

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 3262 OF 2024

Himtaj Ayurved Pvt. Ltd.

...Petitioner

Versus

Union of India & Ors.

...Respondents

Mr. Bharat Raichandani a/w Bhagrati Sahu i/b. UBR Legal Advocates for
Petitioner.

Mr. Jitendra B. Mishra a/w Sangeeta Yadav & Rupesh Dubey for Respondents.

CORAM: G. S. KULKARNI &
AARTI SATHE, JJ.

DATE: 11th MARCH 2026

P.C.

1. Rule. Rule made returnable forthwith. By consent of the parties, taken up
for final hearing.

2. This petition under Article 226 of the Constitution of India is filed praying
for the following substantive reliefs:

(a) that this Hon'ble Court be pleased to issue a Writ of Certiorari/
Mandamus or a writ in the nature of Certiorari/Mandamus or any other
writ, order or direction under Article 226 of the Constitution of India
calling for the records pertaining to the Petitioner's case and after going
into the validity and legality of the provisions, direct the Respondents to
issue discharge Certificate Form SLVDRS-4 under the SVS, 2019 after
taking the payment dated 28.07.2020 into consideration.

(b) that this Hon'ble Court be pleased to issue a Writ of Certiorari or a
writ in the nature of Certiorari or any other writ, order or direction under
Article 226 of the Constitution of India calling for the records pertaining to
the Petitioner's case and after going into the validity and legality of the
provisions set aside the decision dated 13.12.2023 (Exhibit "A").



(c) that this Hon'ble Court be pleased to issue a Writ of Certiorari or a writ in the nature of Certiorari or any other writ, order or direction under Article 226 of the Constitution of India calling for the records pertaining to the Petitioner's case and after going into the validity and legality of the provisions quash and set aside the impugned order of attachment dated 18.01.2016;

(d) that this Hon'ble Court be pleased to issue a Writ of Certiorari or a writ in the nature of Certiorari or any other writ, order or direction under Article 226 of the Constitution of India calling for the records pertaining to the Petitioner's case and after going into the validity and legality of the provisions direct the respondents to not initiate any coercive action seeking recovery of alleged dues against the petitioner during the pendency of the present petition;

3. The primary challenge in the present petition is to the action on the part of the Respondents in rejecting the benefits of the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 (hereinafter referred to as "SVS, 2019") to the Petitioner and issuing impugned order/letter vide Folio No. CGST/ME/SVLDRS/Himtaj/1743/19-20/Pt-I/729 dated 13th December 2023.

4. Briefly the facts are:

i. The Petitioner is a provider of taxable services and is *inter alia* engaged in the business of manufacturing ayurvedic and chemical products and vide Order-in-Original bearing number 264/10/V/2008 dated 26th November 2008, a demand of excise duty amounting to Rs. 47,81,474/- along with penalty and interest was confirmed insofar as the Petitioner is concerned.

ii. In the meantime the Central Government introduced the SVS, 2019 scheme to bring an end to pending litigation under the erstwhile Indirect Tax regime. The Petitioner availed of the SVS, 2019 scheme, and filed a total of 4 SVLDRS-1 applications under the aforesaid SVS, 2019 scheme. Out of the 4

applications filed by the Petitioner the Respondents accepted 3 of the aforesaid applications and issued Form SVLDRS-4. Further, the Respondents have not disputed the 3 applications for which Form – 4 has been issued. Insofar as the 4th application which has been rejected which is the subject matter of challenge in the present Petition. It is the Petitioner's contention that the Petitioner obtained a temporary registration on 30th December 2019 and filed an electronic declaration vide ARN No. LD3012190004410 in Form SVLDRS-1 on the CBEC website under "Arrear's category" to avail the benefit of the SVS, 2019 scheme and the Petitioner declared Rs. 19,12,589.60/- as the amount of tax dues therein. Subsequently on 28th February 2020, Form SVLDRS – 3 was issued to the Petitioner directing them to pay the amount of Rs. 19,12,589.60/- (40% of Rs. 47,81,474/-) which was the demand confirmed by Order-in-Original dated 26th November 2008, to avail the benefit of the SVS, 2019 scheme.

iii. The necessary challan for payment was generated in compliance with Section 127(5) of Chapter V of the Finance Act, 2019. As per Section 127(5) of Chapter V of the Finance Act 2019, the Petitioner was required to pay the amount as indicated vide Form SVLDRS-3 within 30 days from the date of issuance of the said Form which ended on 29th March 2020. It is the Petitioner's contention that if the said amount was not paid by the deadline i.e. 29th March 2020, then the Common Portal Identification Number (CPIN) would get automatically invalidated.

iv. However, due to the nationwide lockdown on account of COVID-19, the period of 30 days to make payment from the date of issuance of SVLDRS-3 was further extended till 30th June 2020 vide instruction folio no. 267/78/2019-CX.8-Pt. III dated 29th May 2020. Accordingly, the Petitioner paid the tax amount of Rs. 19,12,589.60/- through NEFT on 29th June 2020 vide reference No. 0008933 which payment was initially accepted but thereafter the said payment was returned to the bank account of the Petitioner on the ground that the CPIN had expired. The Petitioner, thereafter on multiple occasions tried to generate a new challan from the CBEC website but was unsuccessful and the Petitioner by email dated 6th July 2020 and letter dated 13th July 2020 respectively, communicated the same to Respondent No.5 and requested for the re-generation of the challan. The Petitioner also made several attempts by taking another temporary registration number to make the aforesaid payment and requested Respondent No.5 for issuance of the discharge certificate (Form SVLDRS-4). However, by order/letter dated 13th December 2023, Respondent No.3 rejected the request of the Petitioner for issuance of discharge certificate i.e. form SVLDRS-4 for claiming the benefits of the SVS, 2019 scheme on the ground that the payment was not done within the stipulated time and the payment was made by a different entity i.e. name of the challan was in a different name than that of the Petitioner. It is in these circumstances, the Petitioner contends that it has been constrained to file the present Petition.

5. We have heard learned Counsel for the parties. At the very outset, learned Counsel Mr. Raichandani submitted that the issue in the present Petition

stands squarely covered by the decision rendered by the co-ordinate Bench of this Court, by other High Courts and the Supreme Courts in the following matters:

- i. Shri Arjun Amarjeet Rampal V. Union of India & Ors.¹
- ii. Innovative Antares Private Limited V. Union of India & Ors.²
- iii. Cradle Runways Private Limited V. Union of India & Ors.³
- iv. M/s. Shekhar Resorts Limited V. Union of India & Ors.⁴
- v. M/s. L G Chaudhary V. Union of India⁵
- vi. Metallurgical Service V. Union of India & Ors.⁶

6. In all the aforesaid decisions, particularly in the decision of Arjun Rampal (supra), following the decision of Shekhar Resorts Limited Vs. Union of India & Ors. (supra) it has been held that while considering the SVS, 2019 scheme the benefit thereof could not be deprived merely on the basis of a technical issue for which the assessee was not at fault. In the case of Cradle Runways Pvt. Ltd. (supra) the objective of the scheme has been reproduced, which reads as below: -

"From the above, we find that as a one time measure for liquidation of past disputes of Central Excise and Service Tax, the SVLDR Scheme has been issued by the Central Government. The SVLDR Scheme has also been issued to ensure disclosure of unpaid taxes by an eligible person. This appears to have been necessitated as the levy of Central Excise and Service Tax has now been subsumed in the new GST Regime. From a reading of the statement of object and reasons, it is quite evident that the scheme conceived as a one time measure, has the twin objectives of liquidation of past disputes pertaining to central excise and service tax on the one hand and disclosure of unpaid taxes on the other hand. Both are equally

- 1 2023-TIOL-672-HC-MUM-ST
- 2 2023-TIOL-160-HC-MUM-ST
- 3 2024-TIOL-1319-HC-MUM-ST
- 4 2023-TIOL-04-SC-ST
- 5 2022-TIOL-1363-HC-AHM-ST
- 6 WP No. 679 of 2023 (Bombay HC)

important: amicable resolution of tax disputes and interest of revenue. As an incentive, those making the declaration and paying the declared tax verified as determined in terms of the scheme would be entitled to certain benefits in the form waiver of interest, fine, penalty and immunity from prosecution. This is the broad picture the concerned authorities are to keep in mind while dealing with a claim under the scheme."

7. *Per Contra*, Learned Counsel for the Department has submitted that the Petitioner assessee, in the present case did not pay the tax amount determined under the Form SVLDRS-3 in time and hence his application was rejected.

8. Keeping in mind the aforesaid objective of the scheme, a hyper technical view of the SVS, 2019 scheme cannot be taken and the benefit of the scheme must be allowed to the Petitioner. In the facts of the present case, the Petitioner-assessee made the payment of the determined tax in the extended period as the Covid-19 pandemic hit the country, however challan was not getting uploaded due to some technical issue. This to our mind, was a genuine difficulty which the Petitioner was facing and hence the rejection of the Petitioner's request for issuance of discharge certificate in form SVLDRS-4 by letter/order dated 13th December 2023 by Respondent No.3 was arbitrary and not warranted. The action of Respondent No. 3 also disregards several decisions of this Court and the Supreme Court, and the other High Courts as enumerated in paragraph 5 above, and hence the aforesaid rejection has been made on a complete non application of mind. In light of the above discussion and in view of the settled position of law, we deem it appropriate to pass the following order which will meet the ends of justice.

ORDER

- i) The letter/order dated 13th December 2023 rejecting the Petitioner's request for issuance of the Discharge Certificate as Form SVLDRS-4 under SVS, 2019 is quashed and set aside.
- ii) The impugned order of attachment dated 18th January 2016 is also quashed and set aside.
- iii) The Respondents are directed to issue Form SVLDRS-4 to the Petitioner within a period of four weeks from the date this order is made available to the Respondents by the Petitioner.
- iv) Petition is disposed of in the aforesaid terms. Rule made absolute in the above terms. No costs.

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)