

(2025) 11 KL CK 1868
In the High Court Of Kerala
Case No : Writ Petition (C) No. 26259 Of 2024

P.P. Paul

APPELLANT

Vs

Union Of India

RESPONDENT

Date of Decision : 10-11-2025

Acts Referred:

Finance Act, 2019 — Section 120, 121, 122, 123, 124, 125, 126, 127, 127(2), 127(3), 127(5), 127(7), 128, 129, 130, 131, 132, 133, 134, 135
Sabka Vishwas (Legacy Dispute Resolution) Scheme Rules, 2019 — Rule 5, 6, 6(6), 7, 8, 9

Citation : (2025) 11 KL CK 1868

Hon'ble Judges : Ziyad Rahman A.A., J

Bench : Single Bench

Advocate : Sasidharan I.P., Ramanarayanan G., C.Dinesh, P.T.Dinesh

Final Decision : Disposed Of

Judgement

Ziyad Rahman A.A., J

1. This writ Petition is submitted by the petitioner, being aggrieved by the revenue recovery proceedings initiated against the petitioner towards the arrears of service tax payable by the petitioner.

2. Earlier, proceedings were initiated against the petitioner, demanding service tax as per Ext.P1 show cause notice. Exhibit P2 is yet another show cause notice issued to the petitioner following Ext.P1. In the meantime, the Central Government introduced a scheme for settlement of the tax liabilities including service tax viz; Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 (hereinafter referred to as ('SVLDRS')), as per the Finance Act, 2019. The petitioner submitted a declaration as contemplated under section 125 of the Finance Act and based on the same, the respondent offered the petitioner to settle the liability by paying Rs.1,05,806/- as per section 127(5) of the Finance Act, 2019. The said payment ought to have been made by the petitioner within a period of 30 days from the date of issue of a settlement accepting the declaration

of the petitioner. The due date for the payment was extended by the Government up to 30.06.2020 by amending Rule 7 of SVLDRS. Later, the said period was extended up to 30.09.2020. However, the petitioner could remit the said amount on 16.11.2020 and the same was accepted by the Department. The proof of the remittance is Ext.P4.

3. Despite the above, on 10.06.2022, the petitioner was issued with Ext.P5 notice, demanding an amount of Rs.8,30,851/- by the 5th respondent herein. As it was understood that the said amount pertains to the liability already settled by the petitioner by availing Amnesty scheme, the petitioner submitted an objection before the Tahsildar as evidenced by Ext.P6. Another objection was submitted before the 2nd respondent highlighting the above fact. However, the 2nd respondent issued Ext.P10 order, rejecting the contentions raised by the petitioner. This Writ Petition is submitted in such circumstances, challenging the said proceedings.

4. A counter affidavit has been submitted by the respondents 2 to 4 in which, it is averred that, the petitioner is not entitled to the benefit of Amnesty scheme, based on the provisions of the Finance Act, 2019, as the petitioner failed to make the payment, within the stipulated period contemplated as per the scheme. It was also pointed out that, on several occasions, notices were issued to the petitioner demanding the said amount, but there was no response at all. It was further contended that, as far as the benefit under the scheme is concerned, it can be availed by strictly complying with the conditions therein and since the petitioner failed to comply with the said conditions, the same is not available to the petitioner. Therefore, dismissal of the writ petition was sought.

5. A reply affidavit was submitted by the petitioner, wherein, it is contended that, the petitioner is entitled to get the time enlarged in the light of the orders passed by the Hon'ble Supreme Court, extending the period of limitation owing to the Covid-19 pandemic. It is also pointed out that, the petitioner had affected the payment within the extended time of limitation ordered by the Hon'ble Supreme Court in Sou Motu Writ Petition No. 3 of 2020. Thus, according to the petitioner, the payment made by him has to be treated as in compliance with the Amnesty Scheme.

6. I have heard Sri. Ramanarayanan G., the learned counsel for the petitioner, Sri.P.T.Dinesh, the learned Central Government Counsel for the respondents 2 to 3.

7. The main contention raised by the learned counsel for the petitioner is by placing reliance upon the orders passed by the Hon'ble Supreme Court in suo motu proceedings relating to Covid-19 pandemic, wherein, the period of limitation was extended up to 28.2.2022 from 15.3.2020. Thus, it was pointed out that, even though the period contemplated under Rule 7 of SVLDRS expired on 30.09.2020, as the petitioner affected the payment on 16.11.2020, which falls within the extended time limit as per the order passed by the Hon'ble

Supreme Court, the petitioner is entitled to get the benefit of the scheme. The learned counsel for the petitioner also brought to the attention of this Court a judgment rendered by another Single Bench of this Court in *Jewel Homes Private Limited v. Joint Commissioner, Central Excise* [WP(C)No.31543/2024], wherein, this Court, taking into account the extension of the period of limitation made by the Hon'ble Supreme Court in the suo motu proceedings in connection with the Covid -19 pandemic, held that, the petitioner therein is eligible to get the benefit of 2019 Amnesty scheme referred to above, even though the payment was affected after the cut of date prescribed in the scheme. Besides, the learned counsel for the petitioner also places reliance upon the decisions rendered by the High Court of Madras in WP(C)No.24366/2021, WP(C)No.24136/2022 and WP(C)No.11601/2021 wherein, similar view as stated in *Jewel Homes Pvt. Ltd* (supra) was taken and the benefit was extended to the petitioners therein, as it was noticed that the payments were affected within the extended period of limitation as ordered by the Hon'ble Supreme Court, even though said period was after cut off date prescribed under the scheme.

8. On the other hand, the learned Central Government Counsel for the respondents stoutly opposed the aforesaid contentions by pointing out that, as far as the order passed by the Hon'ble Supreme Court extending the period of limitation is concerned, the same cannot be made applicable to the proceedings under SVLDRS scheme. This contention is raised by the learned Central Government Counsel, mainly on the ground that, according to him, the proceedings of determination of the settlement amount payable under the scheme, is mere administrative proceedings and not a judicial or quasi judicial proceedings. It is contended by the learned Central Government Counsel that, the period of limitation extended by the Hon'ble Supreme Court was in relation to judicial and quasi judicial proceedings. Therefore, the benefit of the scheme cannot be claimed on the strength of such orders. It was also pointed out that, even though this Court in *Jewel Homes Pvt. Ltd.* (supra) extended the benefit, taking note of the order passed by the Hon'ble Supreme Court referred to above, this aspect was not taken into consideration in the said decision. It is also pointed out that, against the said decision, the Department filed a Review Petition in R.P. No. 918 of 2025, raising a question whether the payment made by the writ petitioner under the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019, beyond the last date fixed for payment, could still constitute a valid payment in terms of the Scheme on the basis of the directions issued by the Hon'ble Supreme Court in *Suo Motu Writ Petition (C) No. 3 of 2020*. This Court, without modifying the directions contained in the original judgment, reviewed the matter only to the limited extent of clarifying that it had not finally considered the question as to whether the directions issued by the Hon'ble Supreme Court in *Suo Motu Writ Petition (C) No. 3 of 2020* would apply to extend the last date for payment under the provisions of the Dispute Resolution Scheme.

9. It is also pointed out that, in the said case, the petitioner therein had affected

the payment on 3.7.2023 and at the relevant time the last date within which the payment ought to have been made was 30.6.2020. Subsequently, the said period was extended up to 30.9.2020. and the learned Central Government Counsel contended that since the applicability of the order of the Hon'ble Supreme Court to the Amnesty Scheme, in the light of the nature of the said scheme as contended by the respondent in this case, is not specifically considered by this Court in the said judgment, it may not be relied upon. Besides, the learned Central Government Counsel also brought to the attention of this Court to the orders passed by the Hon'ble Supreme Court in M/S Yashi constructions v. Union of India and Ors. [SLP(C)No.2070/2022 and M/S KEN Computek Pvt. Ltd. v. Designated Committee [SLP (C) No.2116/2023], wherein, the Hon'ble Supreme Court upheld the judgments passed by the High Court of Allahabad and High Court of Karnataka respectively, which rejected the time extension sought by the respective parties therein, in respect of the payment of the amount as per the scheme referred to above. The learned Central Government Counsel also relied on the judgment rendered by a Division Bench of the High Court of Gujarat in Anupam Industries Limited and Another v. Union of India and Others [Civil Application No.5062/2021 and Sneha Resort Pvt. Limited & Anr. v. Union of India & Ors. [R/Special Civil Application No.2438 of 2022] where the said High Court rejected the claim seeking extension of time, in the light of the orders passed by the Hon'ble Supreme Court in the light of the observations made in Yashi Constructions case (supra)

10. I have carefully gone through the records and examined the contentions raised from both sides. As mentioned above, the main objection raised by the learned Central Government Counsel is that the benefit of the order passed by the Hon'ble Supreme Court extending the period of limitation is not applicable to the scheme, in view of the fact that, the extension of time referred to in the said orders are in respect of the judicial or quasi judicial proceedings, whereas, the proceedings under the Amnesty Scheme is merely administrative in nature. Therefore, the first question to be decided is with regard to the nature of proceedings.

11. Before, going into the said question, the relevant statutory provisions in this regard are to be examined. Going by the scheme, it is to be noted that, it contemplates a settlement of tax liability, including service tax liability and the procedure for the same is contemplated in Chapter V of the Finance Act, 2019 (hereinafter referred to as the Act), that consists of section 120 to 135, and the rules framed thereunder, namely Sabka Vishwas (Legacy Dispute Resolution) Scheme Rules, 2019, (hereinafter referred to as the Rules). The person who is seeking the benefit of the same, has to submit a declaration under section 125 in Form SVLDRS-1. The details furnished in the said form shall be considered by the designated committee constituted under section 126 read with Rule 5 of the Sabka Vishwas (Legacy Dispute Resolution) Scheme Rules, 2019. The manner in which an application in this regard is to be considered, is contemplated in section 127 of the Finance Act, which reads as follows:

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

12. Rule 6 of the Sabka Vishwas (Legacy Dispute Resolution) Scheme Rules 2019 lays down the procedure to be followed by the designated committee, which reads as follows:

"Rule 6: Verification by designated committee and issue of estimate, etc.- (1) The declaration made under section 125, except when it relates to a case of voluntary disclosure of an amount of duty, shall be verified by the designated committee based on the particulars furnished by the declarant as well as the records available with the Department.

(2) The statement under sub-sections (1) and (4) of section 127, as the case may be, shall be issued by the designated committee electronically, within a period of sixty days from the date of receipt of the declaration under sub-rule (1) of rule 3, in Form SVLDRS-3 setting forth therein the particulars of the amount payable.

Provided that no such statement shall be issued in a case where the amount payable, as determined by the designated committee is nil and there is no appeal pending in a High Court or the Supreme Court.

(3) Where the amount estimated to be payable by the declarant exceeds the amount declared by the declarant, then the designated committee shall issue electronically, within thirty days of the date of receipt of the declaration under sub-rule (1) of rule 3, in Form SVLDRS-2, an estimate of the amount payable by the declarant along with a notice of opportunity for personal hearing.

(4) If the declarant wants to indicate agreement or disagreement with the estimate referred to in sub-rule (3) or wants to make written submissions or waive personal hearing or seek an adjournment, he shall file electronically Form SVLDRS-2A indicating the same.

Provided that if no such agreement or disagreement is indicated in the date of personal hearing and the declarant does not appear before the designated committee for personal hearing, the committee shall decide the matter based on available records.

(5) On receipt of a request for an adjournment under sub-rule(4), the designated committee may grant the same electronically in Form SVLDRS-2B.

Provided if the declarant does not appear before the designated committee for personal hearing after adjournment, the committee shall decide the matter based on available records.

(6) Within thirty days of the date of issue of Form SVLDRS-3, the designated committee may modify its order only to correct an arithmetical error or clerical error, which is apparent on the face of record, on such error being pointed out by the declarant or suo motu by issuing electronically a revised Form SVLDRS-3."

13. Rule 7 of the Sabka Vishwas (Legacy Dispute Resolution) Scheme Rules, 2019 provides that, every declarant shall pay electronically, the amount, as

indicated in Form SVLDRS-3 issued by the designated committee, within a period of thirty days from the date of its issue. Rule 8 of the said Rules , 2019 further provides proof of withdrawal of appeal or writ petition or reference before a High Court or the Supreme Court, as the case may be, under sub-section (7) of section 127 shall be furnished electronically by the declarant. Rule 9 contemplates for the issuance of discharge certificate, which reads as follows:

“Rule 9. Issue of discharge certificate.- The designated committee on being satisfied that the declarant has paid in full the amount as determined by it and indicated in Form SVLDRS-3, and on submission of proof of withdrawal of appeal or writ petition or reference referred to in rule 8, if any, shall issue electronically in Form SVLDRS-4 a discharge certificate under sub-section (8) of section 127 within thirty days of the said payment and submission of the said proof, whichever is later.”

14. Thus, the question to be considered is whether the proceedings as contemplated above, is a judicial/quasi judicial proceeding or a mere administrative proceeding. The specific contention of the learned Central Government Counsel is that, the process involved in accepting the declaration submitted by the petitioner under the scheme and determining the amount payable by the applicant, does not involve any adjudication process and hence, it does not amount to a judicial or quasi judicial proceedings. What is being done by the designated authority, is only to verify the entries made by the petitioner in the declaration, to find out whether the amount declared by the applicant as payable as per the scheme, is correct or not. Therefore, it is a mere administrative action, that does not amount to judicial or quasi judicial proceedings. Thus, in order to resolve the issue, we need to examine the difference between judicial/quasi judicial proceedings and administrative proceedings.

15. On screening through the various decisions rendered by the Hon’ble Supreme Court and other courts in this regard, it can be seen that both judicial/quasi judicial and administrative acts are completely different in their powers and consequences, even though the difference between the same is very thin. In *Province of Bombay v. Khushaldas S. Advani* [AIR 1950 SC 222] in paragraph 67, the following observations were made:

“67. In *Banwarilal* case [*Banwarilal Roy, In re*, (1944) 48 CWN 766] (at pp. 799-801) I had the occasion to analyse the essential characteristics of a quasi-judicial act as opposed to an administrative act. I stand by what I said on this point on that occasion. As I pointed out there, the two kinds of acts have many common features. Thus a person entrusted to do an administrative act has often to determine questions of fact to enable him to exercise his power. He has to consider facts and circumstances and to weigh pros and cons in his mind before he makes up his mind to exercise his power just as a person exercising a judicial or quasi-judicial function has to do. Both have to act in good faith. A good and valid administrative or executive act binds the subject and affects his rights or

imposes liability on him just as effectively as a quasi-judicial act does. The exercise of an administrative or executive act may well be and is frequently made dependent by the legislature upon a condition or contingency which may involve a question of fact, but the question of fulfilment of which may, nevertheless, be left to the subjective opinion or satisfaction of the executive authority, as was done in the several Ordinances, regulations and enactments considered and construed in the several cases referred to above. The first two items of the definition given by Atkin, L.J. may be equally applicable to an administrative act. The real test which distinguishes a quasi-judicial act from an administrative act is the third item in Atkin, L.J.'s definition, namely, the duty to act judicially. As was said by Lord Hewart, C.J. in *R. v. Legislative Committee of the Church Assembly*, ex p Haynes-Smith [*R. v. Legislative Committee of the Church Assembly*, ex p Haynes-Smith, (1928) 1 KB 411 (DC)] : (KB p. 415)

"... In order that a body may satisfy the required test it is not enough that it should have legal authority to determine questions affecting the rights of subjects; there must be superadded to that characteristic the further characteristic that the body has the duty to act judicially."

173"(i) that if a statute empowers an authority, not being a court in the ordinary sense, to decide disputes arising out of a claim made by one party under the statute which claim is opposed by another party and to determine the respective rights of the contesting parties who are opposed to each other there is a *lis* and *prima facie*, and in the absence of anything in the statute to the contrary it is the duty of the authority to act judicially and the decision of the authority is a quasi-judicial act; and (ii) that if a statutory authority has power to do any act which will prejudicially affect the subject, then, although there are not two parties apart from the authority and the contest is between the authority proposing to do the act and the subject opposing it, the final determination of the authority will yet be a quasi-judicial act provided the authority is required by the statute to act judicially."

In other words, while the presence of two parties besides the deciding authority will *prima facie* and in the absence of any other factor impose upon the authority the duty to act judicially, the absence of two such parties is not decisive in taking the act of the authority out of the category of quasi-judicial act if the authority is nevertheless required by the statute to act judicially."

16. In *Jaswant Sugar Mills Ltd, Meerut v. Lakshmi Chand and Others* [AIR 1963 SC 677], after referring to *Province of Bombay's* case (*supra*), it was observed as follows:

"11.....In the performance of an executive act, the authority has certainly to apply his mind to the materials before him; but the opinion he forms is a purely subjective matter which depends entirely upon his state of mind. It is of course necessary that he must act in good faith, and if it is established that he was not influenced by any extraneous consideration, there is nothing further to

be said about it. In a judicial proceeding, on the other hand, the process or method of application is different. "The judicial process involves the application of a body of rules or principles by the technique of a particular psychological method", vide Robson's Justice and Administrative Law p. 33. It involves a proposal and an opposition, and arriving at a decision upon the same on consideration of facts and circumstances according to the rules of reason and justice, vide, R. v. London Country Council [(1931) 2 K B. 215, 233] . It is not necessary that the strict rules of evidence should be followed : the procedure for investigation of facts or for reception of evidence may vary according to the requirements of a particular case. There need not be any hard and fast rule on such matters, but the decision which the authority arrives at, must not be his 'subjective', 'personal' or 'private' opinion. It must be something which conforms to an objective standard or criterion laid down or recognised by law, and the soundness or otherwise of the determination must be capable of being tested by the same external standard. This is the essence of a judicial function which differentiates it from an administrative function; and whether an authority is required to exercise one kind of function or the other depends entirely upon the provisions of the particular enactment.... Generally speaking where the language of a statute indicates with sufficient clearness that the personal satisfaction, of the authority on certain matters about which he has to form an opinion founds his jurisdiction to do certain acts or make certain orders, the function should be regarded as an executive function."

In the very same decision in paragraph 13, the criteria to be followed for taking a decision on the question as to whether a particular act is a judicial or quasi judicial or not, are laid down which reads as follows:

"13. To make a decision or an act judicial, the following criteria must be satisfied:

"(1) it is in substance a determination upon investigation of a question by the application objective standards to facts found in the light of pre-existing legal rules;

(2) it declares rights or imposes upon parties obligations affecting their civil rights; and

(3) that the investigation is subject to certain procedural attributes contemplating an opportunity of presenting its case to a party, ascertainment of facts by means of evidence if a dispute be on questions of fact, and if the dispute be on question of law on the presentation of legal argument, and a decision resulting in the disposal of the matter on findings based upon those questions of law and fact."

17. Similarly, in Dwaraka Nath v. Income Tax Officer [(1965) 57 ITR 349] in paragraph 5, the following observations were made:

"Para.5The law on the subject may be briefly stated thus : The provisions of a statute may enjoin on an administrative authority to act

administratively or judicially. If the statute expressly imposes a duty on the administrative body to act judicially, it is a clear case of a judicial act. But the duty to act judicially may not be expressly conferred but may be inferred from the provisions of the statute. It may be gathered from the cumulative effect of the nature of the rights affected, the manner of the disposal provided, the objective criterion to be adopted, the phraseology used, the nature of the power conferred of the duty imposed on the authority and other indicia afforded by the statute. In short, a duty to act judicially may arise in widely different circumstances and it is not possible or advisable to lay down a hard and fast rule or an inflexible rule of guidance."

18. In *Indian National Congress (I) v. Institute of Social Welfare and Others* [(2002) 5 SCC 685] in paragraph 27, the following observations were made:

"27. What distinguishes an administrative act from a quasi-judicial act is, in the case of quasi-judicial functions under the relevant law the statutory authority is required to act judicially. In other words, where law requires that an authority before arriving at a decision must make an enquiry, such a requirement of law makes the authority a quasi-judicial authority."

In *Indian National Congress's* case (supra) , it was further observed by the Hon'ble Supreme Court (para. 29) that, another test which distinguishes administrative function from quasi judicial function is that the authority which acts quasi judicially is required to act according to the rules, whereas, the authority which acts administratively is dictated by the policy and expediency.

19. Thus, the principles that can be deduced from the aforesaid decisions are as follows: One of the basic requirements to qualify a proceeding as a judicial or quasi judicial proceeding, is that, there must be an obligation upon the authority concerned to act judicially. Such requirement to act judicially need not be expressly mentioned in the Act, in which such proceeding is contemplated , but on the other hand, if such a requirement is implied from the overall scheme of the Act, by examining the nature, the purpose and consequence of the proceeding, such a proceeding could be treated as a judicial proceeding. Further, if such a proceeding involves an inquiry and a decision based on the same has to be taken on a set of legal principle, and the decision to be taken is not merely based on the personal satisfaction of the person concerned, then also, the proceeding has to be treated as a judicial or quasi judicial proceeding. Of course, some of the older decision propounds for a theory that, in order to qualify an act as an judicial act, there must be two parties and the decision has to be taken by a third party. However, later, the instances where, an administrative body taking a decision on the proposal made by it, to the other party, also treated as a judicial act, if it was found that it falls in the other criteria applicable in this regard. Therefore, we will have to consider the nature of the proceedings as contemplated under the scheme, in the light of the aforesaid principles.

20. The SVLDRS scheme, 2019 is contemplated under Chapter V of the Finance

Act, 2019, which consists of sections 120 to 135. Section 125 mentions about the declaration to be submitted by the person concerned. Section 126 contemplates that the designated committee shall verify the correctness of the declaration made by the declarant under section 125, in such a manner as may be prescribed. Section 127 provides the manner in which, the adjudication is to be conducted. On going through Section 127 of the Finance Act and Rule 6 of SVLDRS Rules, it can be seen that, the designated committee has to verify the correctness of the declaration made by the declarant and Rule 6(1) further imposes a duty upon the designated committee while verifying the declaration made under Section 125, to make such verification based on the particulars furnished by the declarant as well as the records available with the Department. Section 127(2) contemplates that, where the amount 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. Sub section (3) of Section 127 provides for giving the declarant an opportunity for being heard, before finalizing the amount determined as per sub-section (2) referred to above. Thereafter, a final declaration in Form SVLDRS has to be submitted, after hearing the declarant, in the light of sub rule (6) of Rule 6. Only thereafter, the declarant has to make the payment within the period stipulated.

21. Thus, on going through the entire scheme of the Act and the Rules, it can be seen that, there is an obligation upon the designated authority, to examine the particulars furnished in the declaration, cross check the same with the records maintained by the Department and thereafter arrive at a decision whether the amount declared by the declarant is to be accepted or not. In case, the amount is found to be higher than the amount claimed by the declarant, a further enquiry is contemplated after giving the declarant an opportunity for being heard. While carrying out all these exercises, the designated authority has to follow the relevant rules and regulations, to determine the amount payable by the declarant. In that sense, such a decision cannot be taken upon the personal satisfaction of the authorities concerned, but on the other hand, it has to be strictly in accordance with the statutory provisions which are relevant for the said purpose. What is being determined is the liability of a person, which in turn, affects the rights and liabilities of the person concerned, enumerated under the Income Tax Act , the Finance Act, 2019, and the rules framed thereunder.

22. It is to be noted in this regard that, in *BP & Co. v. Patel Engg. Ltd.*, [(2005) 8 SCC 618] , it was held that, it is not possible to formulate a definition which would satisfactorily distinguish between an administrative and a judicial order. That the power is entrusted to or wielded by a person who functions as a court is not decisive of the question whether the act or decision is administrative or judicial. An administrative order would be one which is directed to the regulation or supervision of matters as distinguished from an order which decides the rights of parties or confers or refuses to confer rights to property which are the subject

of adjudication before the court. One of the tests would be whether a matter which involves the exercise of discretion is left for the decision of the authority, particularly if that authority were a court, and if the discretion has to be exercised on objective, as distinguished from a purely subjective consideration, it would be a judicial decision.

23. Therefore, while carrying out such exercise, the designated authority is under an obligation to act judicially, as it is the requirement to take a decision by following the statutory provisions framed in this regard, where the liability to pay tax is contemplated. Under no circumstances, the proceedings or the acts that are being carried out by the designated authority could be treated as a mere administrative action, but on the other hand, it amounts to a quasi judicial act. Therefore, I have no hesitation to hold that the proceedings are coming within scope of period of limitation that are referred to in the relevant orders passed by the Hon'ble Supreme Court in the suo motu proceedings initiated in connection with the Covid-19 pandemic.

24. Of course, as rightly pointed out by the learned Central Government Counsel, the Yashi Constructions (supra) and M/S Ken Computek Pvt. Ltd. (supra), the Hon'ble Supreme Court rejected the special leave petitions filed against the judgments rendered by the High Court of Allahabad and High Court of Karnataka, where, the prayer seeking extension of time under the scheme was denied. However, on going through the aforesaid orders, it can be seen that the interference was not made by the Honourable Supreme Court, on the ground that, since a time limit has been prescribed in the Scheme, the same has to be scrupulously followed. Conspicuously, there is no reference in those orders, to the time extension granted by the Honourable Supreme Court in the matter of limitation by the suo motu proceedings.

25. When it comes to the orders passed by the Hon'ble Supreme Court, a specific contention was raised by the learned Central Government Counsel that, when the period of limitation was extended initially by the Hon'ble Supreme Court as per the order dated 23.03.2020 in suo motu writ petition No.3/2020, the same was confined to the matter of filing petitions, applications, suits/appeals and all others, within the period of limitation prescribed under the general law or under special laws, both Central and State. According to him, the same does not extend to the scheme which is the subject matter in this case.

26. However, it is to be noted that, a series of orders were issued by the Hon'ble Supreme Court in this regard and one of the said orders was on 23.09.2021 and paragraph 8 of the said order reads as follows:

"8. Therefore, we dispose of the M.A.No.665 of 2021 with the following directions.

I. In computing the period of limitation for any suit, appeal, application or proceeding, the period from 15.03.2020 till 02.10.2021 shall stand excluded. Consequently, the balance period of limitation remaining as on 15.03.2020, if any, shall become available with effect from 03.10.2021.

II. In cases where the limitation would have expired during the period between 15.03.2020 till 02.10.2021, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 03.10.2021. In the event the actual balance period of limitation remaining, with effect from 03.10.2021, is greater than 90 days, that longer period shall apply.

III. The period from 15.03.2020 till 02.10.2021 shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceeding.

IV. The Government of India shall amend the guidelines for containment zones, to state.

“Regulated movement will be allowed for medical emergencies, provision of essential goods and services, and other necessary functions, such as, time bound applications, including for legal purposes, and educational and educational and job-related requirements.”

Subsequently, a final order was passed in the said proceedings on 10.01.2022 in continuation of the earlier orders issued and the following directions were issued in paragraph 5 thereof.

“I. The order dated 23.03.2020 is restored and in continuation of the subsequent orders dated 08.03.2021, 27.04.2021 and 23.09.2021, it is directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings.

II. Consequently, the balance period of limitation remaining as on 03.10.2021, if any, shall become available with effect from 01.03.2022.

III. In cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.03.2022. In the event the actual balance period of limitation remaining, with effect from 01.03.2022 is greater than 90 days, that longer period shall apply.

IV. It is further clarified that the period from 15.03.2020 till 28.02.2022 shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.

V. As prayed for by learned Senior Counsel, M.A. No. 29 of 2022 is dismissed as withdrawn.”

27. It has to be noted that, in the order dated 23.09.2021, it is specifically ordered by the Hon’ble Supreme Court that, in computing the period of limitation for any suit, appeal, application or proceeding, the period from 15.3.2020 till 2.10.2021 shall stand excluded. Thus, what is referred to by the Hon’ble Supreme Court is the limitation of any suit, appeal or proceeding. Thus, apart from limitation for any suit, appeal or application, the limitation for the “proceeding” as such was extended. Moreover, in the order dated 23.03.2020, which is the first order passed, limitation for all applications, suits, appeals, all other proceedings prescribed under general law or under special law (Central and State) were extended. In such circumstances, it has to be understood that the proceedings in connection with the limitation prescribed in law, in respect of all the proceedings under the General or Special Acts shall stand extended.

28. In this case, of course, it is true that going by the nature of the aforesaid orders, the submission of the learned Central Government Counsel is to be accepted, which is to the effect that, what is referred to therein are the judicial or quasi judicial proceedings. However, I have already found that, the proceeding which are the subject matter of this case are quasi judicial in nature. Therefore, I do not find any justifiable reasons to accept the contentions raised by the learned Central Government Counsel that the time extension granted by the Honourable Supreme Court in connection with Covid-19 pandemic is not applicable to the Scheme. Of course, the learned Central Government Counsel relies on the decisions rendered by the Gujarat High Court where, this question was considered. However, the said decision was rendered by relying upon the observations made by the Hon’ble Supreme Court in Yashi constructions’ case (supra). I have already found that the decision rendered by the Hon’ble Supreme Court in Yashi constructions’ case (supra) was not by touching upon the extension of the period of limitation granted by the Hon’ble Supreme Court in suo motu proceedings..

29. In this regard, it is also to be noted that, the High Court of Jharakand in W.P. (T) No.1710/2022, even though held that the proceedings, under the scheme partakes the character of a quasi judicial proceeding but the relief was not granted to the petitioner therein, in view of the fact that the designated committee had completed the process in determining the amount and what remains was only the payment to be effected by the party concerned. It was found therein, after relying upon Yashi constructions’ case that, since the period within which, the payment has to be made, should be strictly as per the scheme, the time limit cannot be extended. However, I am of the view that, since the Hon’ble Supreme Court in suo motu W.P.(C) No.3/2020 passed an order on 23.9.2021 extending the period of limitation for all proceedings, the petitioner is entitled to the benefit. This is particularly because, what is extended is the “limitation in respect of a proceeding under the Central and State enactments

including special laws. Going by the scheme, Chapter V of Finance Act, 2019 r/w the rules framed thereunder, it can be seen that, the proceeding comes to an end only upon the petitioner is issued with a discharge certificate, as contemplated in clause (8) of 127 r/w Rule 9 of SVLDRAS Rules, 2019 in form SVLDRS. Such a discharge certificate can be issued only upon the payment made by the declarant. Therefore, even at the time of payment, the proceedings under the scheme, which is already found be quasi judicial in nature, was in existence. Thus, the only conclusion possible is that, in the light of the extension of time, the petitioner is entitled to the relief sought for, as the petitioner has remitted the amount on 16.11.2020, which is within the extended period of limitation. Thus, I am in full agreement with the observations and directions issued by the High Court of Madras in the cases of N.Sundara Rajan v. Union of India [WP No.24366 of 2021], M/s. SSGN Engineering Services Pvt. Ltd v. The Additional Commissioner of GST & Central Excise [WP No. 24136 of 2022] and M/s R.R. Housing (India) Pvt. Ltd v. The Designated Committee (SVLDRS) [WP No. 11601 of 2021].

In such circumstances, this writ petition is disposed of quashing Exts.P5 and P8, with a direction the 2nd respondent or the competent officer in this regard, to treat the payment made by the petitioner as the one in compliance of Chapter V of Finance Act, 2019 and issue a certificate in SVLDRS-4. This shall be done within a period of two months from the date of receipt of a copy of this judgment.