
(2020) 08 DEL CK 0011

In the Delhi High Court

Case No : Civil Writ Petition No. 4763 Of 2020

Vaishali Sharma

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 05-08-2020

Acts Referred:

Citation : (2020) 08 DEL CK 0011

Hon'ble Judges : Manmohan, J;Sanjeev Narula, J

Bench : Division Bench

Advocate : Nikhil Gupta, Shivanshish Karnani, Diyanishu Agrawal, Harpreet Singh

Final Decision : Disposed Of

Judgement

Manmohan, J

C.M.No.17226/2020

Exemption allowed, subject to all just exceptions.

Accordingly, the application stands disposed of.

W.P.(C) No.4763/2020

1. The petition has been heard by way of video conferencing.
2. Present writ petition has been filed challenging the order dated 26th February, 2020, whereby the respondents have rejected the declaration dated 29th December, 2019 filed by the petitioner in Form SVLDRS-1 under the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 (hereinafter referred to as the "Scheme").
3. Learned counsel for petitioner states that the petitioner pursuant to summons dated 14th May, 2018 had admitted her liability in the context of services rendered in lieu of commission earned from M/s. Herbalife India Private

limited on 18th May, 2018 itself. Accordingly, petitioner filed a declaration dated 29th December, 2019 under the SVLDR Scheme, but the same has been rejected on the sole ground that the demand was neither quantified nor communicated to the petitioner on or before 30th June, 2019.

4. Learned counsel for petitioner states that as the petitioner had admitted her liability on 18th May, 2018 itself, the demands stood quantified. He further states that the said amount had been paid in four installments in the months of June and July, 2018.

5. Learned counsel for petitioner submits that paras 4(a) and 10 (g) of the Central Board of Indirect Taxes and Customs Circular dated 27th August, 2019 provides for relief under the Scheme for cases under investigation and audit where the duty involved had been admitted by the assessee/declarant in a statement on or before 30th June, 2019. The relevant portion of the paras 4(a) and 10 (g) of the Circular dated 27th August, 2019 read as under:-

4. The relief extended under this scheme is summed up, as follows:

(a) For all the cases pending in adjudication or appeal (at any forum), the relief is to the extent of 70% of the duty involved if it is Rs.50 lakhs or less and 50% if it is more than Rs.50 lakhs. The Same relief is available for cases under investigation and audit where the duty involved is quantified and communicated to the party or admitted by him in a statement on or before 30.06.2019.

10. Further, the following issues are clarified in the context of the various provisions of the Finance (No. 2) Act, 2019 and Rules made thereunder:

xxx xxx xxx

(g) Cases under an enquiry, investigation or audit where the duty demand has been quantified on or before the 30th day of June, 2019 are eligible under the Scheme. Section 2(r) defines "quantified" as a written communication of the amount of duty payable under the indirect tax enactment. It is clarified that such written communication will include a letter intimating duty demand; or duty liability admitted by the person during enquiry, investigation or audit; or audit report etc. (emphasis supplied)

6. He further submits that the impugned order is in violation of principles of natural justice inasmuch as respondents had neither issued any notice nor given any opportunity of hearing to the petitioner. He states that had the respondents given the personal hearing before rejecting the declaration, the petitioner would have justified her case. In support of his submission, he relies upon the judgment of this Court in *Chaque Jour HR Services Pvt. Ltd.*

Vs. Union of India & Ors., W.P.(C) No. 1999/2020 dated 11th March, 2020 as well as Industrial Personnel & Security Services Pvt. Ltd. vs.

Commissioner of Central Goods & Services Tax, Delhi South & Anr., 2020-VIL-151-DEL-CE.

7. Issue notice.

8. Mr.Harpreet Singh accepts notice on behalf of the respondents. He states that the amount quantified by the petitioner in the statement had not been accepted by the Department and the investigation on the said date was still pending.

9. In the opinion of this Court, a liberal interpretation has to be given to the Scheme as its intent is to unload the baggage relating to legacy disputes under the Central Excise and Service Tax and to allow the businesses to make a fresh beginning.

10. Since it is the petitioner's case that she had admitted her liability to pay service tax on 18th May, 2018 itself, this Court is of the view that the respondents should have given an opportunity of hearing to the petitioner before rejecting the declaration dated 29th December, 2019 under the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019.

11. Consequently, the impugned order dated 26th February, 2020 is set aside and the designated committee is directed to decide the petitioner's application after giving an opportunity of hearing to the petitioner. For this purpose, list the matter before the designated committee on 13th August, 2020 at 11.00 A.M. A reasoned order, after giving an opportunity of hearing, shall be passed by the designated committee on or before 31st August, 2020. All the rights and contentions of the parties are left open.

12. With the aforesaid directions, present writ petition stands disposed of.

13. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.