RAJASTHAN HIGH COURT
सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Civil Writ Petition No. 5851/2022
CNR: RJHC020233732022 | URN: CW / 11415U / 2022

Rajasthan High Court
सत्यमेव जयते
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M/s. Greens And Grows, Having Its Registered Office At Sagi Gallery, Opposite Mehra Building, Near City Power House, Jaipur Road, Ajmer Through Its Partner Kirpal Singh Rathore, S/o. Mahendra Singh Rathor, R/o. 47 Kishore Bhawan, Shastri Nagar, Ajmer Rajasthan.

----Petitioner

Versus

1. The Union Of India, Ministry Of Finance, Department Of Revenue, Room No. 46, North Block, New Delhi - 110 001, Through Its Secretary.
2. Central Board Of Indirect Taxes And Customs, North Block, New Delhi, 110001
3. The Commissioner, Central Goods And Service Tax Department, New Central Revenue Building, C-Scheme, Statue Circle, Jaipur.
4. The Additional Commissioner, Central Goods And Service Tax Department, New Central Revenue Building, C-Scheme, Statue Circle, Jaipur.

----Respondents

Connected With

D.B. Civil Writ Petition No. 5759/2022
CNR: RJHC020233882022 | URN: CW / 11231U / 2022

M/s Greens And Grows Infra Developers Llp, Having Its Registered Office Shop No. 41 K.c Complex Ajmer, Rajasthan Through Its Partner Kirpal Singh Rathore, S/o Mahendra Singh Rathor, R/o 47 Kishore Bhawan, Shastri Nagar, Ajmer Rajasthan.

----Petitioner

Versus

1. The Union Of India, Ministry Of Finance, Department Of Revenue, Room No. 46, North Block, New Delhi - 110 001, Through Its Secretary.
2. Central Board Of Indirect Taxes And Customs, North Block, New Delhi, 110001

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RAJASTHAN HIGH COURT

3. The Commissioner, Central Goods And Service Tax Department, New Central Revenue Building, C-Scheme, Statue Circle, Jaipur.
4. The Additional Commissioner, Central Goods And Service Tax Department, New Central Revenue Building, C-Scheme, Statue Circle, Jaipur.

----Respondents

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For Petitioner(s)	:	Mr. Falak Mathur Mr. Yug Singh
For Respondent(s)	:	Ms. Mahi Yadav, AAG Ms. Chelsi Agarwal Mr. Ajay Shukla Mr. Shivam Sharma Mr. Jyoti Sharma

HON'BLE MR. JUSTICE ARUN MONGA
HON'BLE MR. JUSTICE ASHUTOSH KUMAR
Order(Oral)

Reportable

11/08/2026

Per: Arun Monga, J.

1. The petitioner, a partnership firm, seeks a direction to the respondents to accept their Form SVLDRS-1 filed under the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 as their application was rejected on the ground that the amount already paid could not be adjusted against the liability declared under the category of voluntary disclosure.

2. Since not only the facts but issues involved in both the above petitions are similar, we propose to dispose of the same by a common order.

3. For the sake of brevity, the facts and recitals are being taken from D.B. Civil Writ Petition No. 5851/2022, titled as M/s. Greens And Grows v. The Union of India & Ors.

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4. The petitioner sought settlement of its service tax liability on works contract services for the financial years 2014 to 2017. It applied under the category of voluntary disclosure. By Form SVLDRS-1 filed on 13.01.2020, it declared tax dues of Rs. 32,18,746/- for the period 01.04.2014 to 30.06.2017. The petitioner also disclosed that it had already deposited Rs. 19,90,803/- through challan No. 05102473009201550099 dated 30.09.2015. On that basis it claimed that only Rs. 12,27,943/- remained payable.

4.1 The designated committee, comprising Respondent Nos. 2 and 3, examined the declaration and issued Form SVLDRS-2 dated 31.01.2020. A personal hearing was granted. The committee declined to adjust the sum of Rs. 19,90,803. It recorded that there is no provision for pre deposit in a case of voluntary disclosure. The petitioner then filed Form SVLDRS-2A dated 07.02.2020, recording its disagreement with the amount determined. The committee thereafter issued Form SVLDRS-3 dated 11.03.2020. It maintained that, in a case of voluntary disclosure, an amount paid in the past cannot be reduced.

4.2 The petitioner assails this determination. Its case is that the benefit of the Scheme was denied without a proper opportunity of hearing. It further contends that no cogent basis was assigned beyond the bare observation that in a voluntary disclosure the amount paid in the past cannot be reduced. According to the petitioner, the sum of Rs. 19,90,803/- already deposited ought to have been accounted for while determining the amount payable.

5. Hence the present writ petition.

6. Learned counsel for the petitioner submits that the refusal to accept the declaration is arbitrary, perverse and without any cogent basis. He submits that the sole reason assigned, namely that in a voluntary disclosure the amount paid in the past cannot be reduced, is

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vague and legally unsustainable. He points to Section 123 of the Scheme, under which the tax dues in a voluntary disclosure mean the total amount of duty stated in the declaration. On that footing, he argues, the respondents could not have ignored the sum of Rs. 19,90,803/- already deposited.

6.1 He next submits that the absence of relief under Section 124(1)(e) does not displace Section 124(2). That provision requires any amount paid as pre deposit at any stage of appellate proceedings, or as deposit during enquiry, investigation or audit, to be deducted while issuing the statement of the amount payable. The statutory design therefore contemplates that sums already paid are to be brought to account. The petitioner, having paid Rs. 19,90,803/- cannot be called upon to pay the same amount twice. It is liable only for the net balance.

6.2 He further submits that the impugned action runs contrary to the Circular dated 25.09.2019, which clarified that tax dues represent the net duty outstanding after deducting amounts already paid by the declarant, including pre deposits and sums voluntarily deposited against the liability. He adds that the respondents have also ignored the Circular dated 29.10.2019, which enjoined a liberal approach towards declarations in the voluntary disclosure category. The impugned action is therefore inconsistent both with the statute and with the clarifications of the competent authority.

7. Per contra, learned AAG i.e. counsel for the respondents submits that the petitioner itself declared tax dues of Rs. 32,18,746/- in Form SVLDRS-1 under the category of voluntary disclosure. He contends that Section 123(d) read with Section 124(1)(e) permits no relief where tax dues are payable on account of a voluntary disclosure. The respondents have therefore rightly treated the declared figure as the amount payable.

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7.1 She further submits that the Scheme is centralised and is administered through an electronic platform that operates on the data entered by the declarant. In a case of voluntary disclosure, the proviso to Section 126 statutorily restrains the designated committee from verifying the amount of duty declared. The petitioner stated the figure of Rs. 32,18,746/- twice in Form SVLDRS-1, including in the column for the amount payable. The respondents had no authority to substitute or reduce that figure.

7.2 She also submits that a personal hearing was scheduled on 03.02.2020 pursuant to Form SVLDRS-2 and was attended by the petitioner's Chartered Accountant, who reiterated the claim for adjustment. That claim was contrary to the petitioner's own declaration. The allegation of denial of hearing is therefore untenable. She points out that the Circular dated 25.09.2019 speaks to the category of amount in arrears and not to voluntary disclosure. The Circular dated 29.10.2019 likewise cannot assist a declarant who has itself fixed its tax dues at Rs. 32,18,746/-. The writ petition therefore deserves to be dismissed.

8. We have heard learned counsel for the parties and perused the record. We find no merit in the challenge. The controversy lies within a narrow compass. It is whether a declarant who opts for the voluntary disclosure category of the Scheme is entitled to have an earlier deposit set off against the duty it has itself declared. The answer is in the negative. Let us see how. Our reasons based on our discussion follow in the succeeding part.

8.1 The answer turns on the Chapter V of the Finance (No. 2) Act, 2019 (No.23 of 2019) vide which the scheme was promulgated. Section 123 defines tax dues for each category of case covered by the Scheme. Clause (d) deals with voluntary disclosure and reads as follows.

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"123. For the purposes of the Scheme, 'tax dues' means—

...

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

8.2 The import of the above clause is plain. In a voluntary disclosure the measure is the declarant's own statement. The statute fixes the tax dues at the total amount of duty stated in the declaration. It does not speak of the duty net of past payments. It does not speak of a balance. It speaks of the total amount stated.

8.3 In this backdrop, the petitioner declared Rs. 32,18,746/- as the total amount of duty in Form SVLDRS-1. It repeated the identical figure in the column requiring the amount payable to be stated in words. The entry was thus neither inadvertent nor solitary. Whatever the petitioner may have believed about its net liability, the figure it placed in the declaration is the figure the statute makes determinative. The tax dues were therefore Rs. 32,18,746/-.

8.4 The petitioner's principal argument rests on Section 124(2), which reads as follows.

"(2) The relief calculated under sub-section (1) shall be subject to the condition that any amount paid as predeposit at any stage of appellate proceedings under the indirect tax enactment or as deposit during enquiry, investigation or audit, shall be deducted when issuing the statement indicating the amount payable by the declarant:

Provided that if the amount of predeposit or deposit already paid by the declarant exceeds the amount payable by the declarant, as indicated in the statement issued by the designated committee, the declarant shall not be entitled to any refund."

8.5 The import of the sub section is narrow, and the argument fails on that ground alone. The deduction is confined to two described payments. One is an amount paid as pre deposit at a stage of appellate proceedings under the indirect tax enactment. The other is an amount paid as deposit during an enquiry, investigation or audit. Both are payments made under compulsion of, or in the shadow of, an existing

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proceeding. The payment of Rs. 19,90,803/- made on 30.09.2015 answers neither description. No appeal was pending, for there was no order to appeal against. No enquiry, investigation or audit was alive, and had it been so the petitioner, then in any case would have stood excluded from the voluntary disclosure category altogether by Section 125(1)(f). The payment was simply a deposit made by the petitioner against its own running service tax liability. It falls outside the sub section.

9. Moreover, Section 127 prescribes the procedure after a declaration is filed i.e.:-

> *"(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."*

Perusal of the above reveals that where the committee's estimate departs from what the declarant asserts to be payable, the declarant must first be told the estimate and must then be heard before the statement issues. Both steps were taken here. Form SVLDRS-2 dated 31.01.2020 conveyed the estimate. A personal hearing was fixed for 03.02.2020. The petitioner's Chartered Accountant appeared and pressed the claim for adjustment of Rs. 19,90,803/-. This is admitted in paragraph 8 of the writ petition itself. The petitioner also availed of Form SVLDRS-2A on 07.02.2020 to record its disagreement in writing. Form SVLDRS-3 followed only on 11.03.2020.

10. The assertion in paragraph 11 of the writ petition that no opportunity of hearing was afforded is therefore contrary to the

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petitioner's own pleading and to the record. A hearing does not become illusory merely because the outcome is adverse to the party heard.

11. In the parting, one caveat here i.e. we are in agreement that a Scheme framed to liquidate legacy disputes must be construed to advance its purpose. But given that the petitioner selected the category of voluntary disclosure, it was open to it to declare its dues after accounting for the sum already paid, or to bring its case within a different category if the facts permitted. Having twice stated a figure that the statute makes conclusive, and having invoked a category to which the statute attaches no relief and forbids verification, the petitioner cannot later resile from that declaration.

12. As an upshot, we find no illegality, arbitrariness, procedural unfairness or jurisdictional error in the action of the respondents. They have given effect to the petitioner's own declaration in the manner the statute required. This is not a fit case for the exercise of our extraordinary jurisdiction under Article 226 of the Constitution of India.

Order

13. The writ petition is accordingly dismissed. However, the petitioner is at liberty to pursue such other remedy as may otherwise be available to it in accordance with law, including recourse to any subsequent amnesty scheme, should it be found eligible for the benefit thereof. All pending applications stand disposed of.

(ASHUTOSH KUMAR),J **(ARUN MONGA),J**

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