



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWP No. 1950 of 2021

Date of decision: 02.06.2025

East Bourne Hotels Pvt. Ltd. ...Petitioner

Versus

Union of India & Ors. ...Respondents

Coram

The Hon'ble Mr. Justice Tarlok Singh Chauhan, Judge.

The Hon'ble Mr. Justice Sushil Kukreja, Judge.

Whether approved for reporting? No.

For the Petitioner: Mr. Vishal Mohan, Sr. Advocate with Mr. Nitin Thakur, Advocate.

For the Respondents: Mr. V. B. Verma, Central Govt. Counsel, for respondent No. 1.

Mr. Vijay Kumar Arora, Sr. Advocate with Ms. Godawari, Mr. Gaurav and Mr. Hitansh Raj, Advocates, for respondents No. 2 to 4.

Tarlok Singh Chauhan, Judge (Oral)

The instant petition has been filed for grant of the following substantive reliefs:-

- "(i) Issue a writ of certiorari to quashing Annexures P-17, P-18 i.e. demand notices, 9 SVLDRS-3 Forms issued on 28.01.2020 (forming part of Annexure P-12 colly), 9 SVLDRS-3 Forms issued on 25.02.2020 and letter Annexure P-15 whereby the respondent department has upheld its calculations; and / or*
- (ii) Issue a writ of mandamus directing the respondents not to give effect to Annexures P-17, P-18 i.e. demand notices, 9 SVLDRS-3 Forms issued on 28.01.2020 (forming*

part of Annexure P-12 colly), 9 SVLDRS-3 Forms issued on 25.02.2020 and letter Annexure P-15 whereby the respondent department has upheld its calculations.

(iii) Issue a writ of mandamus directing the respondent to re-calculate correct tax liability of the petitioner under amnesty scheme;

(iv) Declare that period under Section 127 (5) of Finance Act, 2019 is directly and a declarant may deposit tax dues up to 30.06.2021;

(v) Issue writ of mandamus directing the respondents to decide representation letter dated 11.06.2020 (Annexure P-16) or in the alternative in view of pandemic COVID-19 spread across the country appropriately extend last date prescribe under Section 127(5) of Finance Act, 2019.

2. The petitioner is engaged in the business of rendering services of hospitality by way of hotel at Shimla. The Superintendent (Prev.), Shimla vide his letter dated 08.11.2016 directed the petitioner to supply a number of documents enumerated in the said letter for the period 2011-12 to 2015-16. The petitioner supplied all the documents and the official concerned pointed out that the petitioner was not discharging due amount of service tax and, therefore, to avoid liability of penalty, it should deposit its service tax liability.

3. The petitioner, vide letter dated 30.08.2017, requested the respondents to discharge its outstanding liability by way of installments, which was duly accepted by the respondents and the petitioner was permitted to clear its

outstanding dues in 24 installments commencing from 10.03.2018. The monthly installment was fixed at Rs. 7,16,214/-, however, due to non-availability of funds, the petitioner could not even pay the first installment and accordingly requested the respondents to postpone the schedule of installments. The request so made by the petitioner was accepted by the respondent vide their letter dated 28.03.2018 and the petitioner was asked to deposit the installments from 10.04.2018. Accordingly, the petitioner paid first installment of Rs. 7,16,214/- vide challan dated 10.04.2018. The petitioner further paid a sum of Rs.7,16,214/- in the month of May, 2018 and thereafter in June, 2018, the petitioner could only pay Rs. 3,00,000/-. However, thereafter despite improve financial condition, the petitioner deposited a sum of Rs. 40,10,740/- from November, 2016 to 31.01.2019.

4. In the year of 2017, the Government introduced Central Goods and Service Tax Act, 2017 (for short 'GST') which subsumed number of Acts including the Central Excise Act, 1944 and Finance Act, 1994 (Chapter V). At the time of introduction of the GST a large number of litigation under the Central Excise Act and the Finance Act, 1994 was pending all over the Country, therefore, with an object to reduce service tax and central excise cases and to free large number of small tax payers of their

pending disputes with the tax administration, the Central Government introduced a dispute resolution and amnesty scheme namely Sabka Vishwas (Legacy Dispute Resolution) Scheme Rules, 2019 (for short 'Amnesty Scheme') before the Parliament during budget presentation on 05.07.2019.

5. On 01.08.2019, the Finance Bill, 2019 got assent of President of India and same became Finance (No. 2) Act, 2019 (for short 'Act, 2019'). The Chapter V of the Act, 2019 relates to the Scheme.

6. After publication of the Act, 2019, the Government of India vide Notification No. 04/2019 Central Excise-NT dated 21.08.2019 appointed 01.09.2019 as the date on which the Amnesty Scheme shall come into force. The Government of India vide Notification No. 05/2019 Central Excise-NT dated 21.08.2019 notified Sabka Vishwas (Legacy Dispute Resolution) Scheme Rules, 2019 (for short 'Rules').

7. Under the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 the Petitioner filed 9 declarations under the category of investigation. As per section 121(h) of the Act, 2019 'declarant' means a person who is eligible to make a declaration and files such declaration under Section 125. Section 124 of the Act, 2019 provides manner to calculate relief available to the declarant. According to section 124(1) (d) of the Act, 2019

where due tax relates to enquiry, investigation (Section 121(m) defines enquiry, investigation) or audit (Section 121(g) defines audit), the declarant is eligible to get relief of 70% of due taxes in case amount of tax/duty is 50 Lakh or less and 50% in case due tax/duty is more than 50 Lakh. Moreover, when no "order", (Section 121(0) defines an order), determination under any of the indirect tax enactment had been passed in relation to a show cause notice in the case at hand.

8. It is averred that as per Section 127(5) of Finance Act, 2019 the petitioner was required to discharge the estimated liability by 30.06.2020 whereas due to wide spread pandemic COVID-19, hotel of the petitioner was lying closed since 24.03.2020 and there was no possibility in future to generate revenue, thus petitioner was unable to discharge its liabilities by due date.

9. The Petitioner commenced partial operations in the last week of December 2020. Even though there was no malafide intention on the part of petitioner but the situation that emanated was beyond its control, thus petitioner deserves sufficient time to clear its dues.

10. The Petitioner thereafter made a representation to respondent but no action was taken at the end of the respondent. Thus, left with no option, present writ petition has

been filed seeking declaration that period prescribed under Section 127 (5) of the Finance Act, 2019 be declared directory and declarant may be permitted to make payment by 30.06.2021.

11. The petitioner, being eligible, filed the declarations to avail benefit of aforesaid scheme and settle its liabilities under the category of investigation and accordingly the Petitioner filed 9 declarations in Form SVLDRS-1 dated 21.12.2019 wherein Petitioner declared its liability under category of investigation, enquiry or audit. As per the calculations done under the category of investigation the petitioner was required to pay the amount of Rs.3,38,617/- after getting applicable relief under the scheme. the Respondent while issuing the SVLDRS-3 against the declarations filed by the petitioner, changed the category of the petitioner from investigation to arrears and issued Form SVLDRS-3 dated 28.01.2020 declaring therein the total tax payable as Rs.29,48,623/-.

12. The respondents wrongly arrived at aforesaid taxable amount of Rs. 29,48,623/- by considering the case of the petitioner in arrears category. As evidently, the amount deposited during the investigation i.e. 40,10,740/- was neither a pre-deposit nor a voluntarily deposit but he same had been deposited under the directions/instructions of the respondents.

The same included penalty. It is further evident from the fact that had this been voluntary deposit, the petitioner would not have been required to pay penalty.

13. Since relief, as per the petitioner, had been wrongly calculated, therefore, the petitioner vide application dated 24.02.2020, requested the respondents to revise SVLDRS-3. The petitioner also pointed out that it had made payments against outstanding dues and none of such payments related to specific period/year/quarter and, therefore, the amount paid by them deserves to be deducted from the net amount payable i.e. after deducting relief.

14. The respondents vide their letter dated 25.02.2020 informed the petitioner that calculation of amount to be paid is as per the provisions of law and has been checked again. The respondents further informed that 30 days period to make the payment from the date of issuance of SVLDRS-3 could not be extended so they are required to make the payment within time i.e. by 27.02.2020, failing which Form-4 would not be issued, nonetheless respondents issued fresh 9 SVLDRS-3 all dated 25.02.2020 as detailed below:-

Sr. No.	SVLDRS-3 No. & Date	Amount Payable (‘)
1	L250220SV301383 - 25.02.2020	0.00
2	L250220SV301403 - 25.02.2020	0.00
3	L250220SV301685 - 25.02.2020	3,23,126

4	L250220SV301429 - 25.02.2020	0.00
5	L250220SV301438 - 25.02.2020	4,81,807
6	L250220SV301453 - 25.02.2020	3,85,338
7	L250220SV301470 - 25.02.2020	6,96,124
8	L250220SV301159 - 25.02.2020	5,16,508
9	L250220SV301479 - 25.02.2020	5,45,720
Total		29,48,623/-

15. In view of the pandemic COVID-19 spread across the world, lock down was declared by the Hon'ble Prime Minister on 23.03.2020 for three weeks, which was extended from time to time. Realizing difficulties to be faced by the tax payers, respondents extended the date of compliance fixed under different provisions of Direct as well as Indirect Taxation. The Union Government by the Taxation and Other Law (Relaxation of Certain Provisions) Ordinance, 2020 amended Section 127 of Finance Act, 2019 whereby last date fixed for deposit of 'tax dues' was declared 30.06.2020.

16. Section 127 of the Finance Act, reads as under:-

"127. Issue of statement by designated committee. (1) Where the amount estimated to be payable by the declarant, as estimated by the designated committee, equals the amount declared by the declarant, then, the designated committee shall issue in electronic form, a statement, indicating the amount payable by the declarant, on or before the 31st day of May' 2020.

(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 on or before the 1st day of May' 2020.

(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:

Provided that on sufficient cause being shown by the declarant, only one adjournment may be granted by the designated committee.

(4) After hearing the declarant, a statement in electronic form indicating the amount payable by the declarant, shall be issued on or before the 31st day of May' 2020.

(5) The declarant shall pay electronically through internet banking, the amount payable as indicated in the statement issued by the designated committee, on or before the 30th day of June, 2020.

(6) Where the declarant has filed an appeal or reference or a reply to the show cause notice against any order or notice giving rise to the tax dues, before the appellate forum, other than the Supreme Court or the High Court, then, notwithstanding anything contained in any other provisions of any law for the time being in force, such appeal or reference or reply shall be deemed to have been withdrawn.

(7) Where the declarant has filed a writ petition or appeal or reference before any High Court or the Supreme Court against any order in respect of the tax dues, the declarant shall file an application before such High Court or the Supreme Court for withdrawing such writ petition, appeal or reference and after withdrawal of such writ petition, appeal or reference with the leave of the Court, he shall furnish proof of such withdrawal to the designated committee, in such manner as may be prescribed, along with the proof of payment referred to in sub-section (5).

(8) On payment of the amount indicated in the statement of the designated committee and production of proof of withdrawal of appeal, wherever applicable, the designated committee shall issue a discharge certificate in electronic form, within thirty days of the said payment and production of proof."

17. Since there was lock-down and the petitioner was engaged in the business of rendering of the service of hospitality

by way of hotel, it was not in a position to deposit a sum of Rs.29,48,623/- by 30.06.2020, thereby constraining the petitioner to make a detailed representation to the Hon'ble Finance Minister dated 11.06.2020 seeking extension of time to deposit tax dues, however, there was no response from Finance Ministry, but, respondent No. 2 again asked the petitioner to deposit the dues.

18. The petitioner was unable to deposit the dues in view of the peculiar circumstances, which had arisen across the world and has accordingly filed the instant petition on the ground that it deserves sufficient time to clear the outstanding dues as the petitioner was a bona fide assessee and not attempting to deflect from its responsibility and wishes to settle its liability for which it requires some more time.

19. However, since respondents failed to do so and rather issued the notice for recovery of sales tax amounting to Rs. 73,71,557/-. Hence this petition for the reliefs as quoted above.

20. The respondents have filed reply wherein the factual matrix has not been denied. The only ground taken by the respondents is that since the time of the scheme is over, therefore, the petitioner is not entitled to avail the benefit thereunder.

We have heard learned counsel for the parties and have gone through the material placed on record.

21. It is not in dispute that by virtue of Finance Bill 2019, SVLDRS Scheme was declared and thereafter the respondents had issued notification No. 4/2019, dated 21.08.2019, stating that the assessee can avail the benefit of said scheme from 01.09.2019 to 31.12.2019. Subsequently, by virtue of notification No. 7/19 dated 31.12.2019, the said period to avail the scheme was extended up to 15.01.2020.

22. It was also not in dispute that the petitioner had filed 9 declarations in Form SVLDRS-1, dated 21.12.2019 wherein the petitioner declared its liability under the category of investigation, enquiry or audit. It is also not in dispute that as per the calculation done under the category of investigation, the petitioner was required to pay an amount of Rs. 3,38,617/- after getting applicable relief under the scheme. It was also not in dispute that it was the respondents while issuing the SVLDRS-3 against the declaration filed by the petitioner, changed the category of the petitioner from investigation to arrears and issued Form SVLDRS dated 28.01.2020 and 28.01.2020 declaring therein the total tax payable as Rs. 29,48,623/-.

23. According to the petitioner, it could not make the payment within the prescribed time limit due to financial crisis

faced by it on account of lock-down owing to COVID-19 pandemic situation.

24. It was for this precise reason that the petitioner had been requesting the respondents for extension of time to deposit the amount, but according to the petitioner such representation was illegally rejected and the petitioner was asked to remit the amount.

25. As observed above, there is no dispute that the petitioner had availed the scheme within the prescribed period and hence though it is entirely different matter that its category came to be changed from SVLDRS-1 to SVLDRS-3, as aforesaid.

26. It is yet not in dispute that the petitioner who was engaged in the hospitality business by running a hotel, was adversely affected by COVID-19. It is further not in dispute that the benefit of the scheme was extended by the government from time to time and lastly it was extended up to 30.09.2020 for the purpose of making payment by virtue of notification dated 27.06.2020.

27. In this context, it is relevant to state that on account of the prevailing COVID-19 pandemic, the Hon'ble Supreme Court extended the period of limitation in the following orders:-

"Supreme Court limitation order dated: 23.03.2020

" This court has taken suo motu cognizance of the situation arising out of the situation arising out of the challenge faced by the country on account of Covid-19

virus and resultant difficulties that may be faced by litigants across the country in filing their petitions/applications/suits/appeals/all other proceedings within the period of limitation prescribed under the general law of limitation or under Special Laws (both Central and/or state).

To obviate such difficulties and to ensure that lawyers/litigants do not have to come physically to file such proceedings in respective courts/Tribunals across the country including this Court, it is hereby ordered that a period of limitation in all such proceedings, irrespective of the limitation prescribed under the general law or Special Laws whether condonable or not shall stand extended w.e.f 15th March 2020 till further orders/ to be passed by this Court in present proceedings.

We are exercising this power under [Articles 142](#) read with [Article 141](#) of the constitution of India and declare that this order is a binding order within the meaning of [Article 141](#) on all Courts/Tribunals and authorities.

This Order may be brought to the notice of all High Court for being communicated to all subordinate court/Tribunals within their respective jurisdiction.

Issue notice to all Registrars Generals of the High Court, returnable in four weeks."

Supreme Court limitation Order dated: 10.01.2022

"In March 2020, this Court took suo motu cognizance of the difficulties that might be faced by the litigants in filing petitions/applications/suits/appeals/all other quasi proceedings within the period of limitation prescribed under the general law of limitation or under any special laws (both Central and/or State) due to the outbreak of the Covid-19 Pandemic.

2. On 23-3-2020, this Court directed [Cognizance for Extension of Limitation, In re, (2020) 19 SCC 10 : (2021) 3 SCC (Cri) 801] extension of the period of limitation in all proceedings before courts/tribunals including this Court w.e.f. 15-3-2020 till further orders. On 8-3-2021 [Cognizance for Extension of Limitation, In re, (2021) 5 SCC 452 : (2021) 3 SCC (Civ) 40 : (2021) 2 SCC (Cri) 615 : (2021) 2 SCC (L&S) 50] , the order dated 23-3-2020 [Cognizance for Extension of Limitation, In re, (2020) 19 SCC 10 : (2021) 3 SCC (Cri) 801] was brought to an end, permitting the relaxation of period of limitation between 15-3-2020 and 14-3-2021. While doing so, it was made clear that the period of limitation would start from 15-3-2021.

3. Thereafter, due to a second surge in Covid-19 cases, the Supreme Court Advocates-on-Record Association (Scaora) intervened in the suo motu proceedings by filing Miscellaneous Application No. 665 of 2021 seeking restoration of the order dated 23-3-2020 [Cognizance for Extension of Limitation, In re, (2020) 19 SCC 10 : (2021) 3 SCC (Cri) 801] relaxing limitation. The aforesaid Miscellaneous Application No. 665 of 2021 was disposed of by this Court vide order dated 23-9-2021 [Cognizance for Extension of Limitation, In re, 2021 SCC OnLine SC 947] , wherein this Court extended the period of limitation in all proceedings before the courts/tribunals including this Court w.e.f. 15-3-2020 till 2-10-2021.

4. The present miscellaneous application has been filed by the Supreme Court Advocates-on-Record Association in the context of the spread of the new variant of the Covid-19 and the drastic surge in the number of Covid cases across the country. Considering the prevailing conditions, the applicants are seeking the following:

(i) Allow the present application by restoring the order dated 23-3-2020 passed by this Hon'ble Court in Cognizance for Extension of Limitation, In re [Cognizance for Extension of Limitation, In re, (2020) 19 SCC 10 : (2021) 3 SCC (Cri) 801] ; and

(ii) Allow the present application by restoring the order dated 27-4-2021 passed by this Hon'ble Court. In re [Cognizance for Extension of Limitation, In re, (2021) 17 SCC 231 : 2021 SCC OnLine SC 373] ; and

(iii) Pass such other order or orders as this Hon'ble Court may deem fit and proper.

5. Taking into consideration the arguments advanced by the learned counsel and the impact of the surge of the virus on public health and adversities faced by litigants in the prevailing conditions, we deem it appropriate to dispose of MA No. 21 of 2022 with the following directions:

5.1. The order dated 23-3-2020 [Cognizance for Extension of Limitation, In re, (2020) 19 SCC 10 : (2021) 3 SCC (Cri) 801] is restored and in continuation of the subsequent orders dated 8-3-2021 [Cognizance for Extension of Limitation, In re, (2021) 5 SCC 452 : (2021) 3 SCC (Civ) 40 : (2021) 2 SCC (Cri) 615 : (2021) 2 SCC (L&S) 50] , 27-4-2021 [Cognizance for Extension of Limitation, In re, (2021) 17 SCC 231 : 2021 SCC OnLine SC 373] and 23-9-2021 [Cognizance for Extension of Limitation, In re, 2021 SCC OnLine SC 947] , it is directed that the period from 15-3-2020 till 28-2-2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or

special laws in respect of all judicial or quasi-judicial proceedings.

5.2. *Consequently, the balance period of limitation remaining as on 3-10-2021, if any, shall become available with effect from 1-3-2022.*

5.3. *In cases where the limitation would have expired during the period between 15-3-2020 till 28-2-2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 1-3-2022. In the event the actual balance period of limitation remaining, with effect from 1-3-2022 is greater than 90 days, that longer period shall apply.*

5.4. *It is further clarified that the period from 15-3- 2020 till 28-2-2022 shall also stand excluded in computing the periods prescribed under [Sections 23\(4\)](#) and [29-A](#) of the Arbitration and Conciliation Act, 1996, [Section 12-A](#) of the Commercial Courts Act, 2015 and provisos (b) and (c) of [Section 138](#) of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.*

6. *As prayed for by the learned Senior Counsel, MA No. 29 of 2022 is dismissed as withdrawn.*

28. So also, under identical circumstances, the Madras High Court, Bombay High Court, Gujarat High Court and Delhi High Court have held that though the notification dated 14.05.2020 extended the time limit for payment under the SVLDRS up to 30.06.2020, having regard to the prevailing COVID-19 pandemic, the petitioners-assessees therein would be entitled to extension of time in the following judgments:-

1. Apnaa Projects (P) Ltd. vs. Joint Commissioner of GST & Central Excise, Chennai, 2002 a Centax 83 (Mad.)
2. N. Sundaranjan vs. Union of India, 2023 13 Centax 337 (mad)

3. R. R. Housing India Pvt. Ltd. vs. Designated Committee (SVLDRS), Coimbatore, 2024 14 Centax 15 (Mad.)
4. Cradle Runways Pvt. Ltd. vs. Union of India & Ors. 2024 8 TMI 155- Bombay High Court.
5. Sky Industries Ltd. vs. State of Gujarat 2023 SCC Online Guj 4586
6. IA Housing Solution (P) Ltd. vs. Principal Commissioner of Income Tax, 2023 (147) Taxmann.com 198 (Delhi),
7. Sunflower Developers vs. State of Gujarat, 2019:GUJHC:56173-DB

28.1 In **Apnaa Projects's case supra**, the Madras High Court held as under:-

"The petitioners in these writ petitions are assesseees under the [Central Excise Act](#), in terms of which, demands had been raised for various periods.

2. In the case of the petitioner in W.P.No.2942 of 2021, an application was filed by the petitioner on 17.12.2019 for settlement of disputes under the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019. An application in Form SVLDRS-1 was made on 17.12.2019 and on 28.02.2020, SVLDRS-3 determining the amount payable at a sum of Rs.29,61,717/- came to be issued by the respondent.

3.The petitioner appears to have faced some difficulty in meeting the deadline under the Scheme, particularly, the deadline requiring full payment of the amount to be made on or before 30.06.2020. However, gathering its W.P.Nos.19919 of 2020, 2942 of 2021 & 17428 of 2022 resources, it was in a position to remit the amount a month later on 30.07.2020 and has written to the officer expressing readiness to settle the amount and seeking clarity on whether the amount would be so accepted, if filed at that juncture.

4.Inter alia, the petitioner refers to a query in this regard having been raised before the jurisdictional officer at Chennai, who was also unable to provide a definite response in that regard. A request was addressed to the Commissioner of GST and Central Excise and in conclusion, they request that they be permitted to pay the amount determined by the Designated Committee, for

which purpose, the portal would have had to be enabled by the authorities. This communication has been received by the respondents on 31.07.2020 and this is not in dispute.

5. In W.P.No.19919 of 2020, the position is different, insofar as, while Forms SVLDRS-1, 3 and 4 had been filed/issued on 19.12.2019, 16.03.2020 and 09.04.2020 respectively, the petitioner appears to have sat tight on the remittance till 17.10.2020, when it made a representation to the respondents seeking extension of time to remit the amount.

6. Though there is proof of despatch of this communication, there is no proof of receipt of the same. However, the receipt of this, if at all, becomes W.P.Nos.19919 of 2020, 2942 of 2021 & 17428 of 2022 irrelevant in light of a decision of this Court in N.Sundararajan v. Union of India [W.A.Nos.2047 to 2098 of 2021 dated 26.08.2021]. Those writ appeals had been filed challenging the order of the learned Single Judge dated 15.06.2021 who had dismissed writ petitions seeking extension of the period for remittance on par with the extension granted by the Income Tax Authorities.

7. To be noted that, Schemes for settlement of legacy arrears had been notified both under Direct and Indirect Tax statutes. However, there had been a variation between the final dates for receipt of payments under the two Schemes. While the Scheme in the context of Income Tax, permitted remittance till 30.09.2020, the Scheme under the Indirect Tax Laws permitted settlement only till 30.06.2020.

8. The Court was persuaded to observe at Para 5, extracted below, that the time limit should be on par for both Schemes. If this were so, it would enable an assessee who expresses readiness to make the payment prior to 30.09.2020, to avail the benefit of the Scheme under Indirect Taxes as well.

5. Thus, in terms of the above Act, the time limit prescribed under [Chapter-V of the Finance Act](#) for completion of certain actions as stipulated under Chapter-V, stood extended till 30th September, 2020, and [Section 6](#) of the Act deals with two situations, namely, period for completion and period of compliance. Therefore, the said provision has to be given a liberal interpretation and if we do so, the time limit for payment of taxes can be construed to be a time limit for completion of <https://www.mhc.tn.gov.in/judis> W.P.Nos.19919 of 2020, 2942 of 2021 & 17428 of 2022 particular act, as stipulated under [Chapter-V of the Finance Act](#). In fact, the said Act

has also made certain amendments in the [Direct Tax Vivad Se Vishwas Act, 2020](#), in Chapter-IV. Thus, the intention of the legislation is to extend the time limit for compliance or completion of certain acts under the Statute, which have been listed therein, and the [Direct Tax Vivad Se Vishwas Act, 2020](#), has also been amended by extending the time limit. [Since Chapter-V of the Act](#), which deals with relaxation of time limit under Indirect Tax Laws, which stipulates four Tax Laws, which includes [Finance Act, 1994](#), we will be well justified in holding that the time limit for completion of the payment of taxes, as quantified in Form- 3, also stood extended till 30.09.2020. If that is the date on which the appellants were required to complete the payment, then the appellant's conduct in approaching this Court by filing the writ petitions on 29.09.2020 and can very well be reckoned to be a conduct, which will not be hit by delay and laches.'

9. The Court directed that delay would require the payment of interest and has directed those appellants to remit interest @ 15% from 01.07.2020 till the date of remittance, which was fixed at three weeks from the date of order, i.e., on or before 17.09.2021.

10. Mr. A. P. Srinivas, appearing for the respondents, submits that the aforesaid order has attained finality. Though the Department had contemplated a challenge to the same, no appeal had materialised on account of low tax effect, he says. The Circular providing for pecuniary limit on filing of appeals, sets out certain exclusions, where, despite the monetary threshold, the Revenue could still pursue matters in some situations, including if the matters involved large scale revenue ramifications or dealt with issues of a recurring nature. The W.P.Nos.19919 of 2020, 2942 of 2021 & 17428 of 2022 decision of the Revenue not to challenge order dated 26.08.2021, despite the exclusions set out in the Circular, to my mind, indicates a conscious view to accept the ratio of the aforesaid order, which I will then, and consequently, proceed to apply in the present writ petition as well.

11. In the facts and circumstances in W.P.No.2942 of 2021, since the petitioner has admittedly approached the respondents and expressed its readiness to remit the amount on 31.07.2020, it is entitled to extension of time and is permitted to make the remittance along with interest @ 15% from 01.07.2020 to date of remittance, that must be within a period of four weeks from the date of receipt of this order, for which purpose, the website shall be enabled forthwith. Accordingly, W.P.No.2942 of 2021 stands disposed as aforesaid.

12. However, since the petitioner in W.P.No.19919 of 2020 has taken necessary steps only in October, 2021 far beyond the extended time period and that too, only tentative, the benefit cannot be extended to this petitioner. The mandamus as sought for is thus rejected and W.P.No.19919 of 2020 is dismissed.

13. W.P.No.17428 of 2022 is dismissed as withdrawn. W.P.Nos.19919 of 2020, 2942 of 2021 & 17428 of 2022.

14. No costs in any of the writ petitions. All connected miscellaneous petitions are closed."

28.2 In **N.Sudararajan's case supra**, the Madras High Court held as under:-

"This Writ Petition has been filed, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the respondents vide letter CBIC 90224//3/2021-C/O US (CX- VI)-CBEC dated 27.08.2021, quash the same and direct the respondents to issue discharge certificate in Form SVLDRS-4 determining the said amount paid as determined under SVLDRS Form-3 No.L270220SV300892 dated 27.02.2020 since the petitioner has duly complied with the orders of this Hon'ble Court dated 21.06.2021 in W.P.No.14454 of 2020.

2. The petitioner is a former partner of the company which has since been dissolved in the year 2019. He has exercised option under the Sabka Viswas (Legacy Dispute Resolution) Scheme, 2019 vide application reference ARN LD2812190000261 dated 28.12.2019 towards the demand of Service Tax raised by the fourth respondent vide Order No. 08/2019 dated 23.5.2019. The third respondent accepting the petitioner's application dated 28.12.2019 issued order SVLDRS Form -3 on 27.02.2020 quantifying the payable amount at Rs. 3,17,090/- payable on or before 30.06.2020. However, according to the petitioner, due to COVID pandemic, the petitioner closed down the business and was unable to mobilise the requisite amount for payment by 30.6.2020. Further the petitioner was under bona fide belief that as per the notification dated 27.6.2020 issued by the Government, the due date for payment of Service Tax was extended upto 30.9.2020.

Hence, the Petitioner has submitted a detailed representation to the competent authority to extend the outer time limit to settle the dues, which was rejected by the competent authority. Aggrieved by the same, the petitioner filed a Writ Petition in W.P.No.14454 of 2020

before this Court, wherein, vide order dated 21.06.2021, this Court directed the petitioner to remit the balance amount with 15% interest from 1.7.2020. Pursuant to the said order, the petitioner, vide challan dated 25.6.2021 remitted the balance tax amount of Rs. 3,17,090/- with interest at Rs. 46,780/-. Later, this Court, vide order dated 29.06.2021, after taking note of fact that the petitioner complied with the order by remitting the tax amount, allowed the Writ Petition, by permitting the petitioner to make a representation for acceptance of his application under SVLDR Scheme and on such representation being made, the Board was directed to consider the same and pass appropriate orders within four weeks. However, the Board, vide letter in File No. CBIC-90224/3/2021-O/o-US(CX-VI)-CBEC dated 27.08.2021, rejected the representation. Hence the Writ Petition.

3. A counter affidavit has been filed on behalf of the respondents, the petitioner has exercised option under SVLDR Scheme under which, a sum of Rs.3,17,090/- has been quantified, but the petitioner has not paid the due amount even within the extended time granted upto 30.06.2020. As per Circular No.1071/42019-CX 8 dated 27.8.2019, if the declarant does not pay within the stipulated time, due to any reason, the declaration will be treated as lapsed. As regards the order passed by this Court in W.P.No.14454 of 2020 is concerned, it is stated that since this Court only directed the Board only to consider the application under SVLDR Scheme and not directed specifically to accept the application. Since the petitioner has not made payment within the stipulated time, the declaration filed by the petitioner has been treated as lapsed and consequently, the petitioner is liable to pay original demand along with penalty and interest. With these averments, the respondents sought for dismissal of the writ petition.

4. Mr.V.Parthiban, learned counsel appearing for the petitioner would submit that the petitioner has filed the declaration under SVLDR Scheme well within the time and the same was also accepted by the respondents and issued SVLDRS Form-3 and the due date for payment was extended till 30.06.2020. But due to pandemic situation, the petitioner could not mobilize the funds to pay the quantified tax amount and he was under bona fide impression that due date would be extended till 30.09.2020 by the 1st respondent vide Notification dated 27.6.2020, but later he came to know that no such extension beyond 30.6.2020 was made.

5. The learned counsel would further submit that the petitioner has immediately filed a Writ Petition in

W.P.No.14454 of 2020 on 28.09.2020, seeking a direction to the 1st respondent to accept the payment of Rs.3,17,090/- in terms of SVLDR Scheme Form -3 and this Court also vide order, dated 21.06.2021 directed the petitioner to pay Rs.3,17,090/- along with interest at 15% computed from 01.07.2020 till date within a period of one week and accordingly, the petitioner also made payment of Rs.3,63,870/- vide challan dated 22.6.2021 and reported to this Court and taking note of the same, vide order dated 29.06.2021, disposed of the writ petition, permitting the petitioner to make a representation for acceptance of its application under SVLDR Scheme and also directed the Board to consider the same. However, unfortunately, the respondents vide order dated 27.08.2021 rejected the representation, which cannot be sustained. He would rely upon the decision reported in "M/s.Though Blurb versus UOI" (W.P.No.871 of 2020, dated 27.10.2020 Bombay High Court); "Eureka Fabricators Pvt.Ltd. Versus UOI" (W.P.No.3510 of 2019-Bombay High Court), wherein, the relief was granted in similar matter relating to delayed payment under SVLDR Scheme. He also relied upon a decision of this Court in W.A.No.2019 & 2098 of 2021, dated 26.08.2021.

6. On the other hand, Mr.V.Sundareswaran, learned Senior Standing Counsel for the respondents would submit that the petitioner has failed to make the payment on or before 30.06.2020 and therefore, cannot get the benefit of SVLDR Scheme. He would further submit that it is settled proposition of law that a person, who wants to avail the benefit of a particular scheme, has to abide by the terms and conditions of the scheme scrupulously. He pointed out that as there was no statutory provision to make any payment under the scheme beyond the stipulated period and once the petitioner failed to make the payment within the due date, he is not eligible to get the benefit of SVLDR Scheme. He also submitted that pursuant to the directions of this Court, the respondents considered the representation made by the petitioner and rightly rejected, which requires no interference. Hence, he sought for dismissal of the Writ Petition.

7. Heard the learned counsel for the petitioner and the learned Senior Standing counsel for the respondents and perused the entire materials placed on record.

8. In the present case, it is clear that by virtue of the Finance Bill, 2019, the SVLDR scheme was declared. Thereafter, the respondent had issued Notification No.04/2019 dated 21.08.2019 stating that the Assesseees can avail the said scheme from 01.09.2019 to 31.12.2019. Subsequently, by virtue of Notification No.07/2019 dated

31.12.2019, the said period to avail the scheme was extended up to 15.01.2020. Pursuant to the same, the petitioner had availed the scheme before 15.01.2020 and filed Form SVLDRS 1. The said Form was accepted and further, the Form SVLDRS 3 was also issued by the respondent to the petitioner on 13.02.2020.

9. According to the petitioner, they could not make the payment within prescribed time limit due to financial crisis faced by them on account of lock down owing to COVID 19 pandemic situation. Though, the petitioner had requested for extension of time by way of representation, the respondents have rejected the same and directed the petitioner to pay entire dues with penalty. Aggrieved by the same, the petitioner moved this Court by filing a Writ Petition in W.P.No.14454 of 2020, wherein, this Court, vide order dated 21.06.2021 directed the petitioner to remit the amount under the scheme at Rs.3,17,090/- along with interest at 15% from 01.07.2020 till the date of payment.

10. Pursuant to the same, the petitioner had remitted the amount by way of challan on 25.06.2021. Taking note of the payment, this Court vide order, dated 29.06.2021 disposed of the above said Writ Petition with the following observation:

"3. I see no reason to keep this writ petition pending any more in the light of the position that the petitioner has, according to it, remitted the balance of the amount under its declaration. The petitioner is permitted to make a representation for acceptance of its application under the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 within a period of one week from today, accompanied by a copy of this order to the Board and the Board is directed to consider the same and pass appropriate orders within a period of four (4) weeks from receipt thereafter."

11. It is pertinent to note that as against the above orders of this Court, viz., dated 21.06.2021 and 29.06.2021, the respondents have not preferred any appeal nor raised any objections before the learned Judge, permitting the petitioner to make the payment under SVLDR scheme and to make representation for acceptance of the application under SVLDR Scheme. Therefore, by virtue of orders of this Court only, the petitioner made payment along with interest and when a representation was made for acceptance of the payment, unfortunately the respondents passed impugned order, dated 27.08.2021 rejecting the representation contrary to the orders of this Court.

12. A plain reading of the above orders makes it explicit that this Court had accepted the plea raised by the petitioner and permitted to make payment under SVLDR

Scheme and after payment, directed the Board to consider the representation of the petitioner for acceptance of the payment under SVLDR Scheme and pass appropriate orders. It is a positive order and no contrary view could be taken, however, the respondents passed impugned order, which in the opinion of this Court, is unreasonable and cannot be sustained and accordingly, it is liable to be set aside.

13. Thereafter, the respondent was supposed to issue Form SVLDRS 4 to discharge the entire liabilities towards tax under the said Scheme. However, the same has not been issued so far.

14. The learned counsel for the respondent would fairly submit that the petitioner had availed the scheme within the prescribed time and hence, they had issued Form SVLDRS 3. However, though the intimation in Form SVLDRS 3 was issued on 13.02.2020, the demanded tax amount was paid only on 25.06.2021, which is beyond the prescribed time limit. Therefore, they are not in a position to issue Form SVLDRS 4 to the petitioner to discharge the tax liabilities.

15. Further, the learned counsel would contend that the extension was granted only upto 14.03.2020 and hence, any payment made after the said period will not be considered or appropriated under the said scheme and the same would be appropriated only against the original tax due.

16. The SVLDRS scheme was originally brought in vide the Finance Bill, 2019 and by virtue of the said Finance Bill, the power was provided to the Central Government to issue notification with regard to the fixation of time limit to avail the said scheme and make payment. Due to the reason of COVID pandemic, the time limit for availing scheme was extended upto 15.01.2020 by virtue of Notification dated 31.12.2019. Thereafter, with regard to payment of tax under the said scheme, in terms of the intimation provided by the respondent to the petitioner, the said time limit was extended up to 31.12.2020 by virtue of the Notification No.450/61/2020.

17. Under these circumstances, since the Central Government was delegated with power to fix the time limit for availing the scheme and for making the payment, the Central Government came with the Notifications and provided time limit for the same and the said time limit was extended from time to time due to COVID pandemic. Even according to the petitioner, the said scheme was extended upto 30.09.2020 for making the payment by virtue of the Notification dated 27.06.2020.

18. Therefore, it is clear that the provisions under the Finance Bill, with regard to the fixation of time limit for availing the scheme and with regard to the extension of time for making payment of tax, is directory in nature. If it is mandatory, there will not be any delegation with regard to the Central Government to fix the time limit for availing the scheme and payment of tax. Since there is delegation with regard to the Central Government, it will only be directory in nature and that is the reason why the Central Government depends upon the situation prevailing in the country and extended the time limit from time to time.

19. It would be pertinent to mention here that the Hon'ble Supreme Court, suo motu, vide order dated 23.03.2020 in W.P.No.3 of 2020, had extended the mandatory provisions of limitation under various Acts, due to the reason of COVID pandemic from 01.03.2020 to 28.02.2022. Pursuant to the same, the respondent had also extended the time limit by considering the COVID pandemic situation.

20. Further, there is no doubt that if the provisions are mandatory in nature, this Court normally will not interfere and pass orders against the said substantive provisions of law. Since the provisions are directory in nature, based on the prevailing situation and the inability of the petitioner due to the said pandemic would be the factors that have to be considered by this Court to pass an appropriate order. In the present case, no doubt that the petitioner had paid the amount on 25.06.2021 during the pandemic period by virtue of the Court order. Under these circumstances, certainly, this Court can interfere and look into the grievances of the petitioner and if this Court is satisfied, this Court will consider the same and pass appropriate orders.

21. The judgement of the Hon'ble Supreme Court, dated 27.09.2023 in Special Civil Application No.844 of 2022, was also placed before this Court, wherein the order passed by the Division Bench of the High Court, rejecting the extension of time for making payment under the Scheme, was challenged. The said judgement dated 27.09.2023 was dismissed in the SLP stage itself without assigning any reasons. Further no submission was made as to whether the provision is mandatory or directory before the Hon'ble Supreme Court and under the said circumstances only, the aforesaid dismissal order was passed. However, the said aspect was pressed before this Court.

22. Under these circumstances, this Court is of the view that the application, filed on 13.02.2023 consequent to the payment made by the petitioner, has to be accepted under

the SVLDRS scheme by the respondent and in such view of the matter, this Court has no hesitation to direct the respondent to issue Form SVLDRS-4 to discharge the tax liabilities within a period of 30 days from the date of receipt of copy of this order.

23. Accordingly, the Writ Petition is allowed. The impugned order dated 27.08.2021 is set aside. The respondents are directed to issue discharge certificate to the petitioner. No costs. Consequently, the connected miscellaneous petition is also closed."

28.3 In **R.R.Housing's case supra**, the Madras High Court held as under:-

"This Writ Petition has been filed, praying for issuance of a Writ of Mandamus, to direct the first respondent to consider the payment made by the petitioner dated 1.3.2021 as payment under SVLDRS Scheme and also direct the first respondent to issue discharge certificate in form SVLDRS 4 to the petitioner.

2. According to the petitioner, during Audit of Accounts of the petitioner, it was found that the petitioner had not paid service tax in respect of the residential flats constructed for the land owners in terms of a Joint Development Agreement and later, the petitioner paid a sum of Rs.44,29,032/- on 02.05.2019, which was not accepted by the Audit Officers, which culminated into issuance of a show cause notice, dated 3.9.2019 proposing to demand Service Tax at Rs.70,82,343/- along with interest and penalty. The said show cause notice also proposed to appropriate the amount of Rs.44,29,032 which was already paid by the petitioner. Thereafter, the Joint Commissioner of GST and Central Excise, Coimbatore, vide Order-in-Original No.09/2019-JC dated 22.11.2019, confirmed the entire demand of Service Tax proposed in the show cause notice.

3. While so, the Union Budget presented a Scheme, viz., Sabka Vishwas Legacy Dispute Resolution Scheme, 2019 (in short, SVLDR Scheme) was introduced to settle the disputes relating to legacy laws, viz., Service ax, Central Excise Duty, etc., which are pending at various levels, by filing a declaration in Form SVLDRS-1 in the electronic portal. The petitioner opted to file a declaration under SVLDRS Scheme in respect of the Service Tax dispute and settle the same and accordingly filed declaration, upon which, the Designated Committee, after verifying form

SVLDRS-1 filed by the petitioner, issued Form SVLDRS-3 on 13.2.2020. As per the Scheme, the petitioner is liable to pay Rs.14,98,835.20 on or before 14.03.2020. In the mean time, the Government, considering the pandemic situation, has extended the time limit for making payment under the Scheme upto 30.06.2020. However, the petitioner could not pay the tax dues on or before 30.06.2020 due to financial crisis faced by them on account of lock down owing to pandemic situation.

4. In the meantime, the Hon'ble Supreme Court, in its Suo Motu W.P.No.3/2020, vide order dated 23.3.2020, has extended the period of limitation in all proceedings, irrespective of limitation prescribed under General or Special laws with effect from 15.2.2020 till further orders. Therefore, the petitioner, vide letter dated 30.6.2020 requested the Superintendent, SVLDRS Section to grant some more time to make payment of Rs.14,98,835.20 since they are facing major financial crunch due to pandemic and lock down. However, the second respondent, vide proceedings dated 18.2.2021, directed the petitioner to pay the entire amount demanded along with penalty which works out to Rs.1,08,29,431/-. According to the petitioner, they paid Rs.14,98,836/- on 01.03.2021 as determined under Form SVLDRS-3 through regular challan, as SVLDR Scheme portal was closed after 30.06.2020 and intimated the same to the first respondent about the said payment vide letter dated 02.03.2021. However, the second respondent vide impugned proceedings dated 2.3.2021, directed the petitioner to pay the entire arrears confirmed vide Order-in- Original dated 22.11.2019. Hence the Writ Petition.

5. A counter affidavit has been filed on behalf of the respondents, wherein, it is stated that the SVLDR Scheme provided full waiver of interest and penalty when the payments are made as determined by the Designated Committee set up for scrutinizing the declaration filed under SVLDR Scheme within the stipulated time of 30 days from the date of Form SVLDRS-3. In the present case, Form SVLDRS-3 was issued on 13.2.2020 and the due payment as per the Scheme is on or before 15.3.2020, but the petitioner failed to pay the dues and repeatedly requesting for time and the final extension of the scheme lapsed on 30.06.2020 and statutorily there was no scope for further reference or consideration for extension. As there was no statutory provision to make any payment under the scheme beyond the stipulated period, the request made by the petitioner, cannot be entertained. Therefore, since the petitioner failed to avail the benefit of SVLDR Scheme in time, the petitioner is liable to pay the

entire arrears of tax with penalty. With these averments, the respondents sought for dismissal of the writ petition.

6. Mr. G. Natarajan, learned counsel for the petitioner would submit that pursuant to the introduction of SVLDR Scheme, the petitioner has availed the benefit by filing declaration vide Form SVLDRS-1 and the Designated Committee also issued Form SVLDRS-3, as per which, the petitioner was liable to pay Rs.14,98,835.20 on or before 14.3.2020. Later, considering the pandemic situation, the Government extended the time limit for making payment under the scheme till 30.06.2020. However, due to financial crisis suffered by the petitioner due to lock down owing to pandemic, the petitioner could not make the payment. He would contend that the Hon'ble Supreme Court in its suo motu Writ Petition (Civil) No.3/2020, vide order, dated 23.3.2020, has held that the period of limitation in all proceedings irrespective of limitation prescribed under General or Special laws, whether condonable or not, shall stand extended with effect from 15.3.2020 till further orders. He would also submit that subsequently, the Hon'ble Supreme Court in Civil Appeal No.4085 of 2020 vide order dated 17.12.2020, held that the period of limitation which was extended earlier vide order dated 30.06.2020 is still operative. Therefore, the learned counsel would point out that since the petitioner has already filed a declaration under SVLDR Scheme and obtained Form SVLDRS-3, however due to financial crunch suffered by the petitioner owing to pandemic situation, failed to make the payment of quantified tax arrears in time and despite requesting to grant time, the 2nd respondent, by the impugned order, dated 18.2.2021, directed the petitioner to pay entire dues at Rs.1,08,29,431/-. He would further submit that on 01.03.2021, the petitioner made payment of arrears of tax at Rs.14,98,836/- determined under Form SVLDRS-3 by way of regular challan and intimated the same to the first respondent. However, the 2nd respondent vide order dated 02.03.2021, confirmed the order of the 1st respondent and directed the petitioner to pay the entire arrears of tax, which cannot be sustained and the petitioner cannot be deprived of the benefit of the SVLDR Scheme. Further, in support of his contentions, he would refer to the decisions of this Court in "[N.Sundarrarajan versus Union of India and others](#)" (W.A.No.2097 & 2098 of 2021, judgment dated 26.08.2021); "[M/s.N.S.Rathinam and sons Pvt.Ltd. Versus The Asst.Commissioner of GST and Central Excise, Dindigul and others](#)" (W.P. (Md)No.29269 of 2022, order dated 05.06.2023); "[M/s.Apnaa Projects Pvt.Ltd., versus Joint Commissioner of](#)

GST & Cetral Excise and others" (W.P.Nos.19919 of 2020, etc., order dated 08.09.2022).

7. On other hand, Mr.Rajendran Raghavan, learned Senior Standing counsel appearing for the respondents would submit that the petitioner has failed to make the payment on or before 30.06.2020 and therefore, cannot get the benefit of SVLDR Scheme. He would further submit that it is settled proposition of law that a person, who wants to avail the benefit of a particular scheme, has to abide by the terms and conditions of the scheme scrupulously. Further, he pointed out that as there was no statutory provision to make any payment under the scheme beyond the stipulated period, though the petitioner made payment by way of challan on 1.3.2021, the same could not be accepted and accordingly, the respondents have rightly rejected the request made by the petitioner, which requires no interference. Hence, he sought for dismissal of the Writ Petition.

8. Heard the learned counsel for the petitioner and the learned Senior Standing counsel for the respondents and perused the entire materials placed on record.

9. In the present case, it is clear that by virtue of the Finance Bill, 2019, the SVLDR scheme was declared. Thereafter, the respondent had issued Notification No.04/2019 dated 21.08.2019 stating that the Assesseees can avail the said scheme from 01.09.2019 to 31.12.2019. Subsequently, by virtue of Notification No.07/2019 dated 31.12.2019, the said period to avail the scheme was extended up to 15.01.2020. Pursuant to the same, the petitioner had availed the scheme before 15.01.2020 and filed Form SVLDRS 1. The said Form was accepted and further, the Form SVLDRS 3 was also issued by the respondent to the petitioner on 13.02.2020. However, due to the COVID pandemic situation, the petitioner had remitted the demanded tax amount only on 02.03.2021 through a regular challan. Thereafter, the respondent was supposed to issue Form 4 to discharge the entire liabilities towards tax under the said Scheme. However, the same was not issued.

10. The learned counsel for the respondent would fairly submit that the petitioner had availed the scheme within the prescribed time and hence, they had issued Form SVLDRS 3. However, though the intimation in Form SVLDRS 3 was issued on 13.02.2020, the demanded tax amount was paid only on 02.03.2021, which is beyond the prescribed time limit. Therefore, they are not in a position to issue Form SVLDRS 4 to the petitioner to discharge the tax liabilities.

11. Further, the learned counsel would contend that the extension was granted only upto 14.03.2020 and hence, any payment made after the said period will not be considered or appropriated under the said scheme and the same would be appropriated only against the original tax due.

12. He would also submit that the scheme was originally brought in vide the Finance Bill, 2019 and by virtue of the said Finance Bill, the power was provided to the Central Government to issue notification with regard to the fixation of time limit to avail the said scheme and make payment. Due to the reason of COVID pandemic, the time limit for availing scheme was extended upto 15.01.2020 by virtue of Notification dated 31.12.2019. Thereafter, with regard to payment of tax under the said scheme, in terms of the intimation provided by the respondent to the petitioner, the said time limit was extended up to 31.12.2020 by virtue of the Notification No.450/61/2020.

13. Under these circumstances, since the Central Government was delegated with power to fix the time limit for availing the scheme and for making the payment, the Central Government came with the Notifications and provided time limit for the same and the said time limit was extended from time to time due to COVID pandemic situation. Even according to the petitioner, the said scheme was extended upto 30.09.2020 for making the payment by virtue of the Notification dated 27.06.2020.

14. Therefore, it is clear that the provisions under the Finance Bill, with regard to the fixation of time limit for availing the scheme and with regard to the extension of time for making payment of tax, is directory in nature. If it is mandatory, there will not be any delegation with regard to the Central Government to fix the time limit for availing the scheme and payment of tax. Since there is delegation with regard to the Central Government, it will only be directory in nature and that is the reason why the Central Government depends upon the situation prevailing in the country and extended the time limit from time to time.

15. It would be pertinent to point out here that the Hon'ble Supreme Court, suo motu, vide order Cognizance (supra) dated 23.03.2020, had extended the Mandatory provisions of limitation under various Acts due to the reason of COVID pandemic from 01.03.2020 to 28.02.2022. Pursuant to the same, the respondent had also extended the time limit by considering the COVID pandemic situation.

16. Further, there is no doubt that if the provisions are mandatory in nature, this Court normally will not interfere and pass orders against the said provisions. As far as if the

provisions are directory in nature, certainly the prevailing situation and the inability of the petitioner due to the said pandemic would be the factors that have to be considered by this Court to pass an appropriate order. In the present case, no doubt that the petitioner had paid the amount on 02.03.2021 during the pandemic period. Therefore, under these circumstances, certainly, this Court can interfere and look into the grievances of the petitioner and if this Court is satisfied, this Court will consider the same and pass appropriate orders.

17. The judgement of the Hon'ble Supreme Court, dated 27.09.2023 in Special Civil Application No.844 of 2022, was also placed before this Court, wherein the order passed by the Division Bench of the High Court, rejecting the extension of time for making payment under the Scheme, was challenged. The said judgement dated 27.09.2023 was dismissed in the SLP stage itself without assigning any reasons. Further it is clear that no submission was made as to whether the provision is mandatory or directory before the Hon'ble Supreme Court and under the said circumstances only, the aforesaid dismissal order was passed. However, the said aspect was pressed before this Court.

18. The Hon'ble Supreme Court had extended the time limit up to 28.02.2022, even where the limitation was fixed under the mandatory laws. Further, as discussed above, there is no doubt that the provision of fixing time limit under the SVLDRS Scheme is directory in nature and that is the reason why the Department had extended the time limit for payment of tax amount under the SVLDRS Scheme by virtue of notifications. When that being the case, the Department is supposed to have extended the time at par with the order passed by the Hon'ble Supreme Court, where it had considered the difficulties faced by the public in mobilizing the money, filing the cases before the Courts, etc., and granted the time limit up to 28.02.2022. However, though the respondent-Department had considered and issued the notifications on 3 occasions, thereafter, they had neither considered the difficulties faced by the Assessee nor issued any notifications extending the time limit for making payment of tax under the scheme.

19. In the present case, the tax was paid by the petitioner on 02.03.2021 based on the Form SVLDRS-3 issued by the Department and the same was accepted by the respondent.

20. Therefore, taking into consideration of all these aspects, this Court is of the view that the amount, which

was paid by the petitioner on 02.03.2021 shall be consider as the amount paid under the SVLDRS Scheme and hence, the Department is bound to issue the Form SVLDRS- 4 with regard to the discharge of liabilities.

21. Under these circumstances, this Court is of the view that the application, filed on 13.02.2023 consequent to the payment made by the petitioner, has to be accepted under the scheme by the respondent and in such view of the matter, this Court has no hesitation to direct the respondent to issue Form SVLDRS-4 to discharge the tax liabilities within a period of 30 days from the date of receipt of copy of this order.

22. Accordingly, the Writ Petition is allowed. The respondents are directed to accept the payment of Rs.14,98,836/- made by the petitioner under SVLDRS-3 on 01.03.2021. The petitioner is directed to pay interest at 15% p.a. on 14,98,836/- from 01.07.2020 till the date of payment, within a period of four weeks from the date of receipt of a copy of this order, failing which, the benefit granted under this order will automatically cease to operate. On such payment being made by the petitioner, the respondents are to issue discharge certificate to the petitioner. No costs."

28.4 In **Cradle Runways's case supra**, the Bombay High Court held as under:-

1. Rule. Rule made returnable forthwith. By consent of the parties, heard finally.
2. By this petition under [Article 226](#) of the Constitution of India, Petitioner challenges communication dated 6th September 2021 issued by Respondent No.5 directing Petitioner to pay whole of service tax liability along with interest and penalty. According to Respondent No.5, Petitioner is not entitled to the benefit of Sabka Vishwas (Legal Dispute Resoution) Scheme 2019 (SVLDRS) because tax dues as per the said scheme was paid on 1st July 2020 which is after due date of 30th June 2020.
3. Petitioner is engaged in business of providing solutions for accessing all kinds of facades which involves designing, fabrication, procurement, installation, etc.
4. On 22nd May 2018, Respondents initiated an enquiry against Petitioner alleging short payment of service tax amounting to Rs.32,05,890/- tax for the period April 2017 to June 2017.

5. On 31st December 2019, Petitioner filed Form SVLDRS 1 for availing the benefit of the SVLDR Scheme and declared Rs.32,05,890/- as amount of tax dues. On 22nd February 2020, Respondents issued Form SVLDRS directing Petitioner to make payment of Rs.12,82,356/- to avail the benefit of the scheme. Petitioner generated challan on the portal for making payment which challan expired on 31 st March 2020 but Petitioner did not make any payment. Meanwhile, payment to be made under SVLDR Scheme was extended to 30 th June 2020 on account of global covid pandemic. Petitioner, therefore, regenerated the challan for making the payment. The challan so generated stated that it would expire on 1st July 2020 at 12:00 a.m. Petitioner made the payment of Rs.12,82,356/- pursuant to the said challan on 1 st July 2020 at around 01:00 p.m. However, Respondents refused to issue final certificate in form SVLDRS 4 on the ground that the payment has been made after 30th June 2020 and, hence, Petitioner is not eligible for the benefit of the Scheme. Consequently, Respondents called upon Petitioner to make the payment of service tax liability along with interest and penalty. It is on this backdrop that Petitioner has challenged the rejection of SVLDR application and action of Respondents in calling upon Petitioner to pay the demand along with interest and penalty.

6. Petitioner submits that in paragraph 4.20 of the petition, they have averred that on account of technical glitches on the portal, they could not make the payment before 30 June 2020. Petitioner further submitted that they had addressed a letter dated 11th September 2021 to Respondents bringing to their notice the technical difficulties faced by them in making the payment. However, Respondents did not reply to the said letter. Petitioner submits that there is no benefit accruing to them in delaying the payment by one day and, therefore, no malafide can be attributed. Petitioner, inter alia, has relied upon following decisions in support of its submissions that the declaration made under SVLDR Scheme be accepted and Respondents be directed to issue final certificate in SVLDRS 4 Form. Those are:-

(i) [Innovative Antares Vs. Union of India & Ors.1,](#)

(ii) [Arjun Rampal Vs. Union of India & Ors.2,](#)

(iii) [Sitec Labs Ltd. Vs. Union of India3,](#)

(iv) [Reliance Infrastructure Vs. Union of India4.](#)

7. Per contra, Respondents have opposed the petition on the ground that admittedly there is a delay of one day in making the payment by Petitioner and, therefore, this

Court should not entertain the present petition. Respondents have relied upon the decision of the Supreme Court in M/s. [Yashi Construction Vs. Union of India & Ors.](#), in support of this submission and decision of Madhya Pradesh High Court in M/s. [Dinesh Kumar Yadav Vs. Commissioner CGST & Ors.](#) Neutral Citation No.. 2025:AHC53855. Respondents have further submitted that the challan under which payment is made by Petitioner is not a challan under SVLDR Scheme but a service tax challan and, therefore, Petitioner could not contend that the payment has been made under SVLDR Scheme. Respondents have, therefore, prayed for dismissal of the petition.

8. There is no dispute that Petitioner is otherwise eligible to make a declaration under SVLDR Scheme. The only issue which arises for our consideration is whether payment made on 1st July 2020 can be said to have been made as per SVLDR Scheme.

9. The objective of SVLDR Scheme has been culled out by the Co-ordinate Bench of this Court in the case of Cap gemini [Technology Services India Limited Vs. Union of India](#), (2015) 280 CTR 352, wherein the High Court has observed as under:-

"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 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."

10. The payment whether made under a challan generated under service tax or under SVLDR Scheme would not make any difference, inasmuch as, admittedly in both the cases, it is only the correct challan which has not been filled, but

the payment has admittedly been received in the coffers of Respondents', i.e., Union of India. It is settled position that procedural irregularities cannot come in the way of substantial justice. Looking at the objective for which the SVLDR Scheme was introduced and the fact that there was a technical glitch in making the payment cannot be ignored. Furthermore, Petitioner could not be said to have had any mala fide intention in delaying the payment by one day, since the challan generated stated the expiry date as 1st July 2020. Petitioner was, therefore, under a bona fide belief that he could make the payment on 1st July 2020 which admittedly he has paid on said date.

11. In our view, therefore, on the facts of the present case denying the benefit of SVLDR Scheme would not only be contrary to the objective of the Scheme, but also would be injustice to Petitioner declarant who otherwise is eligible. The decision relied upon by Respondents in [Yashi Construction](#) (supra) is not applicable to the facts of the present case, since in the case before the Supreme Court, the payment was not made on account of financial constrain, whereas in the case before us the payment has been made but on account of technical glitch could not be made on 30th June 2020, but was made on 1st July 2020. Respondents have also not refunded the said amount till today thereby accepting the payment.

12. Petitioner is justified in placing reliance on decisions of Co-ordinate Bench of this Court in the case of [Innovative Antares](#) (supra), [Arjun Rampal](#) (supra) and [Sitec Labs Ltd.](#) (supra), wherein on similar facts and after considering the decision of Supreme Court in M/s. [Yashi Constructions](#) (supra) directed revenue to accept SVLDRS declaration when payment could not be made due to technical glitch before 30 June 2020 in contrast to decision of Single Judge of Madhya Pradesh High Court in M/s. [Dinesh Kumar Yadav](#) (supra). We are bound by the decisions of the Co-ordinate Bench of this Court.

13. In the light of above, we pass the following order:-

(i) Communications dated 6th September 2021 and 27th September 2021 are quashed and set aside. 7 of 8 Tauseef 917-WP.3015.2021.doc

(ii) Respondents are directed to issue Form SVLDRS 4 to Petitioner within a period of four weeks from the date of uploading of the present order.

(iii) Petition disposed".

28.5 In ***Sky (supra)***, the Court while referring to the decision of Sunflowers (supra), recorded as under:-

"7.4 Thus, from the observations made by the Division Bench of this Court, as referred to herein above, it can be said that the object of the amnesty scheme is to bring about expeditious and effective resolution of old disputes and recoveries of old outstanding dues of the Government and reduction of administrative costs. Since such scheme is applicable to all pending cases, the officers acting under the relevant statutes are expected to respect the object of the scheme and to ensure that the assessee gets the benefit under the scheme."

7.5 In view of the above discussion, we are of the considered view that merely because the petitioner inadvertently paid Rs.2000/- less towards principal outstanding amount of tax, it cannot be denied the benefit of the Amnesty Scheme. This petition, therefore, deserves to be allowed."

28.6 The Hon'ble Delhi High Court in ***IA Housing (Supra)*** while referring the Vivad Se Vishwas Scheme had held as under:-

17. Moreover, the principle of a judgment rendered in a normal circumstance cannot be applied to abnormal and extraordinary circumstances such as Covid wherein the organisation of the Petitioners were affected due to death of a Director and that too when the Petitioners in no manner derived any benefit because of delay.

THOUGH RESPONDENTS HAVE NO POWER TO CONDONE THE DELAY IN PAYMENT, YET THIS COURT IN EXTRAORDINARY WRIT JURISDICTION CAN PASS ANY ORDER NECESSARY TO REMEDY INJUSTICE.

18. Though this Court is in agreement with the submission of learned counsel for the respondents that the power to condone the delay with regard to delay in payment is not vested with the Departmental Authorities, yet this Court under its inherent powers in extraordinary writ jurisdiction under Article 226 of the Constitution of India can pass any order necessary to remedy the injustice. The Supreme

Court in B.C.Chaturvedi v. Union of India, (1995) 6 SCC 749 has held "It deserves to be pointed out that the mere fact that there is no provision parallel to Article 142 relating to the High Courts, can be no ground to think that they have not to do complete justice".

19. One of us (Manmohan, J) in [Siddharth International Public School v. Motor Accident Claim Tribunal](#), (2016) SCC OnLine Del 4797, para 41 has held, "it is settled law that this Court has extremely broad jurisdiction under NEUTRAL CITATION NUMBER: 2022/DHC/004603 [Article 226](#) of the Constitution and under the said Article it can pass whatever orders are necessary for doing equity and justice. The Supreme Court in N.S. Mirajkar v. State of Maharashtra, 1966 3 SCR 744 has held that "unlike a inferior court, in respect of a High Court, which is also a Court of Record, it is assumed that every action is within its jurisdiction, unless expressly shown otherwise".

20. Consequently, the power of the High Court under [Article 226](#) of the Constitution of India to grant relief in extraordinary and exceptional circumstances cannot be taken away or curtailed by any legislation.

21. In fact, the Supreme Court in [Dal Chandra Rastogi v. CBDT](#) (2019) 104 taxmann.com 341 (SC) wherein the assessee had filed a declaration of undisclosed income under the Income Declaration Scheme, 2016 and had failed to pay the third installment of the remaining 50 per cent of tax, surcharge and penalty permitted the assessee to make late deposit of tax under Income Declaration Scheme subject to interest at the rate of 12% per annum. It is pertinent to mention that there was no provision for late deposit of tax in the Income Declaration Scheme, 2016. Yet the Supreme Court taking note of the genuine hardship faced by the assessee and short delay in payment, ruled in favour of the taxpayer.

NO PREJUDICE CAUSED TO THE RESPONDENTS BY ACCEPTING THE PRAYER OF THE PETITIONERS. RATHER, SUCH ACTION SHALL HELP ACHIEVE THE OBJECTIVES OF THE VSV ACT.

22. This is also a fit case where no prejudice will be caused to the Respondents by accepting the prayer of the Petitioners. Rather, the Respondents benefit and achieve the purpose of the Scheme, namely, to reduce NEUTRAL CITATION NUMBER: 2022/DHC/004603 pendency of cases, generate timely revenue for the government and provide certainty and savings of resources that would be spent on the long-drawn litigation process.

23. Consequently as the delay in payment in the present cases were unintentional and supported by justifiable reasons, this Court is of the opinion that the cause of substantial justice deserves to be preferred, and this unintentional delay deserves to be condoned. This approach will only further the object and purpose of the VSV Act."

29. A perusal of the impugned order would indicate that the sole ground on which the case of the petitioner has been rejected by the respondents is that the scheme had come to an end. However, in light of the judgment of the Hon'ble Supreme Court with regard to the extension of limitation referred to herein above and the coupled with the fact that the judgments rendered by the Hon'ble High Courts of Madras, Bombay, Gujarat and Delhi, granting benefits of SVLDRS in favour of the petitioner/assessee therein on the ground of the prevailing COVID-19 pandemic, even cases where payments were made subsequent to 30.06.2020, we are of the considered view that the impugned order rejecting the case of the respondents cannot sustain and deserves to be quashed and necessary directions are required to be issued to the concerned respondents to accept the payment made by the petitioner and issue discharge certificate in its favour.

30. The aforesaid conclusion is based upon the objective of the SVLDR scheme, which had been introduced by the Central Government, as a one time measure for liquidation of past

disputes of central excise and service tax, the SVLDR scheme had also been issued to ensure disclosure of unpaid tax by an eligible person. This appears to have been associated as the levy of central excise and service tax had now been subsumed in a new GST Regime. Further, from the 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 these were equally 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 were required to keep in mind while dealing with a claim under the scheme.

31. In our considered view, therefore, on the facts of the present case, denying the benefits of SVLDR Scheme would not only contrary to object of the scheme but also would also be injustice to the petitioner declarant who otherwise was eligible.

32. Now the question arises for consideration is that whether the provisions under the Finance Bill with regard to the

fixation of time limit for availing the benefit of scheme and with regard to extension of time for making payment of tax are directive in nature. This precise question has been considered by the learned Single Judge of Madras High Court in **W.P. No. 24366 of 2021 titled as N. Sundarajan vs. Union of India & Ors., decided on 19.10.2023**, wherein the scheme was held to be directive.

33. It shall be apt to reproduce relevant observations as contained in paras 18 to 21, which read as under:-

"18. Therefore, it is clear that the provisions under the Finance Bill, with regard to the fixation of time limit for availing the scheme and with regard to the extension of time for making payment of tax, is directory in nature. If it is mandatory, there will not be any delegation with regard to the Central Government to fix the time limit for availing the scheme and payment of tax. Since there is delegation with regard to the Central Government, it will only be directory in nature and that is the reason why the Central Government depends upon the situation prevailing in the country and extended the time limit from time to time.

19. It would be pertinent to mention here that the Hon'ble Supreme Court, suo motu, vide order dated 23.03.2020 in W.P.No.3 of 2020, had extended the mandatory provisions of limitation under various Acts, due to the reason of COVID pandemic from 01.03.2020 to 28.02.2022. Pursuant to the same, the respondent had also extended the time limit by considering the COVID pandemic situation.

20. Further, there is no doubt that if the provisions are mandatory in nature, this Court normally will not interfere and pass orders against the said substantive provisions of law. Since the provisions are directory in nature, based on the prevailing situation and the inability of the petitioner due to the said pandemic would be the factors that have to be considered by this Court to pass an appropriate order. In the present case, no doubt that the petitioner had paid the amount on 25.06.2021 during the pandemic period by virtue of the Court order. Under these circumstances, certainly, this Court can interfere and look into the grievances of the petitioner and if this Court is satisfied, this Court will consider the same and pass appropriate orders.

21. The judgement of the Hon'ble Supreme Court, dated 27.09.2023 in Special Civil Application No.844 of 2022, was also placed before this Court, wherein the order passed by the Division Bench of the High Court, rejecting the extension of time for making payment under the Scheme, was challenged. The said judgement dated 27.09.2023 was dismissed in the SLP stage itself without assigning any reasons. Further no submission was made as to whether the provision is mandatory or directory before the Hon'ble Supreme Court and under the said circumstances only, the aforesaid dismissal order was passed. However, the said aspect was pressed before this Court."

34. Under these circumstances, this Court is of the considered view that the petitioner deserves to be granted another chance to make the payment after associating it so as to arrive at the amount due payable.

35. Accordingly, the present petition is allowed and the Annexures P-17 and P-18 i.e. demand notices, 9 SVLDRS-3 Forms issued on 28.01.2020 (forming part of Annexure P-12 (Colly), 9 SVLDRS-3 Forms issued 25.02.2020 and letter Annexure P-15 whereby the respondent department has upheld its calculation, are quashed and set aside. The respondents are directed to re-calculate the correct liability of the petitioner under the amnesty scheme after associating and affording an opportunity to the petitioner to present its case.

36. The petition stands disposed of in the aforesaid terms, so also pending applications, if any.

(Tarlok Singh Chauhan)
Judge

(Sushil Kukreja)
Judge

2nd June, 2025
(sanjeev)