NEUTRAL CITATION
2026:GUJHC:37550-DB

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 15507 of 2020

FOR APPROVAL AND SIGNATURE:
HONOURABLE MR. JUSTICE A.S. SUPEHIA sd/-
and
HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI sd/-

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Approved for Reporting	Yes	No
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PLANET AUTOMATIVE PVT. LTD. & ANR.
Versus
UNION OF INDIA & ORS.

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Appearance:
MR HARDIK P MODH(5344) for the Petitioner(s) No. 1,2
MR UTKARSH R SHARMA(6157) for the Respondent(s) No. 2,4
NOTICE SERVED for the Respondent(s) No. 1,3

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CORAM:**HONOURABLE MR. JUSTICE A.S. SUPEHIA**
and
HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI

Date : 18/06/2026
ORAL JUDGMENT
(PER : HONOURABLE MR. JUSTICE A.S. SUPEHIA)

1. The present writ petition is filed by the petitioners, an authorised dealer of Hyundai Brand of cars. The petitioners are assailing the action of the respondent no.3-Designated Committee, in rejecting the Form-1 submitted under the statutory Scheme, namely Sabka Vishwas (Legacy Dispute Resolution), Scheme, 2019 (hereinafter be read as "SVLDRS"), falls under the Finance(No.2) Act, 2019. The Scheme was promulgated by the Central Government, Ministry of Finance, with a view to provide resolution of legacy disputes relating to indirect taxes.

FACTS OF THE CASE

2. The petitioners were subjected to the inquiry and investigation which was initiated on 21.05.2018. During the

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course of on spot primary scrutiny it was noticed that the petitioners have not paid the service tax to the tune of Rs.25,73,507/-. An on spot confession was made by one Shri Ashok Kalyanbhai Patel on the inquiry made as a part of the investigation. Accordingly, summon dated 20.11.2018 was issued to the petitioners wherein, certain documents were called for investigation to ascertain the total Service Tax liability. After the issuance of summons, the petitioners finally produced the documents as called upon by the investigating officers under the letter dated 18.12.2019.

2.1 Upon scrutiny of the record, it was observed that the petitioners have not paid service tax to the tune of Rs.1,83,11,330/- and accordingly, a show-cause notice dated 12.06.2020 was issued. It appears that the inquiry culminated into the final order dated 15.11.2022 passed by the Joint Commissioner, Central Goods and Services Taxes (for short 'CGST') & Central Excise, Ahmedabad imposing a penalty of Rs.1,55,11,789/-.

2.2 The petitioners have also challenged the same by filing an appeal before the Commissioner (Appeals), CGST & Central Excise. The appellate authority by the order dated 29.02.2024 upholded the demand of taxable value amounting to Rs.82,06,270/- along with the interest and penalty. Both the orders are tendered by learned advocate Mr. Modh, today.

2.3 During the course of investigation, the petitioners accepted the liability of duty to the tune of Rs.25,73,507/- towards repair, reconditioning, restoration or decoration or any other similar services of any other motor vehicle. These details

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are found in the statement dated 21.05.2018, which was recorded by the competent authority during investigation. The petitioners filed Form SVLDRS-1 for claiming benefit of the scheme on 31.12.2019, which has been rejected by the competent authority by assigning the reason "*service tax not quantified on or before 30.06.2019.*"

SUBMISSIONS ON BEHALF OF THE PETITIONERS

3. Learned advocate Mr. Modh appearing for the petitioners while inviting our attention to the provisions of Section 125(1) Clause(e) of the SVLDRS (for short ' the Scheme'), has submitted that the case of the petitioner seeking benefit under the Scheme will be governed by this provision read with the provision of para 10(g) of the Circular No. 1071/4/2019-CX-8 dated 27.08.2019, issued by the Ministry of Finance, Department of Revenue, Central Board of Indirect Taxes and Customs. He has also referred to the definition of "*quantified*" as stipulated under the provision of Section 121(r) of the Scheme.

3.1 It is submitted that thus, the liability which has been accepted by the petitioner during the course of the investigation in the statement made on 21.05.2018, will satisfy the provisions of Section 125(e) of the Scheme and hence, the decision of the respondent in rejecting Form SVLDRS-1 is required to be quashed and set aside. An additional ground is also raised by learned advocate Mr. Modh that before rejecting the FORM SVLDRS-1, no opportunity of being has been given by the Designated Committee as mandated under Section 127(3) of the Scheme. It is submitted that after the petitioner has filled up FORM SVLDRS-1 the competent authority is required to

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constitute the Designated Committee under Rule 5 of SVLDRS Scheme Rules, 2019, and since such committee was not constituted therefore, the opportunity of hearing was not afforded to the petitioner. Hence, it is urged that on this count also the impugned decision is required to be quashed and set aside. Finally, it is submitted that the respondents ought to have considered the part of the amount of the tax liability which has been admitted by the petitioner in the statement dated 21.05.2018 to the tune of Rs.25,73,507/- and for the rest of the demand the adjudication proceedings are over, which would not have any bearing on granting the benefit of Scheme. Thus, it is urged that respondent may be directed to reconsider the case and accept the Form SVLDR-1 and grant the benefit of the Scheme.

SUBMISSIONS ON BEHALF OF THE RESPONDENTS

4. Opposing the present writ petition and the submissions advanced as recorded hereinabove, learned Senior Standing Counsel Mr. Utkarsh Sharma while referring to the foregoing statutory provisions has submitted that on conjoint reading of the provision of Section 123(c) of the Scheme and the definition of "*quantified*" as provided under Section 121(r) of the Scheme read with para 10(g) of the Circular dated 27.08.2019, will clarify that the amount which has been ultimately finalised in the adjudication proceedings can be said to be the quantification. It is submitted that the quantification of the liability of tax has been determined after the cut-off date of 30.06.2019, hence the petitioner-assesses is not eligible for getting the benefit of the Scheme.

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4.1 It is submitted that the statement made by the petitioner during the course of inquiry or investigation cannot make the petitioner eligible under the Scheme. Since, the petitioner was subjected to inquiry and an on spot confession made of accepting the liability to the tune of Rs.25,73,507/- of unpaid service tax, will not attract the provision of Section 125(1)(e) of the Scheme. It is submitted that the investigation was undertaken against the petitioners for not paying the service tax to the tune of Rs.1,83,11,330/-. Accordingly, a Show-Cause notice dated 12.06.2020 was issued to the petitioners, which have ultimately culminated into enhancement of the amount of unpaid Service Tax along with penalty and interest. It is submitted that partial confirmation of the service tax on acceptance of the liability by the assessee is impermissible and the same is not provided under the Scheme.

4.2 While referring to the FAQ's of SVLDRS, 2019 more particularly Q.59, it is submitted that an assesee will not be eligible on the basis of the amount quantified under inquiry investigation or audit on or before 30.06.2019, which subsequently gets modified. In other words, it is submitted that all the evidence and documents gathering process when it is over and the tax liability has been worked out on or before 30.06.2019 in those cases the applicability of the Scheme would arise. In the present case, since the liability of quantification of the unpaid service tax was not over on 30.06.2019 and the liability which has been admitted by the petitioners have been subsequently modified, hence the petitioners are not entitled to get the benefit of the Scheme.

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4.3 As far as the opportunity of hearing is concerned, it is submitted that the same would only be applicable in those cases where upon an assessee voluntarily discloses the amount and such amount is quantified under the provision of Section 125(1)(e) of the Scheme and upon such quantification, when a declaration is filed by an assessee and considered by the Designated Committee, in such cases only, if the Designated Committee decides to reject or takes any decision an opportunity of hearing is necessitated. Thus, it is urged that the present writ petition deserves to be dismissed.

ANALYSIS AND OPINION

5. The facts which are established from the pleading and from the record are as under:

(a) The petitioner was subjected to an inquiry initiated on 21.05.2018 and during the on spot preliminary scrutiny it was noticed that the petitioners have not paid the service tax to the tune of Rs.25,73,507/-

(b) An investigation was undertaken and summons were issued on 20.11.2018 asking the petitioners to produce certain documents.

(c) On scrutiny of the record it was observed that the petitioners have not paid the service tax to the tune of Rs.1,83,11,330/- and accordingly a show-cause notice dated 12.06.2020 was issued to the petitioner.

(d) Ultimately, the proceedings culminated in the order dated 15.11.2022 passed by the office of the Joint Commissioner, CGST & Central Excise, Ahmedabad imposing a penalty of Rs.1,55,11,789/-.

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(e) The petitioner assailed the same by filing an appeal and and by the order dated 29.02.2024, the amount was modified and the appellate authority upheld the demand on the taxable value of Rs.82,06,270/- along with interest and penalty.

(f) During the course of the investigation, on 21.05.2018, when the statement of the petitioner was recorded the petitioner admitted the tax liability of Rs.25,73,507/- .

(f) The petitioner filed FORM SVLDRS-1 dated 31.12.2019, seeking the benefit of the Scheme.

(g) The scheme was introduced by the Central Government for offering an opportunity to the tax payers to pay the outstanding tax, making them free from any other consequences under the law. Thus, the Scheme is a benevolent scheme which provides substantial relief to the tax dues through all categories of cases as well as waiver of interest, penalty and also grants a complete immunity from prosecution.

(h) The FORM-1 of the petitioner has been rejected by the respondent no.3 with an endorsement "*service tax not quantified on or before 30.06.2019.*"

6. The entire case of the petitioner hinges on the interpretation of the provisions of Section 125(1)(e) of the Scheme and Clause 10(g) of the Circular dated 27.08.2019 read with the definition of "*quantified*" as stipulated under Section 121(r) of the Scheme. The provision of section 125(1)(e) of the Scheme reads as under: -

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> "*(1) All persons shall be eligible to make a declaration under this Scheme* ***except*** *the following, namely :-*
>
> *(e) who have been subjected to an enquiry or investigation or audit and the amount of duty in the said enquiry or investigation or audit has not been quantified on or before the 30th day of June, 2019.*"

7. Thus, those persons who are subjected to an inquiry or investigation or audit and the amount of duty involved in the said inquiry or investigation or audit has not been quantified on or before 30.06.2019 are exempted or debarred from getting the benefit of the Scheme.

7.1 In the instant case, the petitioner is indubitably subjected to investigation/inquiry which culminated into issuance of show-cause notice and ultimately to the imposition of penalty along with interest.

7.2 It is the case of the petitioner, that acceptance of the liability of unpaid service tax to the tune of Rs.25,73,507/- in his statement made on 21.05.2018, during the investigation will amount to the quantification of the amount. In order to buttress this submission, reliance is placed on the provisions of Section 121(r) of the Scheme read with Clause 10(g) of the Circular dated 27.08.2019. The Circular dated 27.08.2019 is issued by the Central Board of Indirect Taxes and Customs clarifying issues arising from the implementation of the Scheme.

7.3 In order to appreciate the aforesaid submission a close reading of Section 121(r) and Clause 10(g) is necessary. Section 121(r) of the Scheme reads thus :-

> *"(r) "quantified", with its cognate expression, means a written communication of the amount of duty payable under the indirect tax enactment;"*

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7.4 Clause 10(g) of the Circular dated 27.08.2019 reads as under:-

> "*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:*
>
> > *(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.***"

8. Extensive reliance is placed on the "clarified" part of Clause 10(g) of the Circular dated 27.08.2019. It is contended before us, that the clarification tendered by the department in Clause 10(g) of the Circular dated 27.08.2019, about the acceptance of the liability (*in the instant case, the statement dated 21.05.2018*) during the investigation or inquiry would satisfy the definition of "*quantified*" and such amount is to be treated as final for the purpose of getting the benefit of the Scheme. We are unable to accept the view articulated before us, by taking shelter on the provision of 10(g) of the Circular dated 27.08.2019, for the following reasons:

8.1 Clause 6, of the Circular dated 27.08.2019 reads as under:-

> *"6. It may be appreciated that the ambit of this Scheme is wide enough to cover all kinds of pending disputes, including call book cases, except for a few categories. The exclusions are firstly, cases in respect of goods that are still subject to levy of Central Excise such as specified petroleum products and tobacco i.e. goods falling in the Fourth Schedule to the Central Excise Act, 1944. Secondly, cases for which the taxpayer/noticee has already been convicted in a Court of*

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law. Thirdly, cases under adjudication or litigation where the final hearing has taken place on or before 30.06.2019. Fourthly, cases of erroneous refunds. Lastly, cases which are pending before the settlement Commission.

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8.2 Thus, Clause 6, also explains the scope and ambit of the scheme and the third category of cases which finds places in those cases, which are under adjudication or litigation where the final hearing has taken place on or before 30.06.2019. The intention of Clause 6 and Clause 10(g) of the Circular dated 27.08.2019, gets emphasized by reading the Clauses in juxtaposition with the provision of Section 123 of the Scheme. The relevant portion is extracted as under:

"*123. For the purpose of the Scheme, 'tax dues' means -*

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(c) where an enquiry or investigation or audit is pending against the declarant, the amount of duty payable under any of the indirect tax enactment which has been quantified on or before 30th day of June, 2019.

(d) where the amount has been voluntarily disclosed by the declarant, then, the total amount of duty stated in the declaration;

(e) where an amount in arrears relating to the declarant is due, the amount in arrears."

8.3 The definition of "*quantified*" under Section 121(r) uses the expression "*duty payable*". The purpose of the definition cannot be construed as part of the duty payable as per the admission of the declarant/assessee. Thus, the combined reading of all the aforenoted provisions exposit that the tax liability which has been admitted by a person during enquiry / investigation / audit, will be included towards the final quantification of the "duty payable" and determined before 30.06.2019.

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9. The Scheme or the Circular does not stipulate any eventuality which makes an assessee eligible for the Scheme on acceptance of the part of the amount of tax liability during the investigation/inquiry. The intention of the Scheme is specific and unambiguous. The benefit is only extended to those persons in whose case, the liability of the tax is quantified on or before 30.06.2019, in case any inquiry / investigation / audit is pending against the declarant. The pendency of the inquiry or investigation or an audit which finds place under the provisions of Section 123(c) read with provision of Section 125(1)(e) of Scheme elucidates that the quantification of the amount which is subject of inquiry or investigation has to be mandatorily determined on or before 30.06.2019. If the case of the petitioner is accepted on the basis of paragraph 10(g) of the Circular dated 27.08.2019 then provision of Section 123(c) and Section 125(1)(e) will get frustrated. Any person, like the petitioner, who accepts a less tax liability during the inquiry/investigation can be held to be eligible for availing the benefit of Scheme, albeit the tax liability is determined at higher rate at the end of the investigation/inquiry.

9.1 Thus, as on 30.06.2019 it cannot be held that there was quantification of the tax liability on the basis of the statement made by the petitioner on 21.05.2018 during the course of the investigation. Hence, the respondent authority has precisely rejected the Form-SVLDRS/1 by holding that service tax is not quantified on or before 30.06.2019. Since, the petitioner was not eligible under the Scheme, the respondent department was not under any obligation to constitute a Designated Committee under Section 126 of the Scheme as defined under Section

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121(k) of the Scheme. In the present case, the Designated Committee was not required to be formed since the petitioner was not found eligible, hence, the question of not granting the opportunity of hearing to the petitioner by the such Committee will not arise as per the provisions of Section 127 of the Scheme. Section 127 of the Scheme will only come into play after the declarant is found eligible under the Scheme on acceptance his declaration and where the amount estimated to be payable by the declarant, as estimated by the Designated Committee is determined and that the Designated Committee has to issue electronic form indicating the amount declarant within a period of 60 days from the date of receipt of such declaration. Subsequently, the petitioner has also filed another declaration on 16.01.2020, for claiming the benefit of the Scheme declaring the tax liability of Rs.59,60,800/-. Unquestionably, the said form cannot be accepted as the tax liability is not quantified on such amount before the cut-off date 30.06.2019.

10. Upon overall appreciation of the facts and law, we find that the FORM SVLDRS-1 of the petitioner has been precisely rejected by the competent authority for want of quantification of tax liability before the cut-off date of 30.06.2019. The writ petition, being *sans* merit, is accordingly ***dismissed***.

sd/-
(A. S. SUPEHIA, J)

sd/-

(VAIBHAVI D. NANAVATI,J)

Radhika/39