dispute Resolution scheme that will allow quick closure of these litigations. I would urge the trade and business to avail this opportunity and be free from legacy litigations.

26. The Statement of Objects and Reasons to Chapter V of the Finance Bill, 2019 reads as under:-

Clauses 119 to 134 of Chapter V of the Bill seeks to provide for SabkaViswas (Legacy Dispute Resolution) Scheme, 2019.

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 dues 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, 1944 to those persons who pay the declared tax dues.”

27. The salient feature of the SVLDRS, 2019 are as under:-

- a. Total waiver of interest and penalty.
- b. Immunity from prosecution.
- c. Cases pending in adjudication or appeal, a



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relief of 70% from the duty demand if it is rupees fifty lakh or less and 50% if it is more than rupees fifty lakhs.

d. The same relief for cases under investigation and audit where the duty involved is quantified on or before 30th June, 2019.

e. In case of an amount in arrears, the relief offered is 60% of the confirmed duty amount if the same is rupees fifty lakhs or less and it is 40% in other cases.

f. In cases of voluntary disclosure, the declarant will have to pay the full amount of disclosed duty.

28. Further, the Central Board of Indirect Taxes and Customs has issued instructions *vide* C.B.I&C. Instruction No.1/2021-CX, dated 17.03.2021 empowering the concerned Designated Committees to manually process the declarations in cases where the High Courts remanded the matter for fresh consideration.

29. Thus, merely because it was intended that the scheme should result in closure of cases with defaulters paying the amount, the scheme has been allowed to run beyond the period. Relevant portion of the said instruction reads as under:-

1..... The cases in which the Hon'ble High Court has decided in favour of the declarant



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and remanded the matter back to the concerned Designated Committee for fresh decision are referred to the Board for grant of permission for manual processing of the subject declaration so as to comply with the directions of the Hon'ble High Courts.

2. In this regard, it is to inform that the O/o DG (Systems) have expressed an inability in providing the facility for electronic processing of the subject declaration and suggested for manual processing.

*3. The matter has been examined in the Board. **It is hereby clarified that henceforth all such references for grant of approval of manual processing of the declarations need not be made to the Board and such cases can be processed manually by the concerned Designated Committees upon fulfilment of the following conditions:-***

(i) The order of the Hon'ble High Court has been accepted by the Concerned Commissionerate.

(ii) The Ld ASG/Sd. Counsel who had represented the case before the Hon'ble Court has opined to accept the said order of the Hon'ble Court.

4. All such declarations that have been processed manually may be reported to the O/o DG (Systems) by the 15th day of the succeeding month, for the purpose of record."

30. Incidentally, though the decision of the learned Single Judge in

W.P.No.12635 of 2020 was affirmed by the Division Bench in **Vital Rao**



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this Court entertained the appeal on merits and rejected the case of the petitioner therein on merits.

31. Only a passing reference was made by the Division Bench of this Court in its order dated 23.02.2022 in W.A.No.2450 of 2021 while dismissing the appeal against the order of the learned Single Judge in W.P.No.12635 of 2020 remarking that the writ petition was not maintainable as the scheme had come to an end on 30.6.2020. There is however no discussion.

32. That apart under the scheme, within 60 days of filing of a Declaration, the Designated Committee under SVLDRS, 2019 was expected to process the application. Within 30 days of issue of Form SVLDRS-3, an applicant was expected to pay the amount.

33. The late date for filing a Declaration was extended from 31.12.2019 to 15.01.2020. Due to outbreak of COVID 19 pandemic, the last date for making payment was extended to 30.06.2020. Thus,



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various factor contributed to the longevity of the scheme being extended.

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34. Apart from outbreak of Covid-19, litigations have ensured that the scheme did not close for those who have opted to settle their tax due under SVLDRS, 2019 by filing Declarations on or before the deadline of 31.12.2019 which was extended to 15.01.2020.

35. We are therefore of the view, if the Declarations were filed for settling the tax case under SVLDRS, 2019 in time but were rejected at the threshold, an applicant whose application was rejected cannot be left without any remedy as the right to have the case settled under the SVLDRS, 2019 is a substantive right.

36. We however, make it clear that the right to redress a grievance against rejection of Declaration under SVLDRS, 2019 is subject to a caveat that the applicant whose Declaration was rejected under SVLDRS, 2019, was indeed entitled to file a Declaration under SVLDRS,2019.



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37. In other words, if an applicant was barred from filing a Declaration under SVLDRS, 2019, such applicant cannot be given any relief. However, to come to a conclusion, the Court has to examine the issue on merits.

38. In our view, the respective Writ petitions cannot be rejected *in limine*. The cases of the petitioners therefore deserve a consideration on merits. We are therefore of the view that the two writ petitions challenging the rejection of the Declaration are maintainable. However, whether the respective petitioners are entitled for relief is altogether another matter.

39. In our view, merely because by the time, the respective writ petitions were filed, the scheme has come to an end, *ipso facto* would not present itself as a *fait accompli*.

40. In this connection, a reference to the Latin Maxim *ubi jus ibi remedium* is apt under the circumstances. Where there is a right, there is a remedy. Therefore, the discretionary remedy under Art. 226 of the



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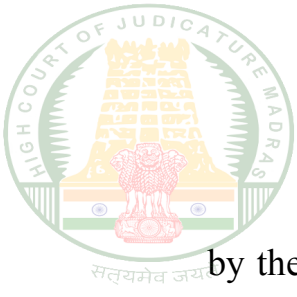
Constitution under the circumstances, at best cannot be denied without going into merits only on account of latches.

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41. Though, there is a delay of eight to nine months in filing these writ petitions by the respective petitioners and in approaching this Court after the impugned orders were passed rejecting their Declarations filed under SVLDRS, 2019, we are of the view, if on facts, the petitioners have a legitimate case for settling the dispute under the SVLDRS, 2019, the substantive benefit to have the case settled under the SVLDRS, 2019 cannot be denied to them. These writ petitions have been filed perhaps on account of the show cause notices which were issued to them after the two writ petitions were filed.

42. In our view, the delay in approaching this Court is not so enormous, so as to, disqualify the respective petitioner, from redressing their grievance before us under Art.226 of the Constitution of India.

43. Furthermore, there was no requirement for the case to be referred to the Division Bench of this Court on account of orders passed



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by the Hon'ble Supreme Court extending the period of limitation due to outbreak of Covid-19 pandemic.

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44. We therefore answer the reference in favour of the writ petitioners. In our view, W.P.Nos.11785 & 12957 of 2020 challenging the rejection deserve the attention of this Court on merits.

45. We therefore now proceed to dispose these writ petitions by this common order on merits.

46. Before proceeding further with W.P.Nos.11785 & 12957 of 2020, we wish to make it clear that the challenge to Show Cause Notice No.47 of 2020 dated 25.09.2020 in W.P.Nos.3320 of 2022 and the challenge to the impugned Notification No.22/2014-ST dated 16.09.2014 in W.P No.3322 of 2022 are without merits.

47. The second respondent, Principal Additional Director General, Directorate General of Goods and Service Tax Intelligence in



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W.P.Nos.3320 of 2020 who has issued the impugned Show Cause Notice No.47 of 2020 dated 25.09.2020 has arrived at the total tax payable as Rs. 37,84,41,930 /- by the petitioner.

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48. The challenge to the impugned Show Cause Notice No.47 of 2020 dated 25.09.2020 in W.P No. 3320 of 2022 is based on the challenge to the Notification No.22/2014-ST dated 16.09.2014 in W.P No. 3322 of 2022.

49. Though, these two writ petitions were not argued at length, we make it clear that that the second respondent, the Principal Additional Director General, Directorate General of Goods and Service Tax Intelligence, is a Central Excise Officer.

50. The second respondent was therefore competent to issue the impugned Show Cause Notice No.47 of 2020 dated 25.09.2020 under Section 73 of the Finance Act, 1994 to the petitioner. Whether the Show Cause Notice makes out a case for evasion of tax, warranting invocation of the provisions of the Finance Act, 1994 is altogether a different issue.



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We will refrain from making any observation on the merits of the case.

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51. In case, W.P.No. 12957 of 2020 is answered in favour of the petitioner, the challenge to the impugned Show Cause Notice No.47 of 2020 dated 25.09.2020 will have to closed.

52. On the other hand, in case, W.P.No.12957 of 2020 is answered against the petitioner, the petitioner will have to meet out the allegations in the impugned Show Cause Notice No.47 of 2020 dated 25.09.2020 issued by the second respondent, the Principal Additional Director General, Directorate General of Goods and Service Tax Intelligence

53. In a batch of writ petitions in W.P.No.12853 of 2020 and etc batch, challenge to the impugned Notification No.22/2014 ST dated 16.09.2014 along with the Show Cause Notices issued to the respective writ petitioners therein were challenged.

54. By an order dated 17.06.2022, W.P.No.12853 of 2020 and etc. were dismissed. The challenge to the impugned notification were held to



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be without merits and the petitioners therein were directed to appear

before the authority which issued the Show Cause Notices. Operative

portion of the order reads as under:-

177. Thus, officers of Directorate General of Central Excise Intelligence are “Central Excise Officers” for the purpose of Section 2(b) of the Central Excise Act, 1994. They are empowered to exercise power pan India under Notification No.38/2001-C.E. (N.T), dated 26.06.2001.

178. Therefore, the other ground of challenge to the impugned Notification No.22/2015-ST dated 16.9.2014 that pan India powers have been vested with the officers from the ”**Directorate of Central Excise Intelligence** (DGCEI) [presently The **Directorate of GST Intelligence**]” and contrary to the restriction under Rule 3 of the Service Tax Rules, 1944 also fails.

179. The power of the Board under Notification 22/2014-ST dated 6.09.2014 cannot be read in a restricted manner. There is no impediment in appointing the officers of Directorate General of Central Excise Intelligence as “Central Excise Officers” to exercise the power pan India.

180. When the CENVAT Credit Rules, 2004 replaced the CENVAT Credit Rules, 2002, Notification No.7/2004-C.E. (N.T.), dated 11.03.2004 was issued by the Board under Section 2(b) of the Central Excise Act, 1944 and Rule 3 of the Service Rules, 1994 read with Section 65(4) of the Finance Act, 1994 as it stood during the relevant period.



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181. By virtue of the Notification No.7/2004-C.E. (N.T.), dated 11.03.2004, the officers specified in Column (2) of the Table to the said Notification were appointed as the “Central Excise Officers” and were invested with the powers to be exercised by them “throughout the territory of India” as are exercisable by the Central Excise Officer of the corresponding rank as specified in the Column (3) of the said Table, such powers being the powers of a Central Excise Officer conferred under Chapter V of the Finance Act, 1994. The Table to the said Notification reads as under:-

<i>S.No.</i>	<i>Designation</i>	<i>Jurisdiction</i>
1.	<i>Director General, Central Excise Intelligence</i>	<i>Chief Commissioner of Central Excise for of India</i>
2.	Additional Director, Central Excise Intelligence	Commissioner of Central Excise or whole of India
3.	Additional Director, Central Excise Intelligence	Additional Commissioner of Central Excise for whole of India
4.	Joint Director, Central Excise Intelligence	Joint Commissioner of Central Excise for whole of India
5.	Deputy Director, Central Excise Intelligence	Deputy Commissioner of Central Excise for whole of India
6.	Assistant Director, Central Excise Intelligence	Assistant Commissioner of Central Excise for whole of India
7.	Superintendent, Central Excise Intelligence	Superintendent of Central Excise for whole of India
8.	Inspector, Central Excise Intelligence	Inspector of Central Excise

182. Later in exercise of the powers conferred by Section 37A of the Central Excise Act, 1944, the Central Government, by virtue of Notification No.11/2007-C.E. (N.T.), dated 01.03.2007, directed that



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the powers exercisable by the Central Board of Excise and Customs under the provisions of Rule 3(2) of the Central Excise Rules, 2002, shall also be exercised by the Chief Commissioner of Central Excise for the purpose of adjudication of notices issued under the provisions of the Act or the Rules made thereunder within his jurisdiction.

183. By virtue of Notification No.16/2007-S.T., dated 19.04.2007, in exercise conferred by Section 83A of the Finance Act, 1994 read with Rule 3 of the Service Tax Rules, 1994, the Central Board of Excise and Customs appointed the “Officers of the Central Excise” specified in Column (2) of the Table therein and invested with them all the powers of “Central Excise Officer” specified in Column (3) of the Table to be exercised within such jurisdiction and for such purposes specified in Columns (4) & (5) of the Table attached to the Notification. The said Table is reproduced below:-

S. No	Central Excise Officer	Central Excise Officer whose power are to be exercised	Jurisdiction	Purposes
(1)	(2)	(3)	(4)	(5)
1	All the Commissioners of Central Excise	The Commissioner of Central Excise	Throughout the territory of India	Investigation and adjudication of such cases, as may be assigned by the Board
2	The Commissioners of Central Excise (Adjudication)	The Commissioner of Central Excise	Throughout territory of India	Investigation and adjudication of such cases, as may be assigned by the Board

184. By virtue of Notification No.6/2009-S.T. dated 30.01.2009 issued under powers conferred by Section 37A of the Central Excise Act, 1944 as



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made applicable to service tax by Section 83 of the Finance Act, the Central Government directed that the powers exercisable by the Central Excise and Customs under the provisions of Section 83A read with the Notification of the Government of India in the Ministry of Finance (Department of Revenue) No.16/2007-S.T., dated 19.04.2007 [G.S.R.No.303(E) dated 19.04.2007, shall be exercised by the Chief Commissioner of Central Excise for the purpose of assigning the adjudication of cases, under the provisions of the said Finance Act or Rules made thereunder, within his jurisdiction.

185. Similarly, similar powers were vested with the officers of Directorate General of Audit, Customs and Central Excise vide Notification No.28/2008-C.E. (N.T.) dated 05.06.2008 by the Board in exercise of the powers conferred by Section 2(b) of the Central Excise Act, 1944 read with Rule 3(1) and (2) of the Central Excise Rules, 2002.

186. Similar Notifications have been issued, specifically, by Notification No.14/2017 – C.E. (N.T.), dated 09.06.2017 issued in exercise of powers conferred by Section 37A of the Central Excise Act, 1944 read with Section 83 of the Finance Act, 1994 and in supersession of the Notifications of the Government of India in the Ministry of Finance, Department of Revenue, Central Board of Excise and Customs vide Notification No.11/2007-Central Excise (N.T.) dated 01.03.2009, No.16/2007-Service Tax dated 19.04.2007 and No.6/2009 - Service Tax dated 30.01.2009.



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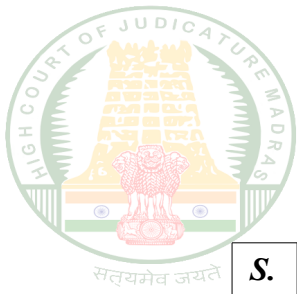
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187. The Central Government directed that the powers exercisable by the Central Board of Excise and Customs under Rule 3 of the Central Excise Rules, 2002 and Rule 3 of the Service Tax Rules, 1994, may be exercised by the following officers for the purpose of assignment of adjudication of notices to show cause issued under the provisions of the Central Excise Act, 1944 or the Finance Act, 1994, to the Central Officers subordinate to them:-

- “a. The Principal Chief Commissioner of Central Excise and Service Tax; or
b. The Chief Commissioner of Central Excise and Service Tax”.

188. Several other Notifications were also issued before and after the impugned Notification was issued are detailed as under:-

<i>S. No.</i>	<i>Date</i>	<i>Notification</i>	<i>CEA 1944</i>	<i>CER 2002</i>	<i>F.A. 1994</i>	<i>STR, 1994</i>	<i>Remarks</i>
1	16/09/14	28/2014-C.T.(N.T.)	Sec.2(b)	Rule 3(1)			Amended Not. No.38/2001 and 28/08
2	16/09/14	20/2014-S.T.	- do		Sec.65B(55)	Rule	Appoints Central Excise Officer) for local limits. Central Government the power of the Board to Principal Chief Commissioner/C CCE/CCST Jurisdiction of various Officer.
3	16/09/14	21/2014-S.T.	Sec.37A		Sec.83	Rule 3	Notification conferring pan India Jurisdiction to Officers of DGGI



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S. No.	Date	Notification	CEA 1944	CER 2002	F.A. 1994	STR, 1994	Remarks
4	16/09/14	22/2014-ST	Sec.2(b)	Rule 3	Sec.65B (55)	Rule 3	Notification setting out local limits for assessing officers (in supersession of 20/2014 and 21/2014 supra)
5	09/06/17	12/2017-C.E.(N.T.)	Sec.2(b)	Rule 3	65(B)55	Rule 3	
6	09/06/17	13/2017-C.E.(N.T.)	37A	Rule 3		83	
7	09/06/17	14/2017-C.E.(N.T.)					

189. Therefore, the reasoning of the Hon'ble Supreme Court in **Commissioner v. Sayed Ali** 2011 (265) E.L.T. 17 (S.C.) and in **Canon India Pvt Ltd Vs Commissioner**, 2021 (376) E.L.T. 3 (S.C.) cannot be imported in the context of the Central Excise Act, 1944 and/or The Finance Act, 1944.

190. Therefore, without doubt, the officers from the Directorate are "Central Excise Officers" as they have been vested with the powers of central exercise officers.

191. Thus, the definition of "Central Excise Officer" in Section 2(b) of the Central Excise Act, 1944 was made applicable for Section 73 of Chapter V of the Finance Act, 1994 which prescribes a machinery for recovery of service tax not levied or paid or short-levied or short-paid or erroneously refunded.

192. As mentioned above, under Rule 3 of the Service Tax Rules, 1994, the Board can appoint any



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other officer to exercise power within the “local limits”. However, that would not mean that the officers of ”**Directorate of Central Excise Intelligence (DGCEI)** [presently The **Directorate of GST Intelligence**]” who are already “Central Excise Officers” under Notification No.38/2001-C.E. (N.T), dated 26.06.2001 for whole of India cannot exercise power pan India. Notification No.22/2014-ST dated 6.09.2014 is to be read in conjunction with Notification No.38/2001- C.E. (N.T), dated 26.06.2001.

193. Therefore, the 2nd argument advanced on behalf of the petitioners as far as jurisdiction to issue Show Cause Notice cannot be accepted.

194. Therefore, the argument of some of the counsel for the petitioners that the officer of **Directorate of Central Excise Intelligence (DGCEI)** [presently The **Directorate of GST Intelligence**] are not “Central Excise Officer” and cannot exercise function Pan India cannot be accepted.

195. No restriction can be inferred on the powers of the Board while appointing the officers of the **Directorate of Central Excise Intelligence (DGCEI)** [presently The **Directorate of GST Intelligence**] to act as “Central Excise Officers”.

196. Thus, it cannot be said that the officers who has been vested with the powers under the impugned Notification No.22/2014-S.T., dated 06.09.2014, are not the “Central Excise Officers”.

55. In our view, the Officers of Principal Additional Director

General of GST Intelligence /second respondent are Officers of Central



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Excise Board within the meaning of Section 2(b) of the Central Excise Act and therefore the challenge to the powers exercised by the Central Government while issuing the impugned Notification No.22/2014 ST dated 16.09.2014 is without any merits. Therefore, W.P.No.3322 of 2022 is liable to be dismissed.

56. Consequently, the impugned Show Cause Notice No.47 of 2020 dated 25.09.2020 under Section 73 of the Finance Act, 1994 impugned in **W.P.No.3320 of 2022** cannot be said to be without jurisdiction

57. Therefore, the challenge to the impugned Show Cause Notice issued by the second respondent, Principal Additional Director General, Directorate General of Goods and Service Tax Intelligence, Chennai in **W.P.No.3320 of 2022** is liable to be dismissed.

58. Therefore, as mentioned above, the petitioner will be required to answer to Show Cause Notice No.47 of 2020 dated 25.09.2020 under Section 73 of the Finance Act, 1994, if W.P.No. 12957 of 2020 challenging the order rejecting the SVLDRS application dated 31.12.2019 is dismissed.



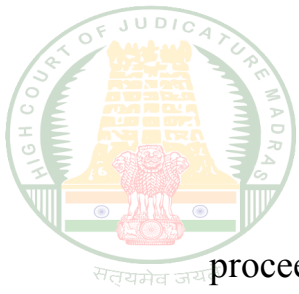
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59. We therefore, answer the issue against the petitioner in W.P.No. 3320 of 2022 and W.P.No.3322 of 2022. As mentioned elsewhere, if the petitioner in W.P.No.12957 of 2020, succeeds, the proceeding in Show Cause Notice No.47 of 2020 dated 25.09.2020 issued under Section 73 of the Finance Act, 1994 by the second respondent, the Principal Additional Director General, Directorate General of Goods and Service Tax Intelligence, Chennai will have to be dropped.

60. Similarly, if the petitioner in W.P No. 11785 of 2020 succeeds, the proceedings in SCN.No.06/2020(ADC) vide dated 26.02.2020 initiated by the Additional Commissioner, Office of the Commissioner of GST and Central Excise, Audit II Commissionerate will also have be dropped.

61. We shall now deal with W.P.Nos.11785 & 12957 of 2020.The respective petitioners have challenged the orders of the Designated Committee (hereinafter referred to as “The Designated Committee”), the relevant authority under the Sabka Vishwas (Legacy Disputes Resolution) Scheme, 2019 (“SVLDRS, 2019” in short). Before,



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proceeding further, it will be useful to refer to the object of the SVLDRS, 2019.

62. The SVLDRS, 2019 was introduced in the Union Budget under Chapter V of the Finance Bill, 2019 presented on 05.07.2019. It was introduced to de-clog the system and to pave a way to recover the tax dues of errant, recalcitrant taxpayer and those taxpayers who were in litigation with the government.

63. Under the SVLDRS, 2019, an amnesty scheme was devised to facilitate such tax payers to pay a percentage of the tax dues under specified central laws which were earlier subsumed under the respective GST Acts of 2017 with effect from 01.07.2017.

64. The intent behind the scheme was to enable businesses to have a fresh start with implementation of GST and for the authorities to close the case provided , such tax payer was eligible to opt for the SVLDRS, 2019.



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65. The dispute resolution component of the scheme was aimed to liquidate the legacy cases locked up in litigation at various fora. While, the amnesty component gives an opportunity to those who have failed to correctly discharge their tax liability by paying a percentage of the tax dues while waiving balance tax liabilities, interest, and penalties.

66. The scheme opened on 01.09.2019. A person who owed any of the specified tax quantified before 30.6.2019, could file Declaration electronically. Initially, the last date for filing Declaration was 31.12.2019. It was later extended by fifteen days up to 15.01.2020.

67. As per Rule 7 of the SVLDRS Rules, 2019, the payment of a percentage of the “tax due” as determined by the Designated Committee was to be made within a period of 30 days from the date of issue of Form SVLDRS-3 by the Designated Committee.

68. The last date for making payment on the amount accepted as payable under the SVLDRS, 2019 by the Designated Committed was



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extended upto 30.06.2020 vide Notification No. 1/2020 C.E. (N.T.),
dated 14.05.2020 in view of disruption caused due to outbreak of Covid-
19 pandemic.

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69. As mentioned, the scheme was however conditional. To be eligible for amnesty under the SVLDRS,2019, the declarant had to strictly come within the purview of Sec. 125 under Chapter - V of SVLDRS, 2019 in the Finance Act, 2019. Any person who had tax due could file a declaration. However, if the case of such person fell within the exception in Section 125 of the SVLDRS, 2019, the system will automatically reject the Declaration.

70. Section 125 of SVLDRS, 2019 reads as under:-

- (1)All persons shall be eligible to make a declaration under this Scheme **except the following namely**;-
- (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;
 - (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;
 - (c)who have been issued a show cause



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notice under indirect tax enactment and the final hearing has taken place on or before the 30th day of June, 2019;

(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.

71. Thus, SVLDRS, 2019 seeks to achieve twin objectives. It



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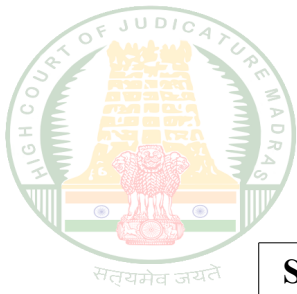
allows the department to close pending cases and recover a percentage of the tax/duty arrears/dues from those assesses who are in arrears and also allows them to have an amnesty provided the case of the assessee does not fall within the exception in Section 125 of the Act.

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72. The Designated Committee consists of the Commissioner of GST & Central Excise and Joint Commissioner of GST & Central Excise. The Designated Committee has rejected the applications filed by the respective petitioners under the provisions of SVLDRS, 2019.

73. The reason for rejecting the application filed by the respective petitioners in W.P.Nos.11785 & 12957 of 2020 are as follows:-

Sl. No.	W.P.No.	Date of Impugned Order	Application No.	Reason for rejection of application
1	11785/2020	13.01.2020	LD130120000 3572	No quantification done prior to 30.06.2019
2	12957/2020	31.12.2019	LD311219001 7424	No quantification done prior to 30.06.2019,



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Sl. No.	W.P.No.	Date of Impugned Order	Application No.	Reason for rejection of application
				<i>not eligible as per dggi letter dated 28.02.2020.</i>

74. Of the various categories of disputes, both the petitioners in W.P.Nos.11785 & 12957 of 2020 have applied under the category "Audit, Investigation, or Enquiry".

75. *Sine qua non* for the respective petitioners to avail the benefit of the scheme is quantification of duty/tax on or before **30.06.2019** under Section 125(1)(e) of SVLDRS,2019.

76. Prior to the filing of declarations under SVLDRS, 2019, the petitioner in W.P. No. 11785 of 2020 was subjected to Audit by the Office of the Commissioner of GST and Central Excise, Audit II Commissionerate.



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77. The petitioner in W.P. No. 12957 of 2020 was subjected to Investigation by the Directorate General of Goods and Services Tax Intelligence, Chennai Zonal Unit.

78. In W.P. No. 11785 of 2020, a letter intimating audit was sent to the petitioner on 25.09.2018 calling for submission of various particulars starting from the period 2013-14 to 2017-18. The petitioner had first responded vide their reply dated 08.10.2018 stating that the company was registered only on 24.04.2015 and hence, submitted particulars for period from 2015-16 and 2016-17, while seeking time to produce documents for the period 2017-18.

79. Thereafter, vide their reply dated on 24.10.2018 a worksheet showing the tax liability for the period 2017-18 (up to June 2017) only was submitted. This petitioner relies on this communication dated 24.10.2018 to make a case that the amount of tax of Rs. 1,98, 86,089 was quantified prior to 30.06.2019 and therefore the petitioner was wrongly denied the benefit of SVLDRS,2019 at the threshold. We shall refer to the quantification in the said letter dated 24.10.2018 later in this order.



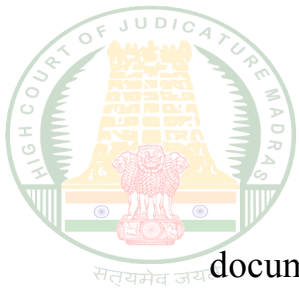
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80. The facts on record indicate that the petitioner in W.P.No.11785 of 2020 had earlier filed a Declaration under the SVLDRS, 2019 on 09.11.2019 in ARN No.0911190000206 for the period between April 2017 to June 2017. The application was earlier rejected on the ground of ineligibility stating that the "*audit quantified the tax dues after 30.06.2019.*"

81. The petitioner thereafter filed a fresh a Declaration once again for settling the dispute under the SVLDRS, 2019 on 13.01.2020 for the same period once again perhaps on account of extension of time for filing Declaration vide Notification No. 1/2020 C.E. (N.T.), dated 14.05.2020. The said Declaration also came to be rejected vide the impugned order for the same reason as was stated when the earlier Declaration was rejected.

82. In W.P. No.12957 of 2020, a summons was issued on 23.04.2019 to the petitioner to appear before the authority thereunder on 07.05.2019. The petitioner was called upon to submit various



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documents. In particular, the petitioner was asked to submit documents relating to the services rendered to M/s. Army Welfare Housing Organisation (AWHO) in addition to details of issue of Transfer of Development Rights (TDR) and service tax liability for the period 2014-15 to June 2017.

83. The petitioner vide its reply dated 07.05.2019 had worked out the tax liability with respect to the services rendered to AWHO and submitted the other documents that were called for. This petitioner relied on this communication dated 07.05.2019 to make a case that the duty amount of Rs.37,08,90,828/- was quantified prior to 30.06.2019. Thus, it was submitted that the petitioner was qualified to file a Declaration under SVLDRS,2019. We shall refer to the above quantification later in this order.

84. The petitioner in W.P.No.12957 of 2020 filed its first Declaration under the SVLDRS, 2019 on 31.12.2019 for the period between 2014-15 to 2017-18 (June 2017). The Declaration filed by the



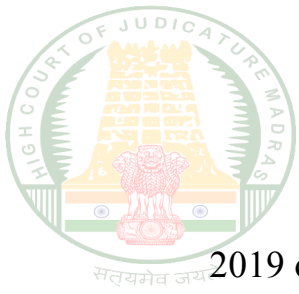
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petitioner was rejected citing that “*no quantification done prior to 30.06.2019, not eligible as per DGGI letter dated 28.02.2020*”.

85. Thus, the point for consideration in these Writ Petitions is whether quantification arrived at by the respective petitioners in their written communication on 24.10.2018 during audit (in W.P.Nos.11785 of 2020) and on 07.05.2019 during investigation (in W.P.No.12957 of 2020) qualifies as quantification before 30.6.2019 under SVLDRS, 2019 and makes them eligible to avail tax relief under the aforesaid scheme. Consequently, whether in the facts and circumstances of the case, the rejection of Declaration filed by the respective petitioners under SVLDRS, 2019 on the respective dates by the Designated Committee is to be interfered by this Court.

86. It is the case of the petitioner in W.P.No.11785 of 2020 that the rejection of the applications *vide* communication dated 09.11.2019 and the subsequent impugned communication dated 13.01.2020 are bad in law. Similarly, it is the case of the petitioner in W.P.No.12957 of 2020 that the rejection of the application filed by him under the SVLDRS,



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2019 on 31.12.2019 *vide* the impugned communication was bad in law.

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87. The respective petitioners submit that the respective petitioners were being audited and investigated and the respective petitioners by their communication dated 24.10.2018 (in the case of W.P.No.11785 of 2020) and by communication dated 07.05.2019 (in the case of W.P.No.12957 of 2020) had quantified the tax dues payable by them before the cut off date of 30.6.2019. Therefore, it was submitted that the applications filed by the respective petitioners were in consonance with the SVLDRS, 2019 (i.e. Chapter V of the Finance Act, 2019) read with SVLDRS Rules, 2019.

88. It is the specific case of the respective petitioners that the tax dues declared by them in their communications dated 24.10.2018 and 07.05.2019 satisfied the definition of "tax dues" within the meaning of Section 123(c) of the SVLDRS, 2019 as "tax dues" were quantified before 30th June 2019 within the meaning of Section 124(1)(d) of SVLDRS, 2019.



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89. It is further case of the respective petitioners that the applications under SVLDRS, 2019 have been wrongly rejected by the Designated Committee without even looking at the quantification by them on 24.10.2018 and 07.05.2019.

90. It is submitted that defence of the respondent that there was no quantification of “tax dues” on or before 30th June, 2019 was misconceived. It is submitted that the Declaration filed by the respective petitioners have been wrongly rejected as the disqualification under Section 125(1)(e) of the SVLDRS, 2019 was not attracted. Rather, it was submitted that the respective petitioners came within the purview of the exceptions provided in the aforesaid provisions.

91. It is submitted that the Central Board of Indirect Taxes and Customs, by Circular No.1071/4/2019-CX.8, dated 27.08.2019 in F.No.267/78/2019-CX-8-Pt.III, has clarified that even a written communication by an assessee would amount to quantification for the purpose of Section 2(r) of SVLDRS, 2019, which describes the meaning of the expression ‘quantified’.



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92. It is submitted that the expression 'quantified' in Section 2(r) of SVLDRS, 2019 will include a letter intimating tax dues and/ or duty liability. It is submitted that admission of such liability by the person during enquiry, investigation or audit; or in the course of audit report etc. entitled them to the benefit of SVLDRS,2019.

93. The learned Senior Counsel for the petitioner in W.P.Nos.12957 of 2020 and W.P.Nos.3320 & 3322 of 2022 referred to Question No.45 in Frequently Asked Questions (FAQs) which was issued at the time of introduction of SVLDRS, 2019 and answer therein which reads as under:-

<i>Question No.45</i>	<i>Answer</i>
With respect to cases under enquiry, investigation or audit what is meant by 'written communication' quantifying demand?	Written communication will include a letter intimating duty/tax demand or duty/tax liability admitted by the person during enquiry, investigation or audit or audit report etc.

94. In support of the plea, the learned Senior Counsel for the petitioner in W.P.No.12957 of 2020 & W.P.Nos.3320 & 3322 of 2022 and learned counsel for the petitioner in W.P.No.11785 of 2020 have placed



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reliance on the following decisions:-

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- i. **Suyog Telematics Ltd. Vs. Union of India**, 2021 (47) G.S.T.L. 346 (Bom.)
- ii. **Seventh Plane Networks Private Limited Vs. Union of India and others**, 2020 (8) TMI 343 – Delhi High Court.
- iii. **Thought Blurb Vs. Union of India**, 2020 (43) G.S.T.L. 499 (Bom.)
- iv. **G.R.Palle Electricals Vs. Union of India**, 2021 (45) G.S.T.L. 10 (Bom.)
- v. **Saksham Facility Pvt. Ltd. Vs. Union of India**, 2021 (47) G.S.T.L. 228 (Bom.)
- vi. **Joseph Daniel Massey Vs. Union of India and others**, 2021-TIOL-217-HC-MUM-ST.
- vii. **K.N.Rai Vs. Union of India**, 2021 (46) G.S.T.L. 239 (Bom.)
- viii. **Sunil Jay Singh Vs. Union of India**, 2022 (58) GSTL 528 (Bom.)
- ix. **Vaishali Sharma Vs. Union of India**, 2020 (40) GSTL 441 (Del.)
- x. **Sabareesh Palliker Vs. Jurisdictional Designated Committee, Thane**, 2021 (48) GSTL 240 (Bom.)

95. The petitioners, therefore pray for allowing the writ petition with a direction to the respondent Designated Committee to issue a discharge certificate in Form SVLDRS-4.



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96. In W.P.No.11785 of 2020 the respondents are represented by Mr.A.P.Srinivas, learned Senior Standing Counsel and Mr.H.Siddarth, Junior Standing Counsel (Customs and GST) for the second respondent in W.P.No.11785 of 2020. In W.P.Nos.3320 & 3322 of 2022 the respondents are represented by Mr.RajnishPathiyil, the learned Senior Panel Counsel for the respondent in W.P.Nos.12957 of 2020 and for the first and second respondent in W.P.Nos.3320 & 3322 of 2022.

97. Mr.A.P. Srinivas, the learned Senior Standing Counsel has relied on the following decisions:-

- i. **JSW Steel Limited Vs. Union of India and others**, 2021 SCC OnLine Bom 3584 : (2022) 96 GSTR 184.
- ii. **No.1 World Wide Express Pvt. Ltd. Vs. Union of India and others**, 2021 SCC OnLine Del 4418 : (2022) 103 GSTR 310.

98. The learned Senior Standing Counsel has also drawn attention to certain E-mail exchanges between the petitioner and the Department to demonstrate that there was no quantification of “tax dues” by the petitioner in W.P.No.11785 of 2020 on or before 30th June.



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99. It is submitted that several communications have been conveniently suppressed by the petitioners as they clearly highlight that the audit was not finalized and the quantification of liability was not crystallized. On the other hand, the audit was in progress as is evident from the repeated reminders sent by the respondents to produce documents to compute the tax liability of the petitioner.

100. The learned Senior Standing Counsel submitted that the petitioner on 24.10.2018 had only produced a worksheet showing invoice wise details for the period from April 2017 to June 2017 and the same was not supported by any copies of invoices or service tax returns. The petitioner therefore, have arrived at their own service tax liability and have made payments through various instalments, without submitting the required documents necessary during audit.

101. The learned Senior Standing Counsel submitted that merely because the petitioners may have been asked to remit amount towards part of the tax dues *ipso facto* cannot be construed to be quantification of



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tax liability before 30.06.2019.

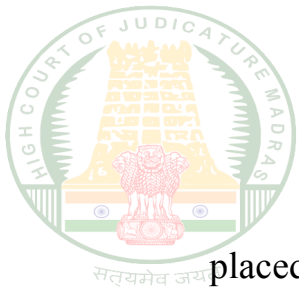
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102. It was further submitted that partial admission of liability by the petitioner was confined only to the service tax due at the stage of audit/investigation and therefore cannot be construed as quantification of "tax dues" prior to 30.06.2019.

103. It is submitted that a single component from the entire tax due cannot be held to be quantification of the entire "tax dues" as it is only a partial admission of service tax liability.

104. When admission by the petitioner was only to one of the service tax liability, it cannot be held to be quantification of the entire "tax dues" as on 30.6.2019. Thus, a part quantification service tax dues cannot be said to be the total quantification where the Audit team was yet to quantify the demands under various heads after 30.06.2019 as is reflected in the Show Cause Notice dated 26.02.2022.

105. Mr.Rajnish Pathiyil, the learned Senior Panel Counsel has



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placed reliance on the decision of the Delhi High Court in **Karan Singh Vs. Designated Committee Sabka Vishwas Legacy Dispute Resolution Scheme and others**, 2021 SCC OnLine Del 3353 : (2021) 51 GSTL 363 which was affirmed by the Hon'ble Supreme Court by its order dated 04.10.2021 in SLP(C) No.15335 of 2021.

106. The learned Senior Panel Counsel submitted that at the time of introduction of SVLDRS, 2019, the respondents had also issued a clarification in the form of Frequently Asked Questions (FAQs). A specific reference was made to Question No.55 and answer given therein which reads as under:-

<i>Question No. 55</i>	<i>Answer</i>
I have declared sums of duty as payable by me in multiple returns but not paid the same. Do I need to file a single declaration for all these returns or a separate declaration for each return?	For administrative convenience, a single declaration may be filed indicating separately the details of each such return in the declaration. However, it will not have any impact on the applicable tax relief. In other words, for the purpose of application of tax relief, each such return will be taken individually even



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<i>Question No. 55</i>	<i>Answer</i>
	though a single Estimate/Statement and Discharge Certificate shall be issued for a declaration.

107. The learned Senior Panel Counsel submitted that the application was rejected by the Designated Committee based on the report dated 28.02.2020 received from the Director General for GST Intelligence (DGGI), Chennai Zonal Unit which stated that investigation was in progress and was not completed and hence, the service tax was yet to be quantified.

108. The learned Senior Panel Counsel submitted that the quantification of service tax liability arrived at by the petitioner as per their own calculation has not been accepted by the Department and as per the Show Cause Notice dated 25.09.2020. It is submitted that actual tax liability of the petitioner was much higher than the dues calculated by the petitioner.

109. It is further submitted that the entire processing of SVLDRS



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declaration is an online process right from filing of Declaration to issuing of discharge certificate by the Designated Committee. It is submitted the information is available in the system and the system captures the details and either accepts or rejects the Declaration.

110. It is submitted that the scheme is fully automated and any person desiring to make an application is required to answer a set of questions to decide about the eligibility of such person to file an application under the scheme.

111. The learned Senior Panel Counsel further submitted that the SVLDRS, 2019 envisages a personal hearing only in cases where the Committee estimates an amount payable by the declarant to be more than what is declared. In the case of the petitioner in W.P.No. 12957 of 2020, there was no estimation done by the Committee since the application itself was not admissible on account of tax dues having not been quantified on or before 30.06.2019.

112. For the above mentioned reasons, the respondents pray for dismissing the Writ Petitions.



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113. The entire scheme under the SVLDRS, 2019 is structured.

The intent of SVLDRS, 2019 is to process those applications and complete them in a time bound manner so that there is a closure of files in cases where there is quantification. There are important dates and milestones.

114 The provision of the SVLDRS 2019, is designed to give relief to all the persons in respect of “tax dues” under the enactments specified in Section 122 of SVLDR Scheme, 2019.

115. Section 124 of SVLDRS, 2019 specifies the relief to be given to a person who is entitled to file a Declaration under Section 125 of the SVLDRS, 2019. Section 125 specifies the eligibility for filing an application and availing the benefit of SVLDRS,2019.

116. There are apparent contradictions in the SVLDRS, 2019. It results in benefits being conferred on only those whose cases do not attract the disqualifications in Section 125 of SVLDRS,2019.

117. As per Section 125 of SVLDRS, 2019, all persons who were



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in arrears of tax/duties under the specified central indirect tax enactment were eligible to file declaration under the SVLDRS, 2019 to settle their case.

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118. However, Section 125 of SVLDRS, 2019 is subject to certain exceptions. Those persons who fall under the exceptions are specifically excluded from availing the benefit of amnesty under the SVLDRS, 2019.

119. Unless, the case of the respective petitioners fall within the exception to exception in Section 125 of SVLDRS, 2019, the question of their application/Declaration passing the first threshold for scrutiny by the Designated Committee would not arise.

120. The challenge to the rejection of the applications filed under SVLDRS, 2019 by the respective petitioners are similar. The defence of the respondents in W.P.No.11785 and W.P.No.12957 of 2020 are also similar.



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121. As mentioned elsewhere, a Declaration in Form SVLDRS-1 could be made only by a person who was eligible to file such Declaration. Declaration was to be filed on or before **31stDecember, 2019** which was later extended till 15.01.2020.

122. Vide Notification No.05/2019 Central Excise-(N.T.), dated 21.08.2019, the **Sabka Vishwas (Legacy Dispute Resolution) Scheme Rules, 2019** [hereinafter referred to as **SVLDRS Rules, 2019**] was framed by the Central Government w.e.f. 01.09.2019. Rule 3 of the SVLDRS Rules, 2019 reads as under:-

3. Form of declaration under section 125 .-

- (1) The declaration under section 125 shall be made electronically at <https://cbic-gst.gov.in> in Form SVLDRS-1 by the declarant, on or before the **31st December, 2019**.
- (2) A separate declaration shall be filed for each case. Explanation.- For the purpose of this rule, a “case” means –
 - (a) a show cause notice, or one or more appeal arising out of such notice which is pending as on the 30th day of June, 2019; or
 - (b) an amount in arrears; or
 - (c) an enquiry or investigation or audit



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where the amount is quantified on or before the **30th day of June, 2019**; or (d) a voluntary disclosure.

123. Thus, multiple declaration could be filed at the option of a Declarant. Vide Notification No.7/2019-Central Excise (N.T.), dated 31.12.2019, the time limit of **31st December, 2019** for declaration under Section 125 was extended / amended to **15th January, 2020**. In case of those person against whom an enquiry or investigation or audit was conducted the “**tax dues**” should have been quantified on or before the **30th day of June, 2019**.

124. The respective petitioners opted for the Scheme on 31.12.2019 and on 13.01.2020. Thus, the Declaration filed by the respective petitioners were in time.

125. Section 127 of SVLDRS, 2019 contemplates the issuance of statement by the Designated Committee. Section 127 of SVLDRS, 2019 reads as under:-

127. (1) Where the amount estimated to be payable by the declarant, as estimated by the designated



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committee, equals the amount declared by the declarant, then, the designated committee shall issue in electronic form, a statement, indicating the amount payable by the declarant, within a period of sixty days from the date of receipt of the said declaration.

- (2) *Where the amount estimated to be payable by the declarant, as estimated by the designated committee, exceeds the amount declared by the declarant, then, the designated committee shall issue in electronic form, an estimate of the amount payable by the declarant within thirty days of the date of receipt of the declaration.*
- (3) *After the issue of the estimate under subsection (2), the designated committee shall give an opportunity of being heard to the declarant, if he so desires, before issuing the statement indicating the amount payable by the declarant:*

Provided that on sufficient cause being shown by the declarant, only one adjournment may be granted by the designated committee.

- (4) *After hearing the declarant, a statement in electronic form indicating the amount payable by the declarant, shall be issued within a period of sixty days from the date of receipt of the declaration.*
- (5) *The declarant shall pay electronically through internet banking, the amount payable as indicated in the statement issued by the designated committee, within a period of thirty days from the date of issue of such statement.*
- (6) *Where the declarant has filed an appeal or reference or a reply to the show cause notice against any order or notice giving rise to the tax dues, before the appellate forum, other than*



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the Supreme Court or the High Court, then, notwithstanding anything contained in any other provisions of any law for the time being in force, such appeal or reference or reply shall be deemed to have been withdrawn.

- (7) *Where the declarant has filed a writ petition or appeal or reference before any High Court or the Supreme Court against any order in respect of the tax dues, the declarant shall file an application before such High Court or the Supreme Court for withdrawing such writ petition, appeal or reference and after withdrawal of such writ petition, appeal or reference with the leave of the Court, he shall furnish proof of such withdrawal to the designated committee, in such manner as may be prescribed, along with the proof of payment referred to in sub-section (5).*

- (8) *On payment of the amount indicated in the statement of the designated committee and production of proof of withdrawal of appeal, wherever applicable, the designated committee shall issue a discharge certificate in electronic form, within thirty days of the said payment and production of proof.*

126. Ordinarily, a Service Tax assessee is required to file returns under Section 70 of the Finance Act, 1994. Section 70 of the Finance Act, 1994 reads as under:-

70.[Furnishing of returns



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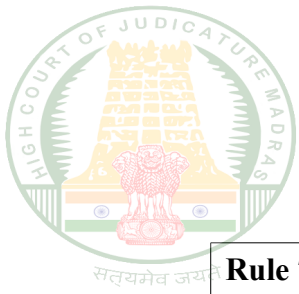
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[(1)] *Every person liable to pay the service tax shall himself assess the tax due on the services provided by him and shall furnish to the Superintendent of Central Excise, a return in such form and in such manner and at such frequency and with such late fee not exceeding ⁵[twenty thousand rupees] for delayed furnishing of return, as may be prescribed.]*

[(2)] *The person or class of persons notified under sub-section (2) of section 69, shall furnish to the Superintendent of the Central Excise, a return in such form and in such manner and at such frequency as may be prescribed.]*

127. For implementing the above section, Rule 7, Rule 7A, Rule 7B and Rule 7C of Service Tax Rules, 1994 have been provided. Rule 7, Rule 7A, Rule 7B of the Service Tax Rules, 1994 read as under:-

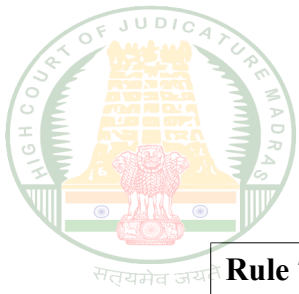
Rule 7 of the Service Tax Rules, 1994	Rule 7A of the Service Tax Rules, 1994	Rule 7B of the Service Tax Rules, 1994
(1)Every assessee shall submit a half yearly return in Form 'ST-3' or 'ST-3A' or ST-3C, –Service tax) as the case may be, along with a copy of the Form TR-6, in triplicate for the months covered in the half-yearly return.	7A. Returns in case of taxable service provided by goods transport operators and clearing and forwarding agents : Notwithstanding anything contained in rule 7, an assessee, in case of service provided by –	7B. Revision of Return– (1) An assessee may submit a revised return, in Form ST-3, in triplicate, to correct a mistake or omission, within a period of [ninety days] from the date of submission of the return under rule 7.



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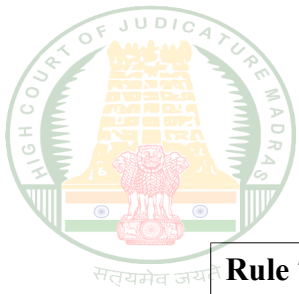
Rule 7 of the Service Tax Rules, 1994	Rule 7A of the Service Tax Rules, 1994	Rule 7B of the Service Tax Rules, 1994
<p>(2) Every assessee shall submit the half yearly return by the 25th of the month following the particular half-year.</p> <p>[Provided that the Form 'ST-3' required to be submitted by the 25th day of October, 2012 shall cover the period between 1st April to 30th June, 2012 only:]</p> <p>[Provided further that the Form ST-3 for the period between the 1st day of July 2012 to the 30th day of September 2012, shall be submitted by the 25th day of March, 2013.]</p> <p>(Provided also that the return for the period from the 1st day of April, 2017 to the 30th day of June, 2017, shall be submitted by the 15th day of August 2017, in Form 'ST-3' or 'ST-3C', as the case may be.</p> <p>(3) Every assessee shall submit the half-yearly return electronically.</p> <p>(3A) Notwithstanding anything contained in sub-</p>	<p>(a) goods transport operator for the period commencing on and from the 16th day of November, 1997 to 2nd day of June, 1998; and</p> <p>(b) clearing and forwarding agents for the period commencing on and from the 16th day of July, 1997 to 16th day of October, 1998,</p> <p>shall furnish a return within a period of six months from the 13th day of May, 2003, in Form 'ST-3B' alongwith copy of Form TR-6 in triplicate, failing which the interest and penal consequences as provided in the Act shall follow .]</p>	<p>Explanation.- Where an assessee submits a revised return, the 'relevant date' for the purpose of recovery of service tax, if any, under section 73 of the Act shall be the date of submission of such revised return.</p> <p>(2) An assessee who has filed the annual return referred to in sub-rule (3A) of rule 7 by the due date may submit a revised return within a period of one month from the date of submission of the said annual return.</p>



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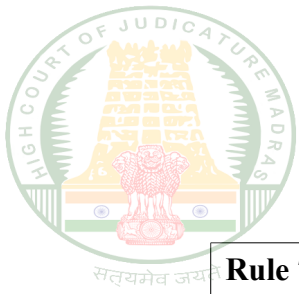
Rule 7 of the Service Tax Rules, 1994	Rule 7A of the Service Tax Rules, 1994	Rule 7B of the Service Tax Rules, 1994
<p>rule (1), every assessee shall submit an annual return for the financial year to which the return relates, in such form and manner as may be specified in the notification in the Official Gazette by the Central Board of Excise and Customs, by the 30th day of November of the succeeding financial year;</p> <p>(3B)The Central Government may, subject to such conditions or limitations, specify by notification an assessee or class of assesses who may not be required to submit the annual return referred to in sub-rule(3A).</p> <p>(4)The Central Board of Excise and Customs may, by an order extend the period referred to in [sub-rules (2) and (3A) by such period as deemed necessary under circumstances of special nature to be specified in such order.</p> <p>7A. Returns in case of taxable service provided by goods transport operators and clearing and</p>		



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Rule 7 of the Service Tax Rules, 1994	Rule 7A of the Service Tax Rules, 1994	Rule 7B of the Service Tax Rules, 1994
<p>forwarding agents :</p> <p>Notwithstanding anything contained in rule 7, an assessee, in case of service provided by –</p> <p>(a) goods transport operator for the period commencing on and from the 16th day of November, 1997 to 2nd day of June, 1998; and</p> <p>(b) clearing and forwarding agents for the period commencing on and from the 16th day of July, 1997 to 16th day of October, 1998, shall furnish a return within a period of six months from the 13th day of May, 2003, in Form ‘ST-3B’ along with copy of Form TR-6 in triplicate, failing which the interest and penal consequences as provided in the Act shall follow .]</p> <p>7B. Revision of Return–</p> <p>(1) An assessee may submit a revised return, in Form ST-3, in triplicate, to correct a mistake or omission, within a period of [ninety days] from the date of submission of the</p>		



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Rule 7 of the Service Tax Rules, 1994	Rule 7A of the Service Tax Rules, 1994	Rule 7B of the Service Tax Rules, 1994
<p>return under rule 7.</p> <p>Explanation.- Where an assessee submits a revised return, the 'relevant date' for the purpose of recovery of service tax, if any, under section 73 of the Act shall be the date of submission of such revised return.</p> <p>(2) An assessee who has filed the annual return referred to in sub-rule (3A) of rule 7 by the due date may submit a revised return within a period of one month from the date of submission of the said annual return</p>		

128. Returns can also be filed beyond the period prescribed in the above Rules. To implement the requirement of Section 70 of the Finance Act, 1994, Rule 7C has been provided in Service Tax Rules, 1994. Rule 7C of the Service Tax Rules, 1994 reads as under:-

- (1) *Where the return prescribed under rule 7 is furnished after the date prescribed for submission of such return, the person liable to furnish the said return shall pay to the credit of the Central Government, for the period of*



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delay of-

- (i) fifteen days from the date prescribed for submission of such return, an amount of five hundred rupees;*
- (ii) beyond fifteen days but not later than thirty days from the date prescribed for submission of such return, an amount of one thousand rupees; and*
- (iii) beyond thirty days from the date prescribed for submission of such return an amount of one thousand rupees plus one hundred rupees for every day from the thirty first day till the date of furnishing the said return:*

Provided that the total amount payable in terms of this rule, for delayed submission of return, shall not exceed the amount specified in section 70 of the Act:

Provided further that where the assessee has paid the amount as prescribed under this rule for delayed submission of return, the proceedings, if any, in respect of such delayed submission of return shall be deemed to be concluded.

[Provided also that where the gross amount of service tax payable is nil, the Central Excise officer may, on being satisfied that there is sufficient reason for not filing the return, reduce or waive the penalty].

Explanation .- *It is hereby declared that any pending proceedings under section 77 for delayed submission or non-submission of*



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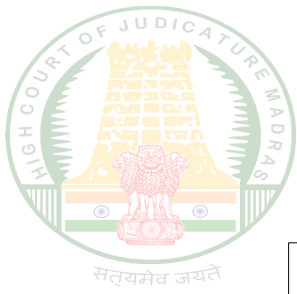
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return that has been initiated before the date on which the Finance Bill, 2007 receives the assent of the President, shall also be deemed to be concluded if the amount specified for delay in furnishing the return is paid by the assessee within sixty days from the date of assent to the said Finance Bill.

(1) Where the annual return referred to in sub-rule (3A) of rule 7 is filed by the assessee after the due date, the assessee shall pay to the credit of the Central Government, an amount calculated at the rate of one hundred rupees per day for the period of delay in filing of such return, subject to a maximum of twenty thousand rupees.

129. Thus, for “tax dues” where “amount in arrears” were declared in the regular returns and not paid relief was available under Section 124(1)(c) of the SVLDRS,2019.For clear understanding of the scheme, the respective relevant provisions are reproduced below:-

Amount in Arrear		
Definition	Tax Dues	Relief
121. In this Scheme, unless the context otherwise requires,— (a) (b) (c) “amount in	123. For the purposes of the Scheme, “tax dues” means— (a)..... (b)..... (c)..... (d)	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).....



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Amount in Arrear	
<p>arrears” means the amount of duty which is recoverable as arrears of duty under the indirect tax enactment, on account of—</p> <p>i)no appeal having been filed by the declarant against an order or an order in appeal before expiry of the period of time for filing appeal; or</p> <p>ii.an order in appeal relating to the declarant attaining finality; or</p> <p>iii.the declarant having filed a return under the indirect tax enactment on or before the 30th day of June, 2019, wherein he has admitted a tax liability but not paid it;</p>	<p>(e) where an amount in arrears relating to the declarant is due, the amount in arrears.</p> <p>(b).....</p> <p>(c) where the tax dues are relatable to an amount in arrears and,—</p> <p>(i) the amount of duty is, rupees fifty lakhs or less, then, sixty per cent. of the tax dues;</p> <p>(ii) the amount of duty is more than rupees fifty lakhs, then, forty per cent. of the tax dues;</p> <p>(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,—</p> <p>(A) rupees fifty lakhs or less, then, sixty per cent. of the tax dues;</p> <p>(B) amount indicated is more than rupees fifty lakhs, then, forty per cent. of the tax dues;</p>

130. In the case of the petitioner in W.P.No.11785 of 2020,an audit was in progress. In the case of the petitioner in W.P.No.12957 of 2020an investigation was in progress when the SVLDRS,2019 was announced. As mentioned elsewhere, the respective petitioners have been issued with



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Show Cause Notices subsequently.

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131. The expression “tax dues” has been defined in Section 123 of the SVLDR Scheme 2019. The expression “tax due” as defined Section 123 of the SVLDR Scheme, 2019 includes “amount in arrears” as defined in Section 121(c).Section 124(1)(c) deals with the relief to be given in case of “amount in arrears”.

132. In these two cases it cannot be said that the respective petitioners were entitled for the relief under Section 124(1)(d) fully. The case of the petitioner in W.P.No. 11785 of 2020 is partly covered by the situation in Sec. 121(g) read with Sec. 123(c), Sec. 124(1)(d)(ii) and the exception in Sec. 125(1)(e) to the extent covered by the quantification in letter dated 24.10.2018.

133. Whereas, the case of the petitioner in W.P.No. 12957 of 2020 is partly covered by the situation contemplated in Sec. 121(c)(iii) read with Sec.123(e) and Sec. 124(1)(c)(iii)(A) of SVLDRS, 2019. We shall refer to the same during the course of this order later.



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134. There should have been a quantification of the tax dues/duty liability on or before 30.06.2019 as per Section 123(c) where the tax dues are linked to an **enquiry, investigation or audit** against the declarant so as not to attract the exception under Section 125(1)(e). Such a declarant is entitled to relief as specified Section 124 (1)(d) as below:-

Section 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)

(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 per cent. of the tax dues;*

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

135. For clear understanding of cases where there is quantification before 30.06.2019 in the case of a declarant where an enquiry or



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investigation was pending, the following table given below:-

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<p>ENQUIRY OR INVESTIGATION OR AUDIT</p>	<p>125. (1) All persons shall be eligible to make a declaration under this Scheme except the following, namely:—</p> <p>(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;</p>	
<p>Definition</p>	<p>Tax Due</p>	<p>Relief</p>
<p>121. In this Scheme, unless the context otherwise requires,—</p> <p>(g) “audit” means any scrutiny, verification and checks carried out under the indirect tax enactment, other than an enquiry or investigation, and will commence when a written intimation from the central excise officer regarding conducting of audit is received;</p> <p>(m) “enquiry or investigation”, under any of the indirect tax enactment, shall include the following actions, namely:—</p> <p>i. search of premises;</p> <p>ii issuance of summons;</p> <p>iii. requiring the production of accounts,</p>	<p>123. For the purposes of the Scheme, “tax dues” means—</p> <p>(c) where an enquiry or investigation or audit is pending against the declarant, the amount of duty payable under any of the indirect tax enactment which has been quantified on or before the 30th day of June, 2019</p>	<p>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:—</p> <p>(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—</p> <p>(i) rupees fifty lakhs or less, then, seventy per cent. of the tax dues;</p> <p>(ii) more than rupees fifty lakhs, then, fifty per cent. of the tax dues;</p>



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ENQUIRY OR INVESTIGATION OR AUDIT	125. (1) All persons shall be eligible to make a declaration under this Scheme except the following, namely:— (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;
documents or other evidence;iv. recording of statements;	

136. Thus, a person is not entitled to avail the benefit of SVLDRS, 2019, if there was no quantification of tax or duty liability where there was either inquiry, investigation or audit.

137. Non-quantification of tax dues acts as a dis-qualifier and therefore inhibits a person from availing the benefit of the SVLDRS, 2019. Such a person cannot file a declaration under the scheme. Quantification of “tax dues” is *sine qua-non* for availing the benefit for relief under Sec.124(1)(d) of SVLDRS,2019.

138. The petitioners have pitched their case on the ground that they are entitled to the benefit of SVLDRS, 2019 in terms of Section 124(1)(d) as there was quantification of “tax dues” before 30.06.2019 in the light of letters dated 24.10.2018 in the case of the petitioner in



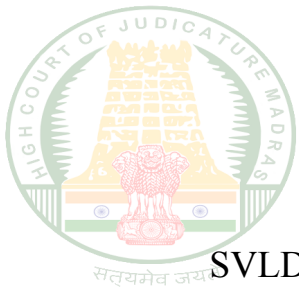
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W.P.No.11785 of 2020 and by letter dated 07.05.2019 in the case of the petitioner in W.P.No.12957 of 2020. And also that the audit and investigation were in terms of the definition in Section 121(g) and (m) of the SVLDRS, 2019.

139. Whereas, it is the case of the revenue/respondent that the situation of the petitioner is covered by Section 125(1)(e) on the ground that the petitioner was being investigated and the amount of duty involved (tax) has not been quantified on or before the cut off date of 30.06.2019.

140. Before, proceeding further, as to whether the petitioners are indeed entitled to relief under 124(1)(d) of the SVLDRS, 2019, we shall briefly refer to the other category namely “voluntary disclosure” where, though an application can be filed, no relief is available barring immunity to penalty and interest etc.

141. In case of “voluntary disclosure” in respect of an amount in arrears of tax, such a person is not eligible to file a declaration under



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SVLDRS, 2019 in terms of Section 125(1)(f)(ii) other than the following

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persons:

125. (1) All persons shall be eligible to make a declaration under this Scheme except the following, namely:—

(f) a person making a voluntary disclosure,—

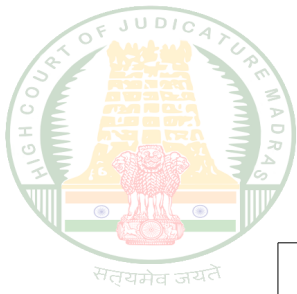
(i) after being subjected to any enquiry or investigation or audit; or

(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;

142. Thus, the “Voluntary Disclosure” can be made only by a person who has filed returns but has not paid the tax or who has been subjected to enquiry, investigation, or audit. Following table will demonstrate the position more clearly:

143. The clarification in the FAQs issued reads as under:-

FAQs		
Voluntary disclosure (VD)	Q10. I have been subjected to an enquiry or investigation or audit under indirect tax enactment and I want to make a voluntary disclosure regarding	Ans. No, you are not eligible to make a declaration under the voluntary disclosure category as per section 125(1)(f)(i).



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FAQs		
	the same. Am I eligible for the Scheme?	

144. As far as FAQ 45 is concerned, it has been clarified with written communication will include a letter intimating duty/tax demand or duty/tax liability admitted by the person during enquiry, investigation or audit or audit report etc. However, if enquiry, Investigation or Audit is over, against an assessee, there is no question of availability SVLDRs' 2019.

145. In other words, during the course of enquiry investigation or audit, a person can file a Declaration under SVLDR, 2019 provided there is a proper quantification of tax liability on or before 30.06.2019. However, mere filing of a Declaration *ipso facto* will not mean that the enquiry, investigation or audit has to be stopped. If the amount quantified is correct, such quantification can be accepted. However, if enquiry, investigation or audit is complete, where there is no quantification, there is no scope for filing Declaration.



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WEB COPY 146. Thus, “Voluntary Disclosure” is not permissible in view of exclusion in Section 125(f) after a person has been subjected to an “Enquiry”, “Investigation”, or “Audit” or where having filed returns under the indirect tax enactment, amount payable in it has not been paid. If returns were filed after 30.06.2019 also benefit is not available. Thus, the respective petitioners are *prima facie* not entitled to any relief if there was quantification after 30.06.2019.

147. Only if the “tax due” are linked to an “Enquiry” or “Investigation” or “Audit” where it was quantified on or before the 30th day of June 2019, a Declaration could have been filed.

148. However, it is not the self declared quantification of a Declarant of “tax dues” which will entitle the benefit of the aforesaid scheme. The scheme brings a closure to the tax dispute with issuance of certificate under Section 129 of SVLDRS, 2019. It has to be a



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quantification which ought to have been accepted by the Investigating Wing or Audit Wing of the Department.

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149. The question of issuing statement by the Committee under Section 127 read with Rule 6 of the SVLDRS Rules, 2019 would arise only where the application filed itself falls within the four corners of Section 124(1)(d) as extracted above. Only where there was quantification of tax or duty in arrears, the scheme was applicable.

150. We now proceed to deal with the application filed under the SVLDRS, 2019 by the petitioner in W.P.No.11785 of 2020 (M/s. Win Power Engineering Pvt. Ltd.) for the second time on 13.01.2020 and its rejection in the system on the same date.

151. The petitioner in W.P.No.11785 of 2020 had earlier filed an application under the SVLDRS, 2019 on 09.11.2019. The same was rejected and a fresh application was filed on 13.01.2020. The second application also was auto-rejected in the system which is impugned in W.P.No.11785 of 2020.



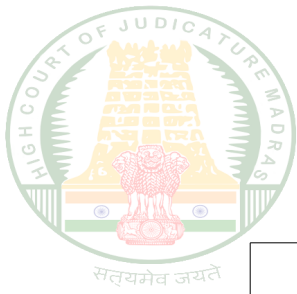
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152. An audit was being conducted at the time when SVLDRS, 2019 came into force with effect from 01.09.2019. The audit commenced on 25.09.2018. The petitioner appears to have made a quantification of **Rs.1,98,86,089/-** in a reply dated 24.10.2018 and agreed to pay service tax due towards Erection, Commissioning, and Installation Service and Works Contract Service for the period between April 2017 to June 2017

153. The petitioner in W.P.No.11785 of 2020, by a reply dated 24.10.2018, has given the details of “tax dues” as follows:-

	<i>Out put Tax</i>	<i>Input Tax</i>	<i>Total tax payable</i>
Erection & Commission	1,81,21,365.92	10,95,571.38	1,70,25,794.54
Work Contractors	4,38,984.00		4,38,984.00
Swachh Bharat Cess – 0.5%	6,62,869.64		6,62,869.64
Krishkalayan	6,62,869.64		6,62,869.64



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	<i>Out put Tax</i>	<i>Input Tax</i>	<i>Total tax payable</i>
Cess – 0.5%			
	1,98,86,089.20	10,95,571.38	1,87,90,517.82

Payment paid via HDFC Net banking

27.04.2017	5,38,718.00
31.05.2017	47,25,000.00
	- - - - -
	52,63,718.00
	- - - - -
	1,35,26,799.82
	- - - - -

154. The Petitioner appears to have paid a sum of Rs.52,63,718 through Net Banking on the above dates. Subsequently, the petitioner claims to have paid a sum of **Rs.1,07,88,041/-** on the following dates:

<i>Challan Date</i>	<i>Amount</i>
04.02.2019	58,00,000
17.05.2019	49,88,041

155. In all the petitioner claims to have paid a sum of



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Rs.1,71,47,330/- (Rs.1,60,51,759/- + input tax liability of Rs.10,95,571/-) leaving a balance of **Rs.27,38,759/-** as tax due.

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156. During the course of audit, the petitioner however did not furnish the details in response to the request of the Audit Wing-Department. Specifically, by e-mail dated 28.08.2019, the petitioner was called upon to furnish ST-3 Returns of April 2017 to June 2017 on the amount of reimbursed expenditure, collected tax but not paid. The petitioner replied and furnished only the invoices on 30.08.2019. Under these circumstances, once again reminder was sent on 04.09.2019 for the following details:-

Most Urgent/Reminder-X

Kind Attn.: Mr.T.K.Kumar, Director

Inspite of repeated reminder (email dated 12.10.2018, 13.10.2018, 24.10.2018, 17.12.2018, 15.02.2018, 15.02.2019, 12.02.2019, 28.02.2019, 28.02.2019, 5.3.2019, 25.03.2019, 8.4.2019, 17.6.2019, 1.7.2019, 3.9.2019 and phone calls (last 8 months). You have not submitted the required documents for finalization of audit. Hence, you are requested to submit the following documents immediately. Otherwise action will be initiated as per Service Tax Rules & Section.

- 1.ST-3 returns of April 2017 to June 2017
- 2.Detailed statement in respect of works contract service
3. Reimbursable expenditure- copy of the invoices- for the inalization of this issue.



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You have also not produced the following documents.

- 1.Signed copy of the Reimbursable statement.
- 2.Signed copy of the trial balance (April to June 2017)
- 3.Signed copy of the statement of realisation of amount from your customer.
4. Signed copy of the statement of payment not received from your customer.

157. These documents have not been furnished by the petitioner.

The audit was later completed and the petitioner has received a Show Cause Notice dated 26.02.2022 bearing ReferenceNo.06/2020(ADC) C.No.V/15/ST/46/2019-Audit-II since the rejection of their applications on 09.11.2019 and on 13.01.2020.

158. As per the petitioner in W.P.No.11785 of 2020, the tax quantified was **Rs.1,98,86,089/-** on 24.10.2018 for the period from April 2017 to June 2017. While the quantification for the corresponding period in the Show Cause Notice dated 26.02.2020 is only **Rs.1,94,15,715/-**, which is less than what the petitioner has quantified, the entire tax due from the said petitioner was **Rs.2,98,27,857/-** (without



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including interest of Rs.56,06,373/-) for the period between March, 2016 and June, 2017.

159. Of the aforesaid quantified sum of **Rs.1,98,86,089/-**, the petitioner claims to have paid a sum of **Rs.1,71,47,330/-** (Rs.1,60,51,759 + input tax liability of Rs.10,95,571/-) in cash before the audit and partly during the course of the audit, and before the implementation of SVLDRS, 2019 with effect from 01.09.2019. A sum of **Rs.5,00,722/-** was paid after the implementation of SVLDRS, 2019. The payment details are given below:

Service	Amount paid before the Audit began on 25.09.2018		Amount paid during the course of Audit		Amount paid after SVLDRS came into force on 01.09.2019	
	Date	Amount in Rs.	Date	Amount in Rs.	Date	Amount in Rs.
Works Contract Service	27.04.2017	5,38,718	04.02.2019	58,00,000	22.10.2019	20,600
	31.05.2017	47,25,000	17.05.2019	49,88,041	19.11.2019	4,50,557
					19.11.2019	29,565
Total		52,63,718		1,07,88,041		5,00,722

160. The details furnished by the petitioner in its communication dated 24.10.2018 and the information in the Show Cause Notice dated 26.02.2022 indicate that the petitioner did not make a complete



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disclosure. There was no proper quantification of the tax due by the petitioner for the entire period between March 2016 to June 2017.

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161. If the amount quantified by the petitioner on 24.10.2018 and later declared in the declaration filed under SVLDRS, 2019, and the amount arrived in the Show Cause Notice dated 26.02.2022 were same, it can be said that there was “quantification” for the purpose of SVLDRS, 2019 before 30.06.2019 in terms of Section 121(r) r/w Section 123(c) and Section 124(1)(d) to bring the case within the purview of the exemption to the exclusion in Section 125(1)(e).

162. However, only an *ad hoc* quantification was made for the “tax dues” period between April 2017 to June 2017. Therefore, there was quantification for the aforesaid period alone. No quantification was provided by the petitioner for the period between March 2016 to March 2017 for the purpose of definition under Section 121(r) r/w Section 123(c) & Section 124(1)(d). The disability under Section 125(1)(e) of SVLDRS, 2019 is attracted for the period between March 2016 to March 2017 and therefore as an errant taxpayer whose tax liability has not been determined, the petitioner is not entitled to avail the benefit of SVLDRS,



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2019 for the period between March 2016 to March 2017.

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163. In our view, there was neither a proper quantification by the petitioner nor any quantification during audit by the Department. Therefore, the petitioner in W.P.No.11785 of 2020 is not entitled to the benefit of SVLDRS, 2019 for the period between March 2016 to March 2017.

164. The petitioner has placed reliance on the decisions of Delhi and Bombay High Courts and the FAQs issued by the Central Board of Indirect Taxes and Customs (CBIC) clarifying what is meant by quantification, but the same cannot be applied to the facts of the present case.

165. The decisions of other High Courts cannot therefore be applied to the facts of the present case. In fact, we are not going to follow any of the decisions rendered in other cases as each case has to be decided on the strengths and weaknesses of the facts as presented.



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166. As per Rule 3 of the SVLDRS Rules, 2019, a person is entitled to make multiple declarations in respect of the case as defined in explanation to the aforesaid Rule. A reading of the above facts indicate that there is only a proper quantification for a sum of **Rs.1,98,86,089/-** for the period between April 2017 to June 2017. Thus, at best the petitioner is entitled to settle for the period from April 2017 to June 2017 alone. The show cause proceedings initiated subsequently on 26.02.2020 cannot be scuttled by the petitioner for demands made earlier starting from March 2016 to June 2017. To that extent, the petitioner is not entitled to settle the case.

W.P.No. 12957 of 2020

167. We shall now take up W.P.No.12957 of 2020.

168. The petitioner has been issued the Show Cause Notice No.47 of 2020 dated 25.09.2020 by the second respondent, the Principal Additional Director General, Directorate General of Goods and Service Tax Intelligence.

169. The petitioner has challenged Show Cause Notice No.47 of



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2020 dated 25.09.2020 by the second respondent, the Principal Additional Director General, Directorate General of Goods and Service Tax Intelligence in W.P.No. 3320 of 2022. The petitioner has also challenged Central Government Notification No.22/2014-Service Tax dated 16.09.2014 in W.P.No.3322 of 2022.

170. We have already held that the challenge to Central Government Notification No.22/2014-Service Tax dated 16.09.2014 is without merits. Therefore, challenge to the Show Cause Notice No.47 of 2020 dated 25.09.2020 issued by the Principal Additional Director General, Directorate General of Goods and Service Tax Intelligence, the second respondent has also been held to be without merits. Therefore, both W.P.Nos.3320 of 2022 and 3322 of 2020 are liable to be dismissed as mentioned above.

171. The petitioner in W.P.Nos.12957 of 2020 (who has also filed W.P Nos. 3320 & 3322 of 2022) filed a Declaration on 31.12.2019. Thus, the Declaration filed by the petitioner was also in time.



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172. A sum of **Rs.37,08,90,828/-** was quantified by the petitioner as “tax due” in its reply dated 07.05.2019 in response to the summons dated 23.04.2019. Extract from the aforesaid letter dated 07.05.2019 reads as under:-

Period	Date of Filing	ST Payable
2014-15	10.05.2017	12,99,13,633
2015-16	19.11.2018	8,35,56,989/-
2016-17 (1 st half)	11.01.2019	2,49,88,012/-
	Total	23,84,58,634

173. A reading of the Show Cause Notice indicates that for the period 2014-15, 2015-16 and 1st half of 2016-17 returns were filed prior to the implementation of SVLDRS, 2019 with effect from 01.09.2019 vide Chapter-V of the Finance Act, 2019. Neither the affidavit nor the show cause notice reveals the date of the payment.

174. A reading of the Show Cause Notice indicates that the petitioner has paid the aforesaid sum of **Rs. 23,84,58,634/-** together with the late filing fees for the returns filed beyond the statutory period.



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WEB COPY 175. The difference between the amount admitted by the petitioner in its letter dated **07.05.2019** and the amount demanded in the Show Cause Notice dated 25.09.2020 is **Rs.75,51,102/-**are as detailed below:-

Sl.No.	Payment Head and Year	Service Tax Quantified by the petitioner in reply dated 7.5.2019 (A)	Service Tax Quantified by inquiry in the SCN dated 25.09.2020 (B)	Difference (C)=(B-C) (C)
1.	TDR(Transfer of Development Rights) 2014-15 to 2016-17	1,98,95,974	2,38,28,462	39,32,488
2.	Construction Service provided to M/s.Army Welfare Housing Organisation (AWHO) for 2014-15 to 2017-18 (upto June 2017)	6,60,92,863	6,97,11,477	36,18,614
3.	Regular Service Tax collected and not paid for 2014-15 to 2017-18 (upto June 2017)	28,49,01,991	28,49,01,991	
	Total	37,08,90,828	37,84,41,930	75,51,102



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WEB COPY 176. A reading of the Show Cause Notice issued to the petitioner and the above charts reveal that the petitioner has disputed that it was not liable to pay service tax on a part of the service tax demanded towards Transfer of Development Right (TDR) and construction services provided to M/s.Army Welfare Housing Organisation (AWHO) alone.

177. The aforesaid sum of **Rs.37,08,90,328/-** quantified by the petitioner on 07.05.2019 in response to the summons dated 23.04.2019 covers the purported liability of the petitioner for the period between 2014-15 to June 2017 as against **Rs.37,84,41,930/-** as quantified in the Show Cause Notice No.47 of 2020 dated 25.09.2020 issued by the Principal Additional Director General, Directorate General of Goods and Service Tax Intelligence.

178. The case of the petitioner is thus partly covered under Section 124(1)(c)(iii)(A) for the period 2014-15, 2015-16 and 1st half of 2016-17 as the returns were filed on 10.05.2017, 19.11.2018 and 11.01.2019 admitting the tax liability of Rs.12,99,13,633/-, Rs.8,35,56,989/- and Rs.2,49,88,012 respectively before the cut off date i.e. 30.06.2019.



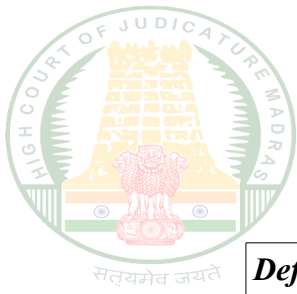
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179. Relevant respective clauses from Section 121(c) and 123(e)

are produced below:-

Definition	Tax Dues	Relief
<p>121(c) of SVLDRS, 2019.</p>	<p>Section:-123(e). — For the purposes of the Scheme, “tax dues” means —</p>	<p>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 :</p>
<p>c)“amount in arrears” means the amount of duty which is recoverable as arrears of duty under the indirect tax enactment, on account of-</p> <p>(iii)the declarant having filed a return under the indirect tax enactment on or before the 30th day of June 2019, wherein he has admitted a tax liability but not paid it.</p>	<p>e) where an amount in arrears relating to the declarant is due, the amount in arrears.</p>	<p>c) where the tax dues are relatable to an amount in arrears and, —</p> <p>(i) the amount of duty is, rupees fifty lakhs or less, then, sixty per cent. of the tax dues;</p> <p>(ii) the amount of duty is more than rupees fifty lakhs, then, forty per cent. of the tax dues;</p> <p>(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, —</p> <p>(A) rupees fifty lakhs</p>



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<i>Definition</i>	<i>Tax Dues</i>	<i>Relief</i>
		or less, then, <u>sixty per cent.</u> of the tax dues; (B) amount indicated is more than rupees fifty lakhs, then, forty per cent. of the tax dues

180. The above quantification of liability was prior to the implementation of SVLDRS, 2019. A reading of the Show Cause Notice issued to the petitioner and the above chart reveals that the petitioner has disputed that it was not liable to pay service tax on a part of the service tax demanded towards Transfer of Development Right (TDR) and construction services provided to M/s.Army Welfare Housing Organisation (AWHO) alone.

181. Thus, as against the admitted tax liability of **Rs.37,08,90,828/-**, the petitioner has purportedly paid a sum of **Rs.23,84,58,634/-** partly through cash for a sum of **Rs.12,31,98,712/-** and the balance through Cenvat account for a sum of **Rs.11,52,59,922/-**.

182. A reading of the show cause notice also indicates that for the period from April 2014 to December 2019 a sum of Rs.12,54,89,142/-



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was paid in cash and the balance of **Rs.11,54,69,555/-** was paid through

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Cenvat account which is disputed by the Department.

183. The above quantification of tax liability is before the commencement of investigation by DGGI on 23.04.2019.

184. The petitioner has made a partial quantification of the tax liability. Only a sum of **Rs.75,51,102/-** on account of TDR and services rendered to AWHO as detailed above in the Table was not quantified either in the ST-3 Returns and/or in the letter dated 7.5.2019 before the implementation of SVLDRS,2019.

185. However, it would not disentitle the petitioner from the purview of SVLDRS, 2019 for the amount remaining unpaid as per the admission in the ST-3 Returns prior to the implementation of SVLDRS, 2019.

186. An overall reading of the facts indicate that the returns filed



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by the petitioner for the period 2014-15, 2015-16 and 2016-17 (1st half)

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falls within the meaning of the phrase "**amount in arrears**" in Section 121(c)(iii) of the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019.

187. Thus, if at all, the petitioner may be entitled to any relief under SVLDRS, 2019, it would be confined to the relief under Section 124(1)(c)(iii)(A), of the SVLDRS, 2019, provided the amount of **Rs.23,84,58,634/-** was not paid before its implementation. In the result, the petitioner was entitled to settle the case under SVLDRS, 2019 on the amounts which were not declared in the returns filed on 10.05.2017, 19.11.2018 and 11.01.2019 but quantified in the letter dated 7.5.2019.

188. To the extent there was no quantification, before 30.06.2019 in the letter dated 7.5.2019, no relief is available to the petitioner under SVLDRS, 2019.

189. However, the benefit of SVLDRS, 2019 cannot be denied to the petitioner to the extent there was a quantification on 07.05.2019 by



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the petitioner on the amounts remaining unpaid prior to implementation of SVLDRS, 2019 with effect from 01.09.2019.

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190. The respondents are directed to issue **Form SVLDRS (3 or 4)** the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 subject to the balance amount paid by the petitioner.

191. In the result,

W.P.No.11785 of 2020:

- i. W.P.No.11785 of 2020 is allowed by directing the respondents to accept the declaration filed under SVLDRS, 2019 for the tax dues and tax determined by the petitioner as payable for the period between April 2017 to June 2017 amounting to **Rs.1,98,86,089/-** in its letter dated 28.10.2018 alone and settle the case by issuing appropriate discharge certificate in accordance with the provisions of SVLDRS, 2019 preferably within a period of 30 days from the date of receipt of a copy of this order.
- ii. For the balance amount covered by the Show



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Cause Notice dated 26.02.2022 issued by the Additional Commissioner of GST and Central Excise, the Additional Commissioner of GST and Central Excise may issue a corrigendum to the said Show Cause Notice, within a period of 60 days from the date of receipt of a copy of this order to the petitioner.

- iii. For the rest of amount, the respondents are directed to proceed with the aforesaid Show Cause Notice dated 26.02.2022 issued by the Additional Commissioner of GST and Central Excise as proposed or as per corrigendum to the aforesaid show cause notice and pass order within a period of 90 days from the date of receipt of a copy of this order or within 90 days of corrigendum.
- iv. Needless to state, the petitioner shall be heard before orders are passed in the aforesaid show cause proceeding.

W.P.No.12957 of 2020

- i. W.P.No.12957 of 2020 is allowed by directing the respondents to accept the declaration filed



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under SVLDRS, 2019 for the tax dues, determined and quantified by the petitioner as payable for the period between 2014-15 to 2017-18 (upto June 2017) by accepting the Declaration in Form SVLDRS-I filed by the petitioner on 31.12.2019 and settle the case by issuing appropriate discharge certificate in accordance with the provisions of SVLDRS, 2019 to the extent there was a quantification on 7.5.2019 for the amount of tax due that had remained unpaid before the implantation of SVLDRS,2019 within a period of 30 days from the date of receipt of a copy of this order.

ii. For the balance amount covered by the Show Cause Notice No.47 of 2020 dated 25.09.2020 issued by the Principal Additional Director General, Directorate General of Goods and Service Tax Intelligence, the Principal Additional Director General, Directorate General of Goods and Service Tax Intelligence may issue a corrigendum to the said Show Cause Notice within a period of 60 days from the date of receipt of a copy of this order to the petitioner.

iii. For the rest of amount, the respondents are



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directed to proceed with the aforesaid Show Cause Notice No.47 of 2020 dated 25.09.2020 issued by the second respondent, the Principal Additional Director General, Directorate General of Goods and Service Tax Intelligence as proposed or as per corrigendum to the aforesaid Show Cause Notice and pass order within a period of 90 days from the date of receipt of corrigendum.

v. Needless to state, the petitioner shall be heard before orders are passed in the aforesaid show cause proceeding.

192. Consequently, W.P.Nos.3320 & 3322 of 2022 stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

(S.V.N.,J.)

(C.S.N.,J.)

30.11.2022

Index : Yes/No
Internet : Yes/No
Speaking : Non-Speaking Order
kkd
To



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1. The Designated Committee
Sabka Vishwas Legacy Disputes Resolution
Scheme, 2019
(Commissioner of GST & Central Excise &
Joint Commissioner of GST & Central Excise)
Chennai Outer Commissionerate,
Newry Towers, 2054-I, II Avenue,
Anna Nagar West, Chennai 600 040.
2. The Commissioner of Central Taxes and Central Excise,
Chennai Outer Commissionerate,
Newry Towers 2054-I, IInd Avenue,
Anna Nagar West, Chennai 600 040.
3. The Designated Committee
Sabka Vishwas (Legacy Disputes Resolution)
Scheme,
Chennai North Commissionerate,
Range IV, Nungambakkam,
Chennai 600 034.
4. The Secretary,
Union of India
Department of Revenue,
Ministry of Finance,
North Block, New Delhi.
5. The Principal Additional Director General,
Directorate General of Goods and Service
Tax Intelligence
Chennai Zonal Unit,
8th Floor, Tower-II, BSNL Building,
No.16, Greams Road,
Chennai 600 006.
6. The Additional Director General(Adjudication)
Directorate General of Goods
and Service Tax Intelligence,



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Mumbai Zonal Unit,
3rd Floor, N.M.Barg, Ballard Estate,
Fort, Mumbai 400 001.

S.VAIDYANATHAN,J
and
C.SARAVANAN,J

kkd

Pre-delivery Common Order in
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30.11.2022