

W.P.No.8329 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

Writ Petition No.8329 of 2022 and
W.M.P.No.8305 of 2022

M/s.Sri Veera Mathiamman Foundations (P) Ltd.,
Represented by its Director S.Kumar,
41/B, Perur Main Road,
Telungupalayam Pirivu,
Perur Main Road, Coimbatore-641 039.

... Petitioner

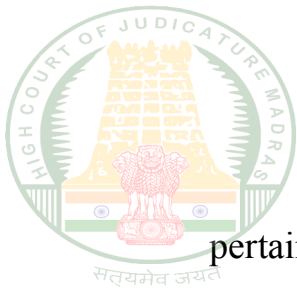
-VS-

1.The Designated Committee,
Sabka Vishwas Legacy Disputes
Resolution Scheme (SVLDRS),
(Commissioner of GST & CE),
6/7, ATD street, Race Course,
Coimbatore-641 018.

2.Assistant Commissioner of Central
Taxes & Central Excise,
Coimbatore I Division,
1441, ELGI Building,
Trichy Road, Coimbatore-641 018.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for records



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pertaining to the impugned order-in-original No.11/2022-ST(AC) dated 31.01.2022 passed by the 2nd respondent, quash the same and consequently directing the 1st respondent to issue discharge certificate in Form SVLDRS 4, after taking cognizance of the amount paid by the petitioner on 09.06.2021.

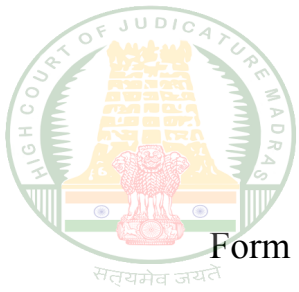
For Petitioner : Mr.G.Natarajan

For Respondents : Mr.Rajnish Pathiyil,
senior standing counsel

ORDER

The petitioner challenges an order dated 31.01.2022 and seeks a consequential direction to the 1st respondent to issue a discharge certificate in Form SVLDRS-4.

2. In respect of assessment years 2014-2015, 2015-2016, 2016-2017 and 2017-2018, the petitioner availed of the Sabka Vishwas Legacy Disputes Resolution Scheme, 2019 (SVLDRS) and filed Form SVLDRS-1 on 31.12.2019. Upon scrutiny thereof, the Designated Committee issued

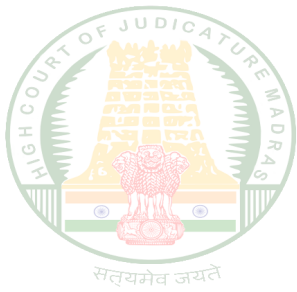


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Form SVLDRS-3 confirming the declared liability of the petitioner.

Consequently, the petitioner was required to make the payment within 30 days from the date of issue of SVLDRS-3. The said 30 day period was extended for all eligible assesseees up to 30.06.2020. The petitioner asserts that he could not make such payment on account of financial hardship. Eventually, the payment was made on 09.06.2021. Since payment was made beyond 30.06.2020, the petitioner's case was treated as outside the scope of SVLDRS and the impugned order came to be issued.

3. Learned counsel for the petitioner submits that the petitioner could not make payment on or before 30.06.2020 entirely on account of financial hardship. By relying upon the Division Bench judgment of this Court in *N.Sundararajan (Former Partner) v. Union of India and others*, *W.A.Nos.2097 & 2098 of 2021*, judgment dated 26.08.2021, learned counsel submits that the Division Bench permitted the appellant therein to remit tax along with interest on or before 17.09.2021. Since the petitioner herein remitted the tax on 09.06.2021, learned counsel submits that the petitioner should be extended a similar benefit.

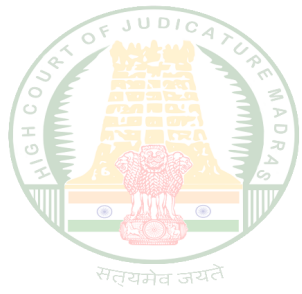


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4. Mr.Rajnish Pathiyil, learned senior standing counsel, made submissions in response. While admitting that no appeal was filed against the judgment of the Division Bench, learned senior standing counsel submits that the facts of the case before the Division Bench are distinguishable from the facts of the present case. In particular, he points out that paragraph 5 of the judgment of the Division Bench refers to the fact that the writ petitions were filed on 29.09.2020 and 30.09.2020, whereas he submits that the petitioner herein approached this Court on 31.03.2022.

5. The date of filing of the writ petition is only relevant for purposes of determining whether discretionary jurisdiction should be denied on account of laches. In principle, the Division Bench of this Court concluded that the benefit of the SVLDRS should be extended subject to payment of amounts due on or before 17.09.2021 along with interest thereon at 15% from 01.07.2020 till the date of remittance. The petitioner herein is entitled to parity of treatment. Paragraphs 5 & 6 of the Division Bench judgment are as under:

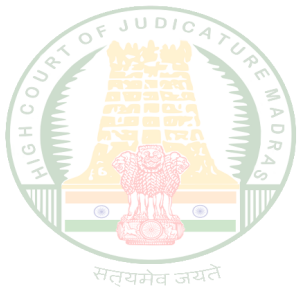


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“5.Thus, in terms of the above Act, the time limit prescribed under Chapter-V of the Finance Act for completion of certain actions as stipulated under Chapter-V, stood extended till 30th September, 2020, and Section 6 of the Act deals with two situations, namely, period for completion and period of compliance. Therefore, the said provision has to be given a liberal interpretation and if we do so, the time limit for payment of taxes can be construed to be a time limit for completion of particular act, as stipulated under Chapter-V of the Finance Act. In fact, the said Act has also made certain amendments in the Direct Tax Vivad Se Vishwas Act, 2020, in Chapter-IV. Thus, the intention of the legislation is to extend the time limit for compliance or completion of certain acts under the Statute, which have been listed therein, and the Direct Tax Vivad Se Vishwas Act, 2020, has also been amended by extending the time limit. Since Chapter-V of the Act, which deals with relaxation of time limit under Indirect Tax Laws, which stipulates four Tax Laws, which includes Finance Act, 1994, we will be well justified in holding that the time limit for completion of the payment of taxes, as quantified in Form-3, also stood extended till 30.09.2020. If that is the date on which the appellants were required to complete the payment, then



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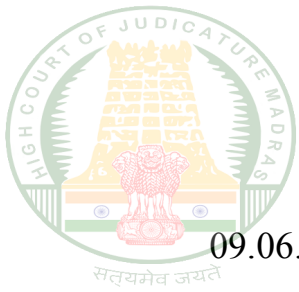
the appellant's conduct in approaching this Court by filing the writ petitions on 29.09.2020 and 30.09.2020 can very well be reckoned to be a conduct, which will not be hit by delay and laches.

6. Therefore, we are of the view that the appellant should be permitted to remit the taxes, as quantified in the Form-3 declaration issued to the appellant, subject to of course by also paying interest @ 15% from 01.07.2020 till the date of remittance, which we shall fix as on or before 17.09.2021. If the appellants comply with the said condition, then the appropriate authority under the SVLDR Scheme shall consider the appellant's application and proceed in accordance with the provisions of the said Scheme. ”

6. By following the judgment of the Division Bench, this writ petition is disposed of with the following directions:

(i) The order impugned herein is quashed and the matter is remanded to the 1st respondent for reconsideration.

(ii) Subject to the petitioner paying interest at 15% per annum on the amount paid under the SVLDRS for the period running from 01.07.2020 to



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09.06.2021, the 1st respondent is directed to treat the petitioner's case as one under the SVLDRS and issue a discharge certificate on that basis. There will be no order as to costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No

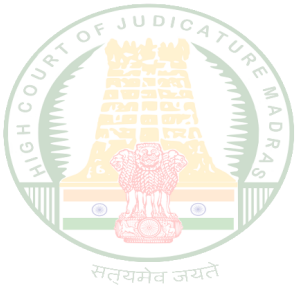
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To

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SENTHILKUMAR RAMAMOORTHY,J.

Kj

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