

IN THE HIGH COURT OF KARNATAKA, BENGALURU

DATED THIS THE 15TH DAY OF SEPTEMBER, 2022

BEFORE

THE HON'BLE MR.JUSTICE S.R.KRISHNA KUMAR

WRIT PETITION No.9992 OF 2022 (T-RES)

BETWEEN:

M/S. THE SENATE
G BLOCK, DIAMOND DISTRICT,
AIRPORT ROAD,
BENGALURU-560 008.

KARNATAKA

CORRESPONDENCE ADDRESS:

SHERIFF CENTRE, 73/1, ST. MARK'S ROAD,
BANGALORE-560 001.

KARNATAKA

(REPRESENTED BY MR. MUKHTAR AHMAD

AGED ABOUT 67 YEARS S/O MR. MIRZA ABDUL REHMAN)

IT IS A PARTNERSHIP FIRM.

...PETITIONER/S

(BY SRI R. DAKSHINA MURTHY, ADVOCATE FOR
SMT. M. MAHALAKSHMI, ADVOCATE FOR
SRI. NAVEEN KUMAR K.S., ADVOCATE)

AND:

1. THE DESIGNATED COMMITTEE
SABKA VISHWAS (LEGACY DISPUTE RESOLUTION)
SCHEME 2019,
PRESIDED BY THE COMMISSIONER OF CENTRAL TAX &
JOINT COMMISSIONER OF CENTRAL TAX,
BANGALORE EAST COMMISSIONERATE,
BMTc/TTMC BUILDING,
4TH FLOOR, OLD AIRPORT ROAD,
DOMLURU, BENGALURU-560 071.
2. THE JOINT COMMISSIONER OF CENTRAL TAX
OFFICE OF THE PRINCIPAL COMMISSIONER OF
CENTRAL TAX, BANGALORE EAST COMMISSIONERATE,
BMTc/TTMC BUILDING, 4TH FLOOR, "B" WING,

OLD AIRPORT ROAD, DOMLURU,
BENGALURU-560 071.

3. UNION OF INDIA,
MINISTRY OF FINANCE,
NORTH BLOCK, NEW DELHI-110 001.
(REPRESENTED BY THE SECRETARY)

...RESPONDENTS

(BY SMT. VANITHA K.R., ADVOCATE FOR R-1 & 2)

THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO DIRECT RESPONDENT NO.1 TO ISSUE FORM SVLDRS-4 PURSUANT TO ISSUE OF FORM SVLDRS-3 DT.02.12.2019 IN ANNEXURE-G1 AND ETC.

THIS W.P. COMING ON FOR ORDERS, THIS DAY, THE COURT MADE THE FOLLOWING:-

ORDER

In this petition, the petitioners have sought for the following reliefs:

- a. *Issue a writ of mandamus or such other Writ, Order or direction as this Hon'ble Court may deem fit, directing the Respondent No.1 to issue form SVLDRS-4 pursuant to issue of Form SVLDRS-3 dt.2.12.2019 in Annexure-G1 in the facts and circumstances of the instant case;*
- b. *Issue a writ of certiorari or such other writ, order or direction as this Hon'ble Court may deemed and to quash the show cause notice in File No.IV/16/68/2021 CT East JC 1 ADjn 5185/2021 SCN SL.No.303/2021 – DIN No.202112 5700000066956C 423/2022 dated 31.12.2021 issued by Respondent No.2 in **Annexure-P**;*

c. *To pass such other orders, directions and writs as this Hon'ble High Court may deem fit in the facts and circumstances of the case, and in the interests of justice including the costs of this writ petition.*

2. Heard learned counsel for the petitioner, learned counsel for respondent Nos.1 and 2 and perused the material on record.

3. The material on record discloses that pursuant to the promulgation of the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 (for short "SVLDR Scheme"), petitioner submitted Form SVLDRS-1 to respondent No.1 on 16.11.2019 pursuant to which respondent No.1 issued Form SVLDRS-3 to the petitioner vide Annexure-G1 calling upon the petitioner to pay a sum of Rs.1,49,27,961/- towards full and final settlement under the SVLDR Scheme. Subsequently, the said payment was made by the petitioner on 27.12.2019, who addressed a communication dated 31.12.2019 to the respondent intimating respondent No.1 that the entire amount as demanded in Form SVLDRS-3 was paid by him as can be seen from the

payment challans. Subsequently, on 08.09.2020, respondents addressed a communication to the petitioner informing him that the discharge in Form SVLDRS-4 could not be issued in favour of the petitioner on account of non-payment of the aforesaid sum of Rs.1,49,27,961/- by the petitioner and that the same has to be paid by the petitioner immediately. In response thereto, the petitioner submitted a reply dated 23.09.2020 to the respondents intimating them that the aforesaid amounts had already been paid by the petitioner through RTGS on 31.12.2019 within the stipulated period of 30 days from the date of issuance of Form SVLDRS-3 on 19.12.2018. Under these circumstances, the petitioner requested the respondents to issue discharge certificate in Form SVLDRS-4 and close the matter. It is the grievance of the petitioner that despite noticing the aforesaid facts and circumstances and referring to the payment made by the petitioner, which entitles him to issuance of Form SVLDRS-4 by the respondents, respondent No.2 has issued the impugned show-cause notice dated 31.12.2021, which has been assailed by the petitioner in the present petition.

4. Per contra, learned counsel for respondent Nos.1 and 2 submits that there is no merit in the petition and that the same is liable to be dismissed.

5. As rightly contended by the learned counsel for the petitioner, the material on record clearly establishes that the petitioner had already paid a sum of Rs.1,49,27,961/- to the respondents, who had accepted the entitlement of the petitioner under SVLDR Scheme. However, respondents had called upon the petitioner to make the said payment despite the same having already made and the details of the said payment being intimated to the respondents by the petitioner in his reply dated 23.09.2020. It is therefore clear that the respondents have accepted and acquiesced to the fact that the petitioner was entitled to the benefit of the SVLDR Scheme and the petitioner having paid the aforesaid sum of Rs.1,49,27,961/- on 31.12.2019 within a period of 30 days from 02.12.2019 on which date Form SVLDRS-3 was issued, respondent No.2 clearly fell in error in issuing show-cause notice without considering or appreciating that the

payment referred to without considering or appreciating or taking into account the said undisputed payment made by the petitioner. The impugned show-cause notice is clearly contrary to the undisputed to the facts and circumstances and consequently, upon petitioner making payment of the aforesaid amount on 31.12.2019 within the stipulated period of 30 days within 03.12.2019, the petitioner is clearly entitled to the benefit of the SVLDR Scheme and consequently, petitioner is entitled for issuance of Form SVLDRS-4 in his favour. Under these circumstances, I am of the view that the impugned notice deserves to be quashed and necessary directions are to be issued to the respondents in this regard.

6. In the result, I pass the following:

ORDER

- (i) The petition is hereby **allowed**.
- (ii) The impugned show-cause notice dated 31.12.2021 issued by respondent No.2 vide Annexure-P is quashed.
- (iii) Respondent No.1 is hereby directed to consider the claim of the petitioner for grant

of benefit of SVLDR Scheme bearing in mind the observations made in this order and the material on record produced by the petitioner in the present petition and in accordance with law and issue form SVLDR-4 in favour of the petitioner subject to other verification as expeditiously as possible within a period of four weeks from the date of receipt of a copy of this order.

- (iv) In order to facilitate respondent No.1 to comply with this order as expeditiously as possible, the petitioner is hereby directed to submit a fresh representation along with all relevant documents to respondent No.1 within a period of one week from today when same shall be considered by respondent No.1 as stated supra.

**Sd/-
JUDGE**

Bmc