HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Civil Writ Petition No. 630/2021
URN: CW / 1776U / 2021

M/s Premier Bars Private Limited, (CIN- U27104RJ2004PLC018869) Through Its Director, Having Registered Office at 402, 4th Floor, Nidhi Kamal Tower, Ajmer Road, Jaipur (Rajasthan).

----Petitioner

Versus

1. Union Of India, Through Secretary, Minister Of Finance, Department Of Revenue, Room No. 46, North Block, New Delhi.
2. The Deputy Commissioner, Central Goods And Service Tax, Division-F, Sector-10, Vidhyadhar Nagar, Jaipur (Rajasthan)
3. The Assistant Commissioner (Audit), Central Goods And Service Tax, Division-I, Sector-10, Vidhyadhar Nagar, Jaipur.
4. The Superintendent, Central Goods And Service Tax, GST Range-XXVIII, Sector-10, Vidhyadhar Nagar, Jaipur (Rajasthan)
5. The Principal Commissioner, Central Goods And Service Tax And Central Excise, NCR Building, C-Scheme, Jaipur (Rajasthan)

----Respondents

For Petitioner(s)	:	Mr. Prateek Gattani, Adv. through VC Mr. Vikas Kabra, Adv.
For Respondent(s)	:	Mr. Kinshuk Jain, Sr. Standing Counsel Ms. Mahi Yadav, AAG with Ms. Chelsi Agarwal, Adv. Mr. Kuldeep Singh Rathore, Adv.

HON'BLE MR. JUSTICE ARUN MONGA

HON'BLE MR. JUSTICE MANEESH SHARMA

Order

1.	Date of conclusion of Arguments	13.07.2026
2.	Date on which the order was reserved	13.07.2026
3.	Whether the full order or only operative part is pronounced	Full
4.	Date of pronouncement	18.07.2026

REPORTABLE

Per: Maneesh Sharma,J

1. The petitioner is before this Court, *inter alia*, challenging the order dated 12.11.2019 passed by the Designated Committee, whereby the petitioner's SVLDR-01 form/declaration filed under the Sabka Vishwas (Legacy Dispute Resolution) Scheme Rules, 2019 was rejected.

FACTUAL MATRIX

2. The facts giving rise to the present petition, briefly stated, are that the petitioner, a Private Limited Company engaged in the manufacture of reinforcement steel (TMT Bars, PVC and Steel Pipes), Tubular Poles, Pre-cast concrete, Real Estate construction and safety products, is registered with the respondents under the Central Excise Act, 1944.

2.1. By Order-in-Original dated 30.03.2017, respondent No. 3 directed confiscation of 291.218 MT of MS Ingots, valued at Rs. 78,62,886/-, while granting the petitioner an option to redeem the goods on payment of a redemption fine of Rs. 10,00,000/- in lieu of confiscation. A penalty of Rs. 3,00,000/- was also imposed upon the petitioner by the said order.

2.2. Aggrieved thereby, the petitioner preferred an appeal before the learned Commissioner (Appeals), Jaipur, wherein the learned Commissioner, vide Order-in-Appeal No. 29(RK)CE/JPR/2017-18 dated 16.02.2018, affirmed the Order-in-Original and dismissed the appeal of the petitioner.

3. Aggrieved by the aforesaid dismissal, the petitioner preferred a second appeal under Section 35B of the Central Excise Act, 1944, before the learned CESTAT, New Delhi, assailing the Order-in-Appeal dated 16.02.2018.

3.1. During the pendency of the said appeal, the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019, was introduced by respondent No. 1 for resolution and settlement of legacy disputes/arrears pertaining to Central Excise and Service Tax, of which the petitioner became aware.

3.2. Accordingly, invoking the provisions of the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019, read with Section 129 of the

Finance (No. 2) Act, 2019, the petitioner sought settlement of the arrears arising from the Order-in-Original dated 30.03.2017.

3.3. The Designated Committee, however, by order dated 12.11.2019, rejected the declaration on the ground that a redemption fine does not fall within the scope of the Scheme of 2019, rendering the petitioner ineligible.

4. Hence, the instant writ petition.

SUBMISSIONS ON BEHALF OF THE PETITIONER

5. Learned counsel for the petitioner particularly submits that:

(a) The Designated Committee arbitrarily rejected the petitioner's declaration on the very date of its filing, without granting the petitioner an opportunity of hearing.

(b) The rejection, premised on the ground that redemption fine falls outside the ambit of the SVLDR Scheme, 2019, is untenable and contrary to Section 125 of the Finance (No. 2) Act, 2019, inasmuch as the categories of persons rendered ineligible under that provision do not extend to cases involving confiscation of goods or redemption fine.

(c) The underlying object of the SVLDR Scheme, 2019, is to grant a measure of amnesty by affording taxpayers an opportunity to discharge outstanding tax dues and thereby stand absolved of further consequences in law.

(d) Lastly, the rejection of petitioner's declaration is contrary to the decision of the Gujarat High Court in ***M/s Synpol Products Pvt. Ltd. v. Union of India***[1], wherein an identical controversy was considered and it was held that assessees who have been asked to pay a redemption fine in lieu of confiscation of goods are eligible to file declarations under the Scheme of 2019.

5.1. It was prayed, *inter* alia, that in light of the aforementioned judgment, the impugned order of rejection be set aside and the declaration of the petitioner be treated as eligible.

1 2020 (374) ELT 851 (Guj.)

SUBMISSIONS ON BEHALF OF THE RESPONDENT

6. *Per Contra* learned counsel for the respondents, while supporting the impugned order of rejection particularly submits that:

(a) the Designated Committee acted strictly in conformity with the provisions of the SVLDR Scheme, 2019.

(b) The Central Board of Indirect Taxes & Customs, vide letter dated 20.12.2019, has clarified that the expression 'fine' under the Scheme is to be construed with reference to Section 9 of the Central Excise Act, 1944, and not Section 34 thereof, so as to include a redemption fine.

6.1. It was prayed that the present writ petition be dismissed.

7. In the aforesaid backdrop, we have heard the rival contentions of the learned counsel representing the respective parties and have examined the material available on record, including the judgment cited before us.

8. From a bare perusal of the record, it is evident that the petitioner had filed a declaration in terms of the SVLDR Scheme, 2019, which came to be rejected on 12.11.2019 on the *"Ground of Ineligibility"*, with a remark stating *"RF not covered under the SVLDRS"*.

ANALYSIS AND FINDINGS

9. The limited question that falls for our consideration, therefore, is whether a redemption fine imposed in lieu of confiscation of goods is covered under the SVLDR Scheme, 2019.

10. The record also reveals that Section 125 of the Finance (No. 2) Act, 2019, enumerates the categories of persons excluded from making a declaration under the Scheme; the said provision is reproduced as under:

*"**Section 125 - Declaration under Scheme***

(1) All persons shall be eligible to make a declaration under this Scheme except the following, namely:-

(a) who have filed an appeal before the appellate forum and such appeal has been heard finally on or before the 30th day of June, 2019;

(b) who have been convicted for any offence punishable under any provision of the indirect tax enactment for the matter for which he intends to file a declaration;

(c) who have been issued a show cause notice, under indirect tax enactment and the final hearing has taken place on or before the 30th day of June, 2019;

(d) who have been issued a show cause notice under indirect tax enactment for an erroneous refund or refund;

(e) who have been subjected to an enquiry or investigation or audit and the amount of duty involved in the said enquiry or investigation or audit has not been quantified on or before the 30th day of June, 2019;

(f) a person making a voluntary disclosure,-

(i) after being subjected to any enquiry or investigation or audit; or

(ii) having filed a return under the indirect tax enactment, wherein he has indicated an amount of duty as payable, but has not paid it;

(g) who have filed an application in the Settlement Commission for settlement of a case;
(h) persons seeking to make declarations with respect to excisable goods set forth in the Fourth Schedule to the Central Excise Act, 1944 (1 of 1944).

(2) A declaration under sub-section (1) shall be made in such electronic form as may be prescribed."

11. A bare reading of the above provision makes it rather clear that cases involving confiscation of goods or a redemption fine are not excluded from filing a declaration under the provisions of the SVLDR Scheme, 2019. Therefore, persons who have been asked to pay a redemption fine *in lieu* of confiscation of goods cannot, on that ground alone, be treated as ineligible to file a declaration under the Scheme of 2019.

12. Further, in the matter of ***Synpol Products Pvt. Ltd.*** (supra), the Gujarat High Court was seized of a similar controversy. While also

considering the letter dated 20.12.2019 issued by the Central Board of Indirect Taxes & Customs, the Court examined whether a redemption fine is covered under the SVLDR Scheme, 2019, or not. The Court has unequivocally held therein that a redemption fine is covered under the SVLDR Scheme, 2019, and thus, assessees who have been asked to pay a redemption fine *in lieu* of confiscation of goods are eligible to file declarations in terms of the Scheme of 2019 and allowed the petition bearing SCA No. 21744/2019, vide order dated 27.02.2020.

13. The relevant portion of the said judgment is reproduced as under:

> *"9.5. In view of the above provisions of the Scheme r/w. flyers, FAQs and press note issued by the Board, the intent and purpose of the Scheme appears to reduce litigation by giving a window to the taxpayers to pay the tax and end the litigation. The object of the Scheme was to provide one time measure for putting an end to past disputes of central excise and service tax and to provide the opportunity of voluntary disclosure to non-complying taxpayers. Section 121(c) of the Scheme defines the 'amount in arrears' which means the amount of duty which is recoverable as arrears of duty under the indirect tax enactment, on account of adjudication by the competent authority or on account of admitted tax liability but not paid. Section 121(h) of the Scheme provides that 'declarant' means a person who is eligible to make a declaration and files such declaration under Section 125.*
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> *9.6. Section 121(i) of the Scheme provides that 'declaration' means the declaration filed under Section 125. Section 122 of the Scheme provides the list of all indirect tax enactments to which the Scheme applies, whereas, Section 123 provides as to what would comprise of tax dues. More particularly, Section 123(b) provides that, where a show cause notice under any of the indirect tax enactment has been received by the declarant on or before the 30th day of June, 2019, then, the amount of duty stated to be payable by the declarant in the said notice would be tax dues. Section 124 provides for relief available under the Scheme with regard to payment of tax dues to the effect that where the tax dues are relatable to a show cause notice or one or more appeals arising out of such notice which is pending as on the 30th day of June, 2019, and if the amount of duty is rupees fifty lakhs or less, then, seventy per cent of the tax dues would be waived and if the amount of duty is more than rupees fifty lakhs, then fifty per cent of the tax dues would be waived subject to the conditions specified in sub-section (2) which prescribes for pre-deposit for taking into consideration the pre-deposit made by the taxpayers.*
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> *9.7. Section 125 of the Scheme provides for 'declaration under scheme' and excludes certain categories of persons who are not eligible to make a declaration under the Scheme as per clauses (a) to (h). On perusal of the clauses (a) to (h) of sub-section (1) of Section 125 does not include the case involving confiscation/redemption fine. Thus, the show cause notice*

issued with regard to the confiscation/redemption fine under Section 34 of the Central Excise Act, 1944 would make such person eligible to file a declaration under the Scheme. Such persons cannot be considered as ineligible under clauses (a) to (h) of sub-section (1) of Section 125 of the Scheme. The designated committee appointed under the Scheme has to verify the declaration made by the declarant under Section 125 of the Scheme and issue a statement under Section 127 of the Scheme stating that the amount estimated to be payable by the declarant, as estimated by the designated committee, equals the amount declared by the declarant. However, in the facts of the present case, the designated committee has rejected the declaration itself on the ground that the Scheme does not apply to the cases involving confiscation/redemption fine.

9.8. Section 129(1) of the Scheme provides for issue of discharge certificate under Section 126 with respect to the amount payable under this Scheme shall be conclusive as to the matter and time period stated therein and provides immunity to the declarant from payment of any further duty, penalty or interest and prosecution and reopening of the matter in any other proceedings under the indirect tax enactments. Clause (a) of sub-section (1) of Section 129 of the Scheme though provides that the declarant shall not be liable to pay any further duty, interest, or penalty, it does not expressly provide that the declarant shall not be liable to pay fine/redemption fine, and therefore, the controversy has arisen, as in the present proceedings, as to whether the Scheme is applicable to the cases involving confiscation/redemption fine or not.

9.9. Though, there is no express provision in the Scheme with regard to providing immunity from payment of fine, the respondent authorities have specifically stated in FAQs, press notes and flyers that the Scheme provides for full waiver of interest, fine and penalty. In the facts of the case, there in no other fine which is envisaged under the indirect tax enactment. At this juncture, the contention raised on behalf of the respondents that the fine would mean the fine to be levied by the competent Court under Section 9 of the Central Excise Act and not fine as referred to be the redemption fine under Section 34 of the Act cannot be accepted considering overall intent and object of the Scheme, and we therefore, concur with the prima facie opinion of the Coordinate Bench expressed in para 10 of the order dated 24-12-2019 which reads thus:

> *"10. Thus, in terms of the FAQs, press notes and flyers issued by the Board, the Scheme provides substantial relief in the tax dues for all categories of cases as well as full waiver of interest, fine and penalty. Thus, having regard to the fact that: (i) Section 125 of the Finance Act says that all persons shall be eligible to make declaration under the Scheme except for the categories specifically enumerated therein; and (ii) under Section 125 of the Finance Act, cases involving confiscation and fine in lieu of confiscation (redemption fine) are not excluded from the benefit of the Scheme, and (iii) according to the Board, the Scheme provides relief in tax dues for all categories of cases; prima facie it appears that the legislature did not have the intention of excluding cases involving confiscation*

and fine in lieu of confiscation from the purview of the Scheme."

9.10. With regard to the clarification issued by the respondent Board in communication dated 20-12-2019 is also contrary to the intent and object of the Scheme which is discussed at length in paras 11 and 12 of the order dated 24-12-2019 passed by the Coordinate Bench of this Court, and we therefore concur on such prima facie opinion. Paras 11 and 12 of the order dated 24-12-2019 read thus:

"11. It may be further noted that in the communication dated 20th December, 2019 of the Board, the contents whereof have been reproduced hereinabove, it has been stated that when a person gets immunity from prosecution, he also gets waiver of such fine for the offences under Section 9 of the Central Excise Act, 1944. Thus, it is not the case of the Board that the Scheme does not provide for waiver of fine, but only that it does not provide for waiver of redemption fine. Testing the explanation put forth by the Board in the context of the relevant statutory provisions, Section 9 of the Central Excise Act, 1944 specifies the categories of offences and the punishment thereunder, which may be punishable with imprisonment and fine or imprisonment or fine. Thus, the question of imposing fine arises only upon conviction for an offence specified in Section 9 of the Central Excise Act. However, clause (b) of Section 125 of the Finance Act, clearly excludes persons who have been convicted for any offence punishable under any provision of the indirect tax enactment for the matter for which he intends to file declaration. As a necessary corollary therefore, it follows that the legislature would not have contemplated waiver of fine under Section 9 of the Central Excise Act, 1944. The only other fine envisaged under the Central Excise Act, 1944 is fine in lieu of confiscation/redemption fine. Under the circumstances, when the Board has issued FAQs, press notes and flyers stating that the Scheme grants waiver of interest, penalty and fine, it appears that the same would be relatable to redemption fine, inasmuch as, it is the only other fine contemplated under the Act. Besides, as noticed earlier, persons whose cases involve confiscation/fine in lieu of confiscation are not placed in the categories of persons enumerated in Section 125 of the Finance Act, who are not eligible to file declarations thereunder.

12. By the communication dated 20th December, 2019, the Board has stated that in case where redemption fine has been imposed and quantified, the discharge certificate can be issued only after settlement of redemption fine, namely payment of redemption fine. Therefore, it is not the case of the Board that declarations involving redemption fine cannot be accepted. This court, however, is prima facie of the view that the stand of the Board that in case where redemption fine is imposed and quantified, discharge certificate can only be issued *after settlement of redemption fine, is not in consonance with the Scheme which contemplates putting an end to the matter."*

10. In view of the above facts and situation, when the respondents had issued show cause notice demanding excise duty together with confiscation of the goods in terms of Rule 25(a) and (d) of the Central Excise Rules, 2002 and redemption fine in lieu of confiscation under Rules 25 as goods were not available for confiscation, it is clear that by issuing the show cause notice, the respondent has invoked Rule 25 of the Central Excise Rules, 2002 for levy of redemption fine in lieu of confiscation as goods which were sought to be confiscated were not available for confiscation. Therefore, the levy of the redemption fine equivalent to demand of central excise duty under Rule 25 of the Central Excise Rules, 2002 would be an amount in arrears as defined in Section 121(c) of the Scheme along with the amount of duty which is recoverable as arrears of duty under indirect tax enactment. Therefore, the test which is required to be applied to ascertain what is the amount in arrears as per the Scheme, it would include both the amount of duty as well as amount of redemption fine which is required to be recovered from the taxpayers. The amount of redemption fine cannot be treated separately then the amount of the duty under the Scheme. Therefore, the interpretation made by the Board in the communication dated 20-12-2019 in order to consider the declaration made by the declarant, the payment of redemption fine is prerequisite, is not tenable in law, because as per Section 125 of the Scheme a declarant cannot be made ineligible to file a declaration for non-payment of redemption fine. Moreover, the declarant is required to include redemption fine as part of the duty demanded, so as to calculate the amount in arrears as per Section 121(c) of the Scheme.

11. It may be further noted that in the communication dated 20th December, 2019 of the Board, the contents whereof have been reproduced hereinabove, it has been stated that when a person gets immunity from prosecution, he also gets waiver of such fine for the offences under Section 9 of the Central Excise Act, 1944. Thus, it is not the case of the Board that the Scheme does not provide for waiver of fine, but only that it does not provide for waiver of redemption fine. Testing the explanation put forth by the Board in the context of the relevant statutory provisions, Section 9 of the Central Excise Act, 1944 specifies the categories of offences and the punishment thereunder, which may be punishable with imprisonment and fine or imprisonment or fine. Thus, the question of imposing fine arises only upon conviction for an offence specified in Section 9 of the Central Excise Act. However, clause (b) of Section 125 of the Finance Act, clearly excludes persons who have been convicted for any offence punishable under any provision of the indirect tax enactment for the matter for which he intends to file declaration. As a necessary corollary therefore, it follows that the legislature would not have contemplated waiver of fine under Section 9 of the Central Excise Act, 1944. The only other fine envisaged under the Central Excise Act, 1944 is fine in lieu of confiscation/redemption fine. Under the circumstances, when the Board has issued FAQs, press notes and flyers stating that the Scheme grants waiver of interest, penalty and fine, it appears that the same would be relatable to redemption fine, inasmuch as, it is the only other fine contemplated under the

Act. Besides, as noticed earlier, persons whose cases involve confiscation/fine in lieu of confiscation are not placed in the categories of persons enumerated in Section 125 of the Finance Act, who are not eligible to file declarations thereunder.

12. By the communication dated 20th December, 2019, the Board has stated that in case where redemption fine has been imposed and quantified, the discharge certificate can be issued only after settlement of redemption fine, namely payment of redemption fine. Therefore, it is not the case of the Board that declarations involving redemption fine cannot be accepted. This court, however, is prima facie of the view that the stand of the Board that in case where redemption fine is imposed and quantified, discharge certificate can only be issued after settlement of redemption fine, is not in consonance with the Scheme which contemplates putting an end to the matter."

14. On being queried whether the aforesaid judgment had been challenged, learned counsel for the respondents answered in the affirmative.

15. Upon further verification, it emerged that the respondent Department had preferred a Special Leave to Appeal (C) against the aforesaid judgment, which was dismissed by the Hon'ble Apex Court vide order dated 03.03.2021 in ***Special Leave to Appeal (C) No.449/2021***.

CONCLUSION

16. We find ourselves in complete agreement with the view taken by the Gujarat High Court. The levy of a redemption fine *in lieu* of confiscation of goods forms part of the amount of duty which is recoverable under the indirect tax enactment, and the same cannot be segregated from the demand of duty for the purposes of the SVLDR Scheme, 2019.

17. The submissions advanced on behalf of the respondents as well as the interpretation sought to be placed on the basis of the letter dated 20.12.2019, so as to exclude a redemption fine from the ambit of the Scheme, are contrary to the provisions of the Finance (No. 2) Act, 2019, therefore, do not merit acceptance.

18. Since cases involving a redemption fine are not excluded under Section 125 of the Act of 2019, the petitioner could not have been declared ineligible merely on the ground that the declaration included a redemption fine. The impugned order dated 12.11.2019 rejecting the petitioner's declaration, therefore, deserves to be quashed and set aside.

19. The upshot of foregoing discussion, therefore, is that:

a) the impugned order dated 12.11.2019 (Annexure-8) is set aside;

b) the respondent department is directed to treat the declaration of the petitioner dated 12.11.2019 in Form SVLDR-1 (Annexure-5) as an eligible declaration;

c) the respondent department is directed to consider the declaration of the petitioner, dated 12.11.2019 in Form SVLDR-1 (Annexure-5), on merits and in accordance with law, more particularly the SVLDR Scheme, 2019, and rules made thereunder.

20. Accordingly, the present writ petition succeeds, with the aforesaid directions.

21. All other pending applications, if any, shall stand disposed of.

(MANEESH SHARMA),J **(ARUN MONGA),J**

63/Ashwani-Prashant