



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1883 OF 2023

Bramhanand Kanojia  
having his office at Survey No.96,  
Near Bholenath Hotel, Kalyan  
Shill Road, Dighar, Thane – 421 204

...Petitioner

**Versus**

1. The Union of India,  
through the Secretary  
Ministry of Finance  
Department of Revenue,  
South Block, New Delhi – 110 001.
2. The Commissioner of CGST and  
Central Excise, Thane Rural  
having his office at Utpad Shulk  
Bhavan, 4<sup>th</sup> Floor, Plot No.24 – C,  
Sector E, Bandra Kurla Complex,  
Bandra (E), Mumbai – 400 051
3. The Joint Commissioner of CGST  
and Central Excise, Thane Rural  
having his office at Utpad Shulk  
Bhavan, 4<sup>th</sup> Floor, Plot No.24 – C,  
Sector E, Bandra Kurla Complex,  
Bandra (E), Mumbai – 400 051
4. The Deputy Director  
DGGI, Zonal Unit, N.T.C. House,  
3<sup>rd</sup> Floor, 15, N. M. Road,  
Ballard Estate, Mumbai – 400 001
5. The Senior Intelligence Officer,  
DGGI, Zonal Unit, N.T.C. House,  
3<sup>rd</sup> Floor, 15, N. M. Road,  
Ballard Estate, Mumbai – 400 001

6. The Designated Committee constituted under Section 126 of the Finance (No.2) Act, 2019, having its office at Lotus Infocenter, Parel, Mumbai – 400 012.

...Respondents

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Mr. Jas Sanghavi i/b. PDS Legal for Petitioner.

Mr. Satyaprakash Sharma a/w Ms. Niyati Mankad and Mr. Akash Singh for Respondents.

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CORAM : M. S. Sonak &  
Jitendra Jain, JJ.

DATED : 10 December 2024

**JUDGMENT (Per Jitendra Jain J):-**

1. Heard learned counsel for the parties.
2. Rule. The Rule is made returnable immediately at the request and with the consent of the learned counsel for the parties.
3. By this petition under Article 226 of the Constitution of India, the Petitioner is challenging the rejection of his application, made under Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 (“SVLDR Scheme”), by the Respondents on the ground that since the duty demand was not quantified before 30 June 2019, the Petitioner is not eligible to avail the benefit of the said Scheme.

**Brief facts :-**

4. The Petitioner is carrying on business as a sole proprietor in the name of M/s. Evershine Cleaners and is engaged in providing dry cleaning services.

5. On 28 June 2018, summons under Section 83 of the Finance Act, 1994 was issued to the Petitioner and a statement was recorded wherein the Petitioner admitted that the approximate service tax liability for the financial years 2014-2015 to 2017-2018 would be around Rs. 21.70 lakhs out of which he has been paid Rs.13 lakhs. On 15 April 2019, Petitioner informed the Respondents that he has paid total service tax liability of Rs.23.73 lakhs.

6. Meanwhile, SVLDR Scheme was introduced and the Petitioner made an application under the category “investigation, enquiry or audit”. In the said Form, the duty amount was mentioned at Rs.28,72,603/- and the pre-deposit amount was mentioned at Rs.23,82,188/-. The said application came to be rejected on 8 November 2019 under Section 125(1)(3) of the SVLDR Scheme, 2019.

7. On 30 December 2019, the Petitioner once again made an identical application referred to above. The said application came to be rejected on 23 January 2020, on the ground that the amount was not quantified on or before 30 June 2019. It is on this backdrop that the Petitioner is before us challenging the rejection of his declaration on the ground of ineligibility.

8. Mr. Sanghavi, learned counsel for the Petitioner submits that the quantification was admitted in the statement recorded pursuant to

the summons on 28 June 2018 and, therefore, the rejection is bad in law and not covered by Section 125(1)(e) of the SVLDR Scheme. He further submitted that in Form-1 he mentioned Rs.28,72,603/- as duty and pre-deposit amount as Rs.23,82,188/- since he was under a belief that the difference was paid by his vendors. However, without going into this issue, if the Designated Committee had informed that he was required to pay Rs.28,72,603/-, he would have done so and even today he is ready and willing to pay the said amount. However, based on this, the Petitioner cannot be said to be ineligible for availing the benefit of the Scheme as per Section 125(1)(e).

9. Per contra, Mr. Sharma submitted that as against the duty amount of Rs.28,72,603/-, the Petitioner in his application has stated only Rs.23,82,188/- and furthermore in show cause notice post 30 June 2019 quantification is done at Rs.28,72,603/- and therefore, he was considered as ineligible. However, as an officer of the Court he fairly agrees that there are decisions of this Court in favor of the Petitioner on this issue. He however prays that if the Petitioner's application is allowed then he should be called upon to pay the difference along with interest.

10. We have heard learned counsel for the Petitioner and the Respondents and with their assistance have perused the documents brought to our notice.

11. Section 125(1) of SVLDR Scheme provides that all persons shall be eligible to make a declaration under the Scheme, except those mentioned in clauses (a) to (h). The Respondents have invoked Section 125(1)(e) for disqualifying the Petitioner on the ground that in case of an enquiry or investigation or audit if the amount of duty is not quantified on or before 30 June 2019 then a person is not eligible to make a declaration under this Scheme. In the instant case, pursuant to summons, a statement was recorded on 28 June 2018 wherein the Petitioner admitted his liability of Rs.21.70 lakh. On a query being asked by the investigation officer during the course of statement as to how he would be paying the outstanding liability, he stated that he will pay along with interest. This shows that Respondents also admitted the quantification much before 30 June 2019.

12. On 15 April 2019, the Petitioner informed the Respondents that he has paid total service tax of Rs.23,82,188/- for the financial years 2013-2014 to 2017-2018. The Petitioner also gave details of service tax payments. Therefore, in our view, the quantification of duty was made prior to 30 June 2019 and merely because a show cause notice is issued after 30 June 2019, it cannot be said that the quantification was not made prior to 30 June 2019. The SVLDRS Scheme is silent as to who should quantify.

13. Section 125(1)(e) disqualifies if there is no quantification on or before 30 June 2019 and not where there is difference in figure in the quantification. In the instant case before us as against the show cause notice demand of Rs.28,72,603/-, the Petitioner has quantified Rs.23.73 lakhs prior to 30 June 2019. Therefore, the Petitioner cannot be said to be disqualified under Section 125(1)(e) of SVLDR Scheme.

14. Under Section 126 of SVLDR Scheme, the Designated Authority has the power to verify the figures mentioned in the declaration and give a counter-offer to the declarant of the correct amount. However, in this case, the Petitioner's application was thrown out at the threshold itself and, therefore, this stage did not arise. Today, the Scheme has come to an end and the Petitioner has stated that he is willing to substitute the figure of Rs.28,72,603/- in place of Rs. 23,82,188/- and is willing to pay interest on the balance. In view thereof, we are of the view that Petitioner's declaration was rejected wrongly by invoking the provisions of Section 125(1)(e) of the SVLDR Scheme. However, since the Petitioner is eligible and has now offered to pay the difference along with interest and in the light of subsequent fact that the Scheme has come to an end, we propose to accept the request made by the Petitioner.

15. The view taken by us is supported by series of decisions copies of which were filed by the Petitioner. However, we quote some of the decisions :-

- (a) **Kuber Health Food and Allied Services Pvt. Ltd. Vs. The Union of India & Ors.<sup>1</sup>,**
- (b) ***Sabareesh Pallikere Vs. Jurisdictional Designated Committee, Thane & Ors.<sup>2</sup> &***
- (c) ***Eka Academy Pvt. Ltd. Vs. Union of India<sup>3</sup>***

16. In view of the above, we dispose of this petition by passing the following order:-

#### O R D E R

- (i) Rejection of SVLDRS-1 dated 8 November 2019 and 30 December 2019 are hereby quashed and set aside and the Respondents are directed to accept the same.
- (ii) The Respondents to re-calculate the amount payable under the Scheme by taking the figure of Rs.28,72,603/- as duty quantified on or before 30 June 2019 (as reduced any pre-deposit or payment made) and intimate the same to the Petitioner to make the payment along with interest at the rate of 6% per annum from 1 January 2020 till date of such intimation.

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1 2024 (11) TMI 1139

2 2021 (48) G.S.T.L. 240 (Bom.)

3 (2024) 21 Centax 480 (Bom.)

(iii) The Petitioner to make the payment of the aforesaid amount within four weeks from the date of intimation and inform the Respondents about the same.

(iv) The Respondents to issue final certificate under Section 127 of the SVLDR Scheme within four weeks from the Petitioner informing the Respondents of his having made the payment.

17. The Rule is made absolute in the above terms with no cost order.

(Jitendra S. Jain, J.)

(M. S. Sonak, J.)