

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH – COURT NO. – IV

Excise Appeal No. 50135 of 2019

[Arising out of Order-in-Original No. 23/COMMR/CEX/BPL-I/2018 dated 28.09.2018 passed by the Commissioner of CGST & Central Excise, Bhopal]

**Commissiner of Central Goods
and Service Tax, Excise and
Customs, Bhopal**

35-C GST Bhawan Administrative Area,
Areara Hills, Jail Road,
Bhopal, Madhya Pradeh - 62015

...Appellant

VERSUS

M/s. Akansha Sales Promoters

215, Zone-I, M.P. Nagar,
Bhopal, M.P. 462011

...Respondent

APPEARANCE:

Shri Rakesh Agarwal and Shri S.K. Roy, Authorized Representatives for
the Appellant

Ms. Deepika Gawri Tyagi, Advocate for the Respondent

CORAM:

HON'BLE MR. ASHOK JINDAL, MEMBER (JUDICIAL)

HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

DATE OF HEARING: 08.04.2025

DATE OF DECISION: **05.06.2025**

FINAL ORDER No. 50886/2025

ASHOK JINDAL

Revenue is in appeal against the impugned order. Before going to the merits of the case, the learned counsel of the respondent submits that in this case, the show cause notice has been issued on 09.07.2010 and by way of adjudication, demand of Rs.1,57,43,624/- was confirmed and appellant has opted Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 and obtain SVLDRS – 4 i.e. discharge certificate. In that circumstances appeal filed by the Revenue is not maintainable.

2. On the other hand, learned Departmental Representative appearing on behalf of the Revenue submits that in this case part of the demand has been dropped by the adjudicating authority and Revenue is challenging the dropping of demand against the respondent. Therefore, their appeal be heard on merits.

3. Heard both the parties.

4. After hearing the parties, the issue arises, in case where the assessee opt for SVLDRS Scheme and obtained discharge certificate can the proceedings by way of appeal by the Revenue is sustainable or not. To know the scheme, the provisions of that scheme are extracted herein below:

121. In this Scheme, unless the context otherwise requires,—

(a) "amount declared" means the amount declared by the declarant under section 125;

(b) "amount estimated" means the amount estimated by the designated committee under section 127;

(c) *****

(d) *****

(e) "amount payable" means the final amount payable by the declarant as determined by the designated committee and as indicated in the statement issued by it, in order to be eligible for the benefits under this Scheme and shall be calculated as the amount of tax dues less the tax relief;

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

(a) where—

(i) a single appeal arising out of an order is pending as on the 30th day of June, 2019 before the appellate forum, the total amount of duty which is being disputed in the said appeal;

(ii) more than one appeal arising out of an order, one by the declarant and the other being a departmental appeal, which are pending as on the 30th day of June, 2019 before the appellate forum, the sum of the amount of duty which is being disputed by the declarant in his appeal and the amount of duty being disputed in the departmental appeal:

Provided that nothing contained in the above clauses shall be applicable where such an appeal has been heard finally on or before the 30th day of June, 2019.

Illustration 1: The show cause notice to a declarant was for an amount of duty of Rs.1000 and an amount of penalty of Rs.100. The order was for an amount of duty of Rs.1000 and amount of penalty of Rs.100. The declarant files an appeal against this order. The amount of duty which is being disputed is Rs.1000 and hence the tax dues are Rs.1000.

Illustration 2: The show cause notice to a declarant was for an amount of duty of Rs.1000 and an amount of penalty of Rs.100. The order was for an amount of duty of Rs.900 and penalty of Rs. 90. The declarant files an appeal against this order. The amount of duty which is being disputed is Rs. 900 and hence tax dues are Rs.900.

Illustration 3: The show cause notice to a declarant was for an amount of duty of Rs.1000 and an amount of penalty of Rs.100. The order was for an amount of duty of Rs. 900 and penalty of Rs. 90. The declarant files an appeal against this order of determination. The departmental appeal is for an amount of duty of Rs. 100 and penalty of Rs. 10. The amount of duty which is being disputed is Rs. 900 plus Rs. 100 i.e Rs. 1000 and hence tax dues are Rs. 1000.

Illustration 4: The show cause notice to a declarant was for an amount of duty of Rs. 1000. The order was for an amount of duty of Rs.1000. The declarant files an appeal against this order of determination. The first appellate authority reduced the amount of duty to Rs. 900. The declarant files a second appeal. The amount of duty which is being disputed is Rs. 900 and hence tax dues are Rs. 900;

(b) where a show cause notice under any of the indirect tax enactment has been received by the declarant on or before the 30th day of June, 2019, then, the amount of duty stated to be payable by the declarant in the said notice:

Provided that if the said notice has been issued to the declarant and other persons making them jointly and severally liable for an amount, then, the amount indicated in the said notice as jointly and severally payable shall be taken to be the amount of duty payable by the declarant;

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

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

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

124. (1) Subject to the conditions specified in sub-section (2), the relief available to a declarant under this Scheme shall be calculated as follows:—

(a) where the tax dues are relatable to a show cause notice or one or more appeals arising out of such notice which is pending as on the 30th day of June, 2019, and if the amount of duty is,—

(i) rupees fifty lakhs or less, then, seventy per cent. of the tax dues;

(ii) more than rupees fifty lakhs, then, fifty per cent. of the tax dues;

(b) where the tax dues are relatable to a show cause notice for late fee or penalty only, and the amount of duty in the said notice has been paid or is nil, then, the entire amount of late fee or penalty;

(c) where the tax dues are relatable to an amount in arrears and,—

(i) the amount of duty is, rupees fifty lakhs or less, then, sixty per cent. of the tax dues;

(ii) the amount of duty is more than rupees fifty lakhs, then, forty per cent. of the tax dues;

(iii) in a return under the indirect tax enactment, wherein the declarant has indicated an amount of duty as payable but not paid it and the duty amount indicated is,—

(A) rupees fifty lakhs or less, then, sixty per cent. of the tax dues;

(B) amount indicated is more than rupees fifty lakhs, then, forty per cent. of the tax dues;

(d) where the tax dues are linked to an enquiry, investigation or audit against the declarant and the amount quantified on or before the 30th day of June, 2019 is—

(i) rupees fifty lakhs or less, then, seventy per cent. of the tax dues;

(ii) more than rupees fifty lakhs, then, fifty per cent. of the tax dues;

(e) where the tax dues are payable on account of a voluntary disclosure by the declarant, then, no relief shall be available with respect to tax dues.

(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.

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

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

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

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

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

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

(f) a person making a voluntary disclosure,—

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

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

(g) who have filed an application in the Settlement Commission for settlement of a case;

(h) persons seeking to make declarations with respect to excisable goods set forth in the Fourth Schedule to the Central Excise Act, 1944.

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

126. (1) *The designated committee shall verify the correctness of the declaration made by the declarant under section 125 in such manner as may be prescribed:*

Provided that no such verification shall be made in case where a voluntary disclosure of an amount of duty has been made by the declarant.

(2) The composition and functioning of the designated committee shall be such as may be prescribed.

127. (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, within a period of sixty days from the date of receipt of the said declaration.

(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:

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 within a period of sixty days from the date of receipt of the declaration.

(5) The declarant shall pay electronically through internet banking, the amount payable as indicated in the statement issued by the designated committee, within a period of thirty days from the date of issue of such statement.

(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.

128. *Within thirty days of the date of issue of a statement indicating the amount payable by the declarant, the designated committee may modify its order only to correct an arithmetical error or clerical error, which is apparent on the face of record, on such error being pointed out by the declarant or suo motu, by the designated committee.*

129. *(1) Every discharge certificate issued under section 126 with respect to the amount payable under this Scheme shall be conclusive as to the matter and time period stated therein, and—*

(a) the declarant shall not be liable to pay any further duty, interest, or penalty with respect to the matter and time period covered in the declaration;

(b) the declarant shall not be liable to be prosecuted under the indirect tax enactment with respect to the matter and time period covered in the declaration;

(c) no matter and time period covered by such declaration shall be reopened in any other proceeding under the indirect tax enactment.

(2) Notwithstanding anything contained in sub-section (1),—

(a) no person being a party in appeal, application, revision or reference shall contend that the central excise officer has acquiesced in the decision on the disputed issue by issuing the discharge certificate under this scheme;

(b) the issue of the discharge certificate with respect to a matter for a time period shall not preclude the issue of a show cause notice,—

(i) for the same matter for a subsequent time period; or

(ii) for a different matter for the same time period;

(c) in a case of voluntary disclosure where any material particular furnished in the declaration is subsequently found to be false, within a period of one year of issue of the discharge certificate, it shall be presumed as if the declaration was never made and proceedings under the applicable indirect tax enactment shall be instituted.

5. Further Rule 6, 7, 8 and 9 of the Scheme are as under:

"6. Verification by designated committee and issue of estimate, etc.-

(1) The declaration made under section 125, except when it relates to a case of voluntary disclosure of an amount of duty, shall be verified by the designated committee based on the particulars furnished by the declarant as well as the records available with the Department.

(2) The statement under sub-sections (1) and (4) of section 127, as the case may be, shall be issued by the designated committee electronically, within a period of sixty days from the date of receipt of the declaration under sub-rule (1) of rule 3, in Form SVLDRS-3 setting forth therein the particulars of the amount payable:

Provided that no such statement shall be issued in a case where the amount payable, as determined by the designated committee is nil and there is no appeal pending in a High Court or the Supreme Court.

(3) Where the amount estimated to be payable by the declarant exceeds the amount declared by the declarant, then, the designated committee shall issue electronically, within thirty days

of the date of receipt of the declaration under sub-rule (1) of rule 3, in Form SVLDRS-2, an estimate of the amount payable by the declarant along with a notice of opportunity for personal hearing.

(4) If the declarant wants to indicate agreement or disagreement with the estimate referred to in sub-rule (3) or wants to make written submissions or waive personal hearing or seek an adjournment, he shall file electronically Form SVLDRS-2A indicating the same:

Provided that if no such agreement or disagreement is indicated till the date of personal hearing and the declarant does not appear before the designated committee for personal hearing, the committee shall decide the matter based on available records.

(5) On receipt of a request for an adjournment under sub-rule (4), the designated committee may grant the same electronically in Form SVLDRS-2B:

Provided if the declarant does not appear before the designated committee for personal hearing after adjournment, the committee shall decide the matter based on available records.

(6) Within thirty days of the date of issue of Form SVLDRS-3, the designated committee may modify its order only to correct an arithmetical error or clerical error, which is apparent on the face of record, on such error being pointed out by the declarant or suo motu by issuing electronically a revised Form SVLDRS-3.

7. Form and manner of making the payment.- Every declarant shall pay electronically the amount, as indicated in Form SVLDRS-3 issued by the designated committee, within a period of thirty days from the date of its issue.

8. Proof of withdrawal of appeal from High Court or Supreme Court.- Proof of withdrawal of appeal or writ petition or reference before a High Court or the Supreme Court, as the case may be, under sub-section (7) of section 127 shall be furnished electronically by the declarant.

9. Issue of discharge certificate.- The designated committee on being satisfied that the declarant has paid in full the amount as determined by it and indicated in Form SVLDRS-3, and on submission of proof of withdrawal of appeal or writ petition or reference referred to in rule 8, if any, shall issue electronically in Form SVLDRS-4 a discharge certificate under sub-section (8) of section 127 within thirty days of the said payment and submission of the said proof, whichever is later:

Provided that in a case where Form SVLDRS-3 has not been issued by the designated committee by virtue of the proviso to sub-rule (2) of rule 6, the discharge certificate shall be issued within thirty days of the filing of declaration referred to in sub-rule (1) of rule 3."

6. As per the above provisions, if the assessee opt for the scheme, the applicant has to make a declaration in Form SVLDRS-1

and upon receipt of the declaration except in a case of voluntary disclosure of an amount of duty which is not in the case in hand as in this case show cause notice has been issued to the appellant on 09.07.2010. The said declaration is required to be verified by the designated committee based on the particulars submitted by the declarant and if there is a discrepancy, the designated authority shall issue a notice to the declarant and thereafter SVLDRS is to be issued to the declarant after considering the submission made by the declarant and the material available on record and the declarant shall pay the amount as decided by the designated committee, thereafter discharge certificate is to be issued.

7. Admittedly, in this case the respondent filed declaration in SVLDRS – 1. Same is extracted below for better appreciation of the facts:

Name of the Declarant		FORM SVLDRS 1						
AKANKSHA SALES PROMOTERS (INDIA) PRIVATE LIMITED		Address of the Declarant 145/ C SECTOR - INDUSTRIAL AREA GOVINDPURA BHOPAL GOVINDAPURA BHOPAL Madhya Pradesh 462023	PAN AADCA0853H	Email ID ashjain1523@gmail.com	Mobile No 8109533631			
Jurisdiction C.BHOPAL > D.BHOPAL-1 > R-RANGE-II		ARN No LD1112198000668	ARN Date 19/12/2019					
Category Litigation		Sub Category SCN Involving Duty Pending	Duty Type Central Excise					
SCN Involving duty along with interest/late fee/penalty (if any) pending as on 30.06.2019 and final hearing not held before 30.06.2019					Amount in Rupees			
S.No.	SCN No	SCN Date	Details of Duty		Penalty	Late Fee	Pre-Deposit/ any other deposit of duty	Tax Dues less Tax Relief
			Duty/Tax/Cess	Amount				
1	84/COMMR/CEXADU/EPL-1	09/07/2010	Basic Excise Duties	1,57,43,624.00	2,97,43,624.00	0.00	15,59,003.00	63,15,812.00
GRAND TOTAL				1,57,43,624.00	2,97,43,624.00	0.00	15,59,003.00	63,15,812.00
Amount Payable (in Words):								
Rupees Sixty Three Lakh Fifteen Thousand Eight Hundred and Twelve Only								
Verification								
I declare that I have read and understood the SADKA VIDHWAS (LEGACY DISPUTE RESOLUTION) SCHEME 2019, and agree to abide by the provisions and conditions of the Scheme, and that the information given in this declaration is correct and complete and the amount of tax dues and other particulars shown therein are truly stated, and I pay the amount as may be determined by the Designated Authority under the Scheme.								
Name of declarant/ authorized representative filing this declaration:								
AKANKSHA SALES PROMOTERS (INDIA) PRIVATE LIMITED								
Date:								
11/12/2019								
Generated On: 12/12/2019 5:34 PM								

8. In that circumstances, no proceedings is sustainable against the respondent as discharge certificate has already been issued. In this case, it is the duty of the designated committee if declaration made by the respondent is not correct then a notice was required to

be issued and thereafter to determine the correct amount of duty payable by the respondent. Admittedly, in this case no such notice was issued to the respondent and the declaration made by the respondent has been admitted by the designated authority. In that circumstances, nothing is payable by the respondent in this case. In these terms, we hold that as Form SVLDRS has been issued to the respondent i.e. Discharge Certificate, therefore no demand is sustainable against the respondent.

9. In these terms, appeal filed by the Revenue is disposed of.

[Order pronounced in the open court on **05.06.2025**]

(ASHOK JINDAL)
MEMBER (JUDICIAL)

(P.ANJANI KUMAR)
MEMBER (TECHNICAL)

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