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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 8th September 2025

\+ **W.P.(C) 9311/2022 & CM APPL. 27897/2022**

JV INDUSTRIES PVT LTD .....Petitioner

Through: Mr. Yogendra Aldak, Mr. Agrim Arora, Mr. Kunal Kapoor, Advs.

versus

UNION OF INDIA & ORS. .....Respondents

Through: Mr. Harpreet Singh, SSC with Mr. Jai Ahuja, Mr. Akshay Saxena, Ms. Shivali Saxena & Mr. Sanidhya Sharma, Advs.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE SHAIL JAIN

JUDGMENT

Prathiba M. Singh, J.

1. This hearing has been done through hybrid mode.

2. The present petition has been filed by the Petitioner, a company engaged in manufacture of ingots, copper nickel alloy ingots and other copper goods, seeking directions *inter alia* to Respondent No.3– Designated Committee, Delhi-East, CGST, to issue the discharge certificate in respect of Petitioner's declaration in Form SVLDRS-1 bearing Declaration No. LD2812190007295. The Petitioner further seeks directions to Respondent No. 5– Assistant Commissioner, Delhi-East, CGST, to refund the amount of redemption fine amounting to Rs. 18,12,000/- recovered by partially liquidating the Petitioner's Bank Guarantee Bank Guarantee No. 0505108BG0002145 dated 16th June, 2008.

3. This petition is a part of the batch of petitions wherein the short question that arises for consideration of this Court is whether redemption fine is to be considered as part of duty, penalty or the amount eventually payable and is hence, covered by the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 *(hereinafter, 'the SVLDR Scheme')* or not.

4. The background giving rise to the petition is that initially, an Order-in-Original No. 15/2009 had been passed against the Petitioner on 20th November, 2009 *(hereinafter, 'the OIO dated 20th November, 2009')* which was challenged by the Petitioner before Customs, Excise and Service Tax Appellate Tribunal *(hereinafter, 'CESTAT')*. *Vide* final order dated 6th August, 2015, the said OIO dated 20th November, 2009 was set aside and the matter was remanded by the CESTAT to the original authority for fresh adjudication, after providing an opportunity of cross-examination.

5. After the said remand, the Order-in-Original dated 28th June, 2019 *(hereinafter, 'the OIO dated 28th June, 2019')* was passed in terms of which, the following amounts were demanded from the Petitioner:

> *"7.* ***In light of the above discussions, I make the following order:***
> *7.1 In SCN. No. IV (Hqrs.Prev.) Int/24/D-II/07/935 dated 07.06.08:*
> *(i) The goods collectively valued at Rs 3,62,59,207/- [Rs Three Crore Sixty-two Lakhs Fifty nine thousand to hundred and seven only] found unaccounted and excess in the factory of M/s JV are confiscated under Rule 25 of Central Excise Rules, 2000. Option is given to the noticee to redeem the goods on payment of redemption fine of Rs 18,12,000/- [Rs Eighteen Lakhs Twelve-thousand only as per the provisions of Section 34 of the Central Excise Act, 1944. The redemption fine shall be*

appropriated from the bond and bank guarantee dated 16.06.08 furnished for provisional release of goods by M/s JV. The goods shall be cleared on payment of appropriate duty leviable.

(ii) The duty amounting to Rs 4360/- on the shortages detected in finished goods viz. Copper Wire [thickness less than 2 mm] removed in clandestine manner without payment of duty is recoverable under Section 11A of the Act and interest thereon under Section 11AB shall also be paid by the noticee.

(iii) Cenvat Credit of Rs 13,55,118/- [Rs Thirteen Lakhs Fifty-five thousand one hundred eighteen] on the shortages found is payable under Rule 14 of the Cenvat Credit Rules, 2004 readwith Section 11A of the Central Excise Act, 1944 alongwith interest under Section 11AB of the Act.

(iv) Penalty of Rs 15,00,000/- [Rs Fifteen Lakhs is also imposed on M/s JV under Rule 25 of the Central Excise Rules, 2002 and Rule 15 of the Cenvat Credit Rules, 2004 both read with Section 11AC of the Central Excise Act, 1944.

7.2 In SCN No.IV (Hqrs.Prev.) Int/24/D-II/07/ dated 30.12.08

i) The CENVAT Credit amounting to Rs, 4,37,55,7331/- (Rs. Four Crore Thirty-Seven Lakhs Fifty Five Thousand Seven Hundred and Thirty Three Only) which was wrongly taken and utilized is ordered to be recovered from the noticee M/s JV under Rule 14 of the CENVAT Credit Rules 2004 by invoking the extended period clause provided in proviso to Section 11 A(1) of the Central Excise Act, 1944.

ii) The interest at applicable rate under the provisions of Rule 14 of the CENVAT Credit Rules, 2004 read with Section 11AB of the Central Excise Act, 1944 is also payable by the Noticee M/s. JVIPL on the amount of Cenvat Credit wrongly availed till the date of payment made on 31.03.08.

iii) The amount of Rs, 4,40,00,000/- (Rs. Four Crores

Forty Lacs only) deposited voluntarily by M/s. JVIPL vide TR-6 Challan dated 31.03.2008 is appropriated.
(i) iv) Penalty of Rs. 4,37,55,7331- (Rs. Four Crore Thirty-Seven Lakhs Fifty-Five Thousand Seven Hundred and Thirty-Three only) is also imposed on M/s JV under the provisions of Rule 15 of the Cenvat Credit Rules 2004, Rule 25 of the Central Excise Rules 2002 and Section 11 AC of the Central Excise Act 1944. However, if they pay the entire amount of cenvat confirmed along with interest above, within 30 days of the receipt of this order, they shall be eligible to pay penalty @25% provided the said penalty of 25% is also paid within 30 days of the receipt of this order in terms of proviso to Section 11 AC ibid…."

6. As can be seen from the above, the following amounts were demanded from the Petitioner:

Total demand (including redemption fine)	Rs. 4,69,27,211 [Rs. 4,51,15,211 + Rs. 18,12,000]
Amount to be deposited under SVLDRS Scheme (if redemption fine is considered as 'arrears')	Rs. 2,81,56,327 [60% of Rs. 4,69,27,211]
Amount already deposited	Rs. 4,40,00,000
Amount payable under the Scheme as per sub-section (2) of Section 124 of the SVLDRS	NIL

7. After the OIO dated 28th June, 2019 was passed, the SVLDR Scheme was introduced by the Government *vide* Chapter V of Finance Act, 2019. *Vide*

Notification 04/2019- Central Excise- NT, the said scheme was brought into effect from 1st September, 2019.

8. The said Scheme was meant to give benefits to persons who were having disputes or pending litigation in respect of non-payment of excise duty and other penalties. The Scheme's purpose was to give some amnesty in case of legacy disputes.

9. Section 124 of the SVLDR Scheme provided for various reliefs for payment under either show cause notices or orders which have already been passed before the SVLDR Scheme came into effect.

10. The Petitioner herein had challenged the OIO dated 28th June, 2019 in an appeal before the CESTAT. While the appeal was pending adjudication, the Petitioner filed for relief under the SVLDRS Form-I declaring tax dues to the tune of Rs. 4,51,15,211/-. In fact, during the investigation itself, the Petitioner had deposited a sum of Rs. 4,40,00,000/- and bearing in mind the said deposit which was made, the tax liability was declared as Rs. 6,69,126/- by the Petitioner under the category of arrears.

11. Thereafter, SVLDRS Form -II was issued to the Petitioner on 28th February, 2020 by Respondent No.3– Designated Committee, Delhi-East, CGST, indicating the tax dues as Rs. 11,15,211/-. As part of the said form, the Petitioner was to withdraw the appeal pending before CESTAT and pay the redemption fine before issuance of a discharge certificate under the SVLDR Scheme.

12. While the Petitioner agreed upon the computation of the settlement amount in terms of SVLDRS Form-II form, an objection was raised regarding the payment of redemption fine and the Petitioner sought to dispute the same in its written submissions.

13. Thereafter, SVLDRS Form -III was issued to the Petitioner *inter alia* declaring that redemption fine is required to be paid by the Petitioner before issuance of discharge certificate. The said declaration was issued to the Petitioner on 19th March, 2020 with the following remarks:

> *"Remarks*
> *SVLDRS-3 ISSUED SUBJECT TO SVLDRS, 2019 ACT AND RULES APPLICABLE. ALSO, SUBMIT PROOF OF WITHDRAWAL OF APPEAL* ***AND REDEMPTION FINE HAS TO BE DEPOSITED*** *BEFORE ISSUING OF SVLDRS-4."*

14. The Petitioner continued to dispute the liability to deposit the Redemption Fine. Accordingly, after the issuance of SVLDRS Form -III, a rectification application was filed by the Petitioner under Section 128 of the SVLDR Scheme and simultaneously, the Petitioner deposited Rs. 4,46,084/- in terms of SVLDRS Form -II.

15. The Petitioner also filed an application for withdrawal of the appeal before the CESTAT and the appeal was accordingly withdrawn.

16. In continuation with the rectification application, subsequent letters were also written by the Petitioner to Respondent No. 3 requesting for rectification of SVLDRS Form -III with respect to the redemption fine.

17. In the meantime, the Petitioner also came to know that a bank guarantee of a sum of Rs. 90,00,000/- , which was furnished by them to the Respondent No. 5– Department on 16th June, 2008, was encashed by the Department to the extent of Rs. 18,12,000/-.

18. In view of this action of the Respondent No. 5– Department, the Petitioner has filed the present petition seeking a fresh discharge certificate in SVLDRS Form-IV in respect of the SVLDRS-I filed by the Petitioner. The

reliefs sought in this petition are as under:

> *"a) Issue a writ of mandamus or any other appropriate writ or order or direction in the nature thereof, directing the Respondent No. 3 to issue the discharge certificate in FORM SVLDRS-4 in respect of Petitioner's declaration in Form SVLDRS-1 bearing Declaration No. LD2812190007295, in accordance with Section 127(8) of the Finance (No. 2) Act, 2019 read with Rule 9 of Sabka Vishwas (Legacy Dispute Resolution) Scheme Rules, 2019.*
> *b) Issue a writ of mandamus or any other appropriate writ or order or direction in the nature thereof, directing the Respondent No. 3 to rectify the statement issued in Form SVLDRS-3 bearing No. L190320SV300172 dated 20.03.2020 insofar as it directs Petitioner to pay redemption;*
> *c) In the alternative, this Hon'ble court may be pleased to issue a writ of certiorari or any other appropriate writ, order or direction in the nature thereof, quashing the statement issued by the Respondent No. 3 in Form SVLDRS-3 bearing No. L190320SV300172 dated 20.03.2020 with direction to the Respondent No. 3 to issue a fresh statement in Form SVLDRS-3 in accordance with Section 127(1) of the Finance (No. 2) Act, 2019 read with Rule 6(2) of the Sabka Vishwas (Legacy Dispute Resolution) Scheme Rules, 2019*
> *d) Issue a writ of mandamus or any other appropriate writ or order or direction in the nature thereof, directing the Respondent No. 5 to refund the amount of redemption fine amounting to Rs. 18,12,000/- recovered by liquidated Petitioner's Bank Guarantee Bank Guarantee No. 0505108BG0002145 dated 16.06.2008; and/or*
> *e) Issue such further orders and other reliefs as the nature and circumstances of the case may require."*

19. Mr. Yogendra Aldak ,ld. Counsel appearing for the Petitioner has relied

upon the provisions of the Scheme to argue that redemption fine would have to be covered within the term 'penalty' inasmuch as the purpose of the scheme is to put a finality to the entire dispute. If over and above what is sought in the SVLDR Scheme, the Petitioner is also made to pay the redemption fine, the intent of achieving finality with the SVLDR Scheme would be rendered futile.

20. It is further submitted by him that the amount of redemption fine ought to be covered under the term penalty which is the benefit covered in the SVLDR Scheme.

21. Reliance is placed by the ld. Counsel for the Petitioner upon various provisions of the SVLDR Scheme. Ld. Counsel also relies upon the FAQs and the flyer published by the Central Board of Indirect Tax & Customs *(hereinafter, 'CBIC')* itself, which clearly uses the words '***total waiver of interest, penalty and fine'***, while describing the benefits of the SVLDR Scheme.

22. In addition to that, the following judgments passed by various courts are relied upon by the ld. Counsel for Petitioner:

i. ***M/s Jay Shree Industries v. Union of India, Writ Tax No. 832 of 2020- High Court of Allahabad***
ii. ***Synpol Products Pvt. Ltd. v. Union of India, 2020 (374) E.L.T. 851 - Gujarat High Court***
iii. ***M/s Shoe Sales Corporation & Kapoor International v. Union of India& Ors., CWP-1493-2021 & CWP-1496-2021- Punjab & Haryana High Court.***
iv. ***Messers Espee Electrotech LLP v. Union of India & Ors., Writ Petition No. 7653 OF 2021– Bombay High Court***
v. ***Juice Electricals Ltd. v. Union of India & Ors.- Writ Petition No.***

12845 of 2023 -Bombay High Court

vi. ***Plane Networks Pvt. Ltd. vs. Union of India, 2020 (41) G.S.T.L. 165 (Del.)- High Court of Delhi***

vii. Order dated ***3rd March, 2021*** in ***SLP (C) No. 449/2021*** challenging the Gujarat High Court judgment in ***Synpol (supra)*** wherein the SLP was dismissed by the Supreme Court.

23. Finally, it is submitted by Mr. Aldak, ld. Counsel that such Schemes in the nature of the SVLDR Scheme are meant for the benefit of businesses, and therefore, a liberal interpretation of such a scheme should be taken.

24. On the other hand, Mr. Harpreet Singh, ld. Counsel appearing for the Respondents submits that under the SVLDR Scheme, redemption fine is not covered either under duty, interest or penalty. Redemption fine is a separate category of fine which is imposed in order to release goods which have been seized or confiscated.

25. Thus, ld. Counsel for the Respondents submits that in this case, the redemption fine was not paid by the Petitioner and therefore, the declaration filed by the Petitioner in SVLDRS Form -I form was not accepted. In view thereof, steps were taken by the Respondent No. 5-- Department for recovery of the redemption fine and hence, the bank guarantee was partially encashed.

26. Mr. Harpreet Singh, ld. Counsel also relies on the decision of the High Court of Jharkhand in ***Manpreet Engineering and Construction Company v. Union of India & Ors. 2016 (44) STR 384 (JHAR)*** wherein the Court was considering the Voluntary Compliance Encouragement Scheme, 2013, in respect of service tax under the Finance Act, 2013. In the said judgment, the Division Bench of the Jharkhand High Court has clearly held that such schemes are to be strictly enforced and there are no liberal constructions of such

schemes, inasmuch as these are governed by the principles of tax statute interpretation, especially when the terms are unambiguous. Thus, the Court cannot introduce any new terminology into the said schemes.

27. The Court has considered the matter. The SVLDR Scheme is a scheme which was meant to provide some relief to tax payers whose dues may have been pending for a very long time or where there are disputes in respect of payment of Excise dues. One of the purposes of the SVLDR Scheme is to resolve the litigations and cases which were pending and were also burdensome, both to the taxpayers and to the Department. In terms of the said SVLDR Scheme, the definitions of the following terms are relevant and are set out below:

> *"121. In this Scheme, unless the context otherwise requires,—*
> *xxx*
> *(c) "amount in arrears" means the amount of duty which is* ***recoverable as arrears of duty*** *under the indirect tax enactment, on account of—*
> *(i) no appeal having been filed by the declarant against an order or an order in appeal before expiry of the period of time for filing appeal; or*
> *(ii) an order in appeal relating to the declarant attaining finality; or*
> *(iii) the declarant having filed a return under the indirect tax enactment on or before the 30th day of June, 2019, wherein he has admitted a tax liability but not paid it*
>
> *(d) "amount of duty" means the amount of central excise duty, the service tax and the cess payable under the indirect tax enactment;*
>
> *(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 -
123 (a)……
(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;

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.

127(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.

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."

28. A perusal of the above provisions of the SVLDR Scheme would show that the same applies to legacy disputes and under Section 124 of the SVLDR Scheme, different amounts are prescribed, which if paid, would result in a discharge certificate being issued to the tax payer stating that their liability stands discharged.

29. Further a reading of Clause 123 (b) of the SVLDR Scheme would show that `tax dues' in terms of the said provision would mean the duty payable in a show cause notice issued prior to 30th June 2019. In the present case, both SCNs have been issued to the Petitioners prior to the said date. Thus, the SCNs had raised a demand which was pending and yet to be adjudicated.

30. Various amounts which are prescribed in the SVLDR Scheme are amounts relatable to the show cause notices, tax dues relatable to a show cause notice for late fee or penalty or relatable to amount in arrears. Different percentages have been fixed, which if paid in accordance with the Scheme, under Section 129, the discharge certificate is to be issued by the Department.

31. Section 124(2) of the SVLDR Scheme makes it clear that if the tax payer has deposited any amounts as pre-deposit at the appellate stage, it would be deducted from the amount payable. However, the tax payer would not be entitled for any refund of such amount.

32. The terminology that Section 121(1)(a) of the SVLDR Scheme uses is that ***duty, interest and penalty*** would stand waived under the Scheme. The question that then arises for consideration is whether redemption fine would constitute duty, interest or penalty.

33. A perusal of form SVLDR Scheme-I would show that the only amount mentioned even in this form, in cases where there is pending litigation, is in respect of duty/tax/cess and then amount of penalty, amount of late fee. However, there is no mention of redemption fine in this form as well.

34. A further reading of the FAQs/ the flyer published by the CBIC would show that in the said document, there is a clear benefit mentioned in the following words:

सत्यमेव जयते

Sabka Vishwas
(Legacy Dispute Resolution) Scheme, 2019

SABKA VISHWAS (Legacy Dispute Resolution) SCHEME, 2019
For Service Tax and Central Excise
Make a New Beginning!

Objectives

- One time measure for liquidation of past disputes of Central Excise and Service Tax
- To provide an opportunity of voluntary disclosure to non-compliant taxpayers.

Cases covered under the Scheme

- A show cause notice or appeals arising out of a show cause notice pending as on the 30th day of June, 2019
- An amount in arrears
- An enquiry, investigation or audit where the amount is quantified on or before the 30th day of June, 2019
- A voluntary disclosure.

Exclusions from the Scheme

- Cases in respect of excisable goods set forth in the Fourth Schedule to the Central Excise Act, 1944 (this includes tobacco and specified petroleum products)
- Cases for which the taxpayer has been convicted under the Central Excise Act, 1944 or the Finance Act, 1944
- Cases involving erroneous refunds
- Cases pending before the Settlement Commission.

Benefits under the Scheme

- Total waiver of interest, penalty and fine
- Immunity from prosecution
- Cases pending in adjudication or appeal, a relief of 70% from the duty demand if it is ₹ 50 Lakh or less and 50% if it is more than ₹ 50 Lakh
- The same relief for cases under investigation and audit where the duty involved is quantified on or before 30th June, 2019
- In case of an amount in arrears, the relief offered is 60% of the confirmed duty amount if the same is ₹ 50 Lakh or less and it is 40% in other cases
- In cases of voluntary disclosure, the declarant will have to pay full amount of disclosed duty.

Other features of the Scheme

- Facility for adjustment of any deposits of duty already made
- Settlement dues to be paid in cash electronically only and cannot be availed as input tax credit later
- A full and final closure of the proceedings in question. The only exception is that in case of voluntary disclosure of liability, there is provision to reopen a false declaration within a period of one year
- Proceedings under the Scheme shall not treated as a precedent for past and future liabilities
- Final decision to be communicated within 60 days of application
- No final decision without an opportunity for personal hearing in case of any disagreement
- Proceedings under the Scheme will be fully automated.

Directorate General of Taxpayer Services
CENTRAL BOARD OF INDIRECT TAXES & CUSTOMS

"Benefits under the Scheme:

- *Total waiver of interest, penalty and fine*
- *Immunity from prosecution*
- *Cases pending in adjudication or appeal, a relief of 70% from the duty demand if it is Rs. 50 lakh or less and 50% if it is more than Rs. 50 lakh."*

The said flyer of the SVLDR Scheme, as published by the CBIC can also be accessed *via* the following URL : https://cbic-gst.gov.in/pdf/sabka-vishwas/Sabka-Vishwas-Scheme-English.pdf

35. The issue that has arisen for consideration in the batch of cases, which the present petitions are a part of, is whether where cases where goods are liable for confiscation or any seizure is effected, such cases would be covered under the benefits in the SVLDR Scheme. The further question is whether in cases where redemption fine is imposed for release of confiscated goods, the Scheme would apply or not and if the person deposits the duty in terms of Clause 124 of the SVLDR Scheme, a discharge certificate would be liable to be issued.

36. Under the Central Excise Act, 1944, Section 12F and Section 34 provides as under:

"12F. Power of search and seizure – (1) Where the Joint Commissioner of Central Excise or Additional Commissioner of Central Excise or such other Central Excise Officer as may be notified by the Board has reasons to believe that any goods liable to confiscation or any documents or books or things, which in his opinion shall be useful for or relevant to any proceedings under this Act, are secreted in any place, he may authorise in writing any Central Excise Officer to search and seize or may himself search and seize such documents or books or things.
[(2) The provisions of the Code of Criminal Procedure,

> *1973 (2 of 1974), relating to search and seizure shall, so far as may be, apply to search and seizure under this section subject to the modification that sub-section (5) of Section 165 of the said Code shall have effect as if for the word "Magistrate", wherever it occurs, the words [Principal Commissioner of Central Excise or Commissioner of Central Excise] were substituted.]]*
>
> *"**34. Option to pay fine in lieu of confiscation.—** Wherever confiscation is adjudged under this Act or the rules made thereunder, the officer adjudging it, shall give the owner of the goods an option to pay in lieu of confiscation such fine as the officer thinks fit.*
>
> ***[34-A. Confiscation or penalty not to interfere with other punishments.—**No confiscation made or penalty imposed under the provisions of this Act or of any rule made thereunder shall prevent the infliction of any other punishment to which the person affected thereby is liable under the provisions of this Act or under any other law.]"*

37. A perusal of the above provisions of the Central Excise Act, 1944 would show that whenever there is confiscation due to non-payment of excise duty, seizure of relevant material can be done under Section 12F and a fine would have to be paid by the tax payer for release of the goods which have been confiscated. Such a fine is called the redemption fine. Hence, the seizure and/or redemption fine is nothing but a consequence of non-payment of excise duty. The same cannot be considered as a separate category of penalty, insofar as the applicability of the SVLDR Scheme is concerned.

38. Under the SVLDR Scheme, Section 124 provides that only the part of the excise duty has to be paid, depending upon the amount of tax due. Hence, the same can be either 40%, 50%, 60% or 70% of the tax dues and there is no

requirement to pay either the balance tax alongwith penalty or any interest.

39. In fact, the various judgments which have been cited by ld. Counsel for the Petitioner clearly cover this issue and the Court need not reinvent the wheel. In the decision rendered by the Allahabad High Court in ***M/s Jay Shree Industries (supra)*** which was considering this very scheme, the rationale behind the Scheme has been set out as under:

> *"31. In view of that law laid down by the Supreme Court, 'confiscation' is nothing but a penalty in rem.* ***Redemption fine, by virtue of Section 34 of the Central Excise Act, is only a payment made in lieu of this penalty. Upon any 'confiscation' made under the Act, the option to pay an equivalent fine is required to be provided. It is not possible to say that the nature of 'confiscation' under the Act and a fine in lieu thereof is somehow different.***
> ***'Redemption fine' must necessarily also be considered a 'penalty' against the offending goods. Further, in absence of any contrary statutory definition of the word 'penalty' or other specific exclusion of 'redemption fine' from the consequences of issuance of a Discharge Certificate (under section 129 of the Scheme), undoubtedly, the word 'penalty' appearing in section 129 of the Scheme includes, within its plain ambit, both, a penalty in personam and a penalty in rem.*** *Here, both, personal penalty and the penalty in rem arose from a single transaction. Clearly, both penalties are part of the same dispute, for a common period. It is so because even according to the revenue both those penalties were imposed vide the Order-in-Original 2/A/Ayukt/M/97 dated 14.08.1997. Though that order has not been shown to us, yet it is not the case of the revenue that the 'redemption fine' in question was imposed on the petitioner, independent of that order. The revenue only contends that by its very nature,*

'redemption fine' is not a 'penalty' at all. That submission is contrary to the law laid down by the Supreme Court. We have no hesitation to hold, 'redemption fine' is a kind or type of 'penalty' under the Central Excise Act, 1944.

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35. As noted above, the Scheme being a piece of reformative legislation, 'redemption fine' that is a penalty in rem must dearly be shown to have been excluded from the meaning of the word 'penalty' used in section 129 of the Scheme, before it may be inferred that a Discharge Certificate may be issued only upon payment of the 'redemption fine'/penalty in rem. In absence of any provision to exclude 'redemption fine'/ penalty in rem from the benefits of the Discharge Certificate contained in section 129 of the Scheme, no such inference may be drawn, against the plain language and intent of the Scheme. In absence of any express exclusion created by the Scheme, 'redemption fine' would always ( ]ain a 'penalty' covered under the meaning of that word used in section 129 (1) (a) read with section 121 (u) of the Scheme. Thus, we have reached the same conclusion on the point as the Gujarat High Court, but for reasons of our own.

36. That being the law, the further objection of the revenue based on the rule of estoppel is devoid of any merit. In ***Commissioner of Income Tax (Central) v. B.N. Bhattacharjee & Anr., (1979) 4 SCC 121 = 2002-TIOL-2003-SC-IT*** *, it was clearly opined that estoppel does not operate against a statute. The Supreme Court had laid down:*

> ***"58. The soul of estoppel is equity, not facility for inequity. Nor is estoppel against statute permissible because public policy animating a statutory provision may then become the casualty. Halsbury has noted this sensible nicety:***
> ***'Where a statute, enacted for the benefit of a section***

of the public, imposes a duty of a positive kind, the person charged with the performance of the duty cannot by estoppel be prevented from exercising his statutory powers. [Maritime Electric Co. Ltd. v. General Diaries Ltd., 1937 AC 610 and HALSBURY'S LAWS OF ENGLAND, para 1515] A petitioner In a divorce suit cannot obtain relief simply because the respondent is estopped from denying the charges, as the court has a statutory duty to inquire into the truth of a petition. [Hudson v. Hudson, 1948 P. 292 and HALSBURY'S LAWS OF ENGLAND, para 1515] " The luminous footnote cites rulings and states that: 'This rule probably also applies where the statute bestows a discretion rather than Imposing a duty.[HALSBURY'S LAWS OF ENGLAND, 4th Edn., p. 1019]" To sum up, where public duties cast by statute are involved, private parties cannot prevent performance by invoking estoppel. We do not discuss further since the facts here exclude estoppel".

We have no reason to apply a different yardstick to allow the respondent authorities to overlook the clear and binding statutory provision, in favour of the concession claimed to have been made by the petitioner. The concession, if any, made by the petitioner in the Discharge Certificate proceedings - to deposit the 'redemption fine', would remain contrary to the express provision of law and therefore unenforceable and of no consequence."

40. Similarly, in ***Synpol Products Pvt. Ltd. (supra)***, the Gujarat High Court has taken a similar view to the following effect:

"10. In view of the above facts and situation, when the respondents had issued show cause notice demanding excise duty together with confiscation of the goods in

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

11. The Supreme Court in the case of K.P. Varghese (supra) has laid down that the Rule of construction by reference to the principle of 'contemporanea expositio est optima et fortissima in lege' which is a well established rule for interpreting a statute by reference to the exposition it has received from contemporary authority, though it must give way where the language

of the statute is plain and unambiguous. Therefore, when the Central Board of Indirect Taxes has issued FAQs, press, notes and flyers by way of explaining the scheme providing waiver of interest, penalty and fine and immunity from prosecution, then case involving confiscation/redemption fine cannot be excluded under the Scheme, as such explanation by the Board provides legitimate aid in the constructions and interpretations of the provision of the Scheme.

12. In view of the foregoing reasons, the petition succeeds and is accordingly allowed. The declaration filed by the petitioners and other similarly situated persons are required to be considered by the designated committee without payment of redemption fine by the declarant. The impugned orders passed by the designated committee are therefore quashed and set aside. As observed by the Coordinate Bench of this court, the order passed in this petition would also apply to the similarly situated declarants who have not approached this Court, in order to reduce the multiplicity of proceedings. Accordingly, this order would apply to the cases of all the declarants involving confiscation/redemption fine. In such circumstances, the respondent authorities are directed to issue necessary discharge certificate under Section 129 of the Finance Act, 2019 to the petitioners subject to fulfilment of all other conditions as per the Scheme. Rule is made absolute to the aforesaid extent, with no order as to costs."

41. The SLP being ***SLP (C) No. 449/2021*** against this decision of the Gujarat High Court has been dismissed. Subsequently, this very view has been followed in respect of the SVLDR Scheme by the Punjab and Haryana High Court in ***M/s Shoe Sales Corporation (supra)*** where the decision in ***Synpol Products Pvt. Ltd. (supra)*** and in ***M/s Jay Shree Industries (supra)*** have been followed

in the following terms:

> *"The petitioner-M/s Shoe Sales Corporation is seeking writ of certiorari for setting aside orders of the Designated Committee made under Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 (hereinafter referred to as SVLDR Scheme) whereby the application of the petitioner has been rejected vide letter/order dated 23. 12 2010 (Annexure P-5) by observing as under-*
>
> > *"The said application was filed with respect to your appeal filed before Hon'ble CESTAT vide appeal no. E/52743/2015 EX-(DB) which is in pending state. However, as per concerned O-I-O no. 02/TS/D-III/2014-15 dated 19.05.2014, the matter involves Redemption Fine.*
> >
> > *The amount of fine in lieu of confiscation of goods has not been proposed for relief in the Sabka Vishwas Scheme as the scheme encompasses only the matters in which demand of Duty, Interest and Penalty are involved. Accordingly your SVLDRS-1 application having ARN LD1410190000014 dated 14.10.2019 has been rejected"*
>
> *The benefits under the SVLDR Scheme has been reflected in Annexure P-4, which are as under-*
>
> - *Total waiver of interest, penalty and fine.*
> - *Immunity from prosecution.*
> - *Cases pending in adjudication or appeal, a relief of 70% from the duty demand if it is Rs. 50 Lakh or less and 50% if it is more than Rs. 50 Lakh The same relief for cases under investigation and audit where the duty involved is quantified on or before 30th June, 2019.*
> - *In case of an amount in arrears, the relief offered is 60% of the confirmed duty amount if the same is Rs. 50 Lakh or less and it is 40% in other cases.*
> - *In cases of voluntary disclosure, the declarant will have to pay full amount of disclosed duty.*
>
> *Leamed counsel for the petitioner while referring to*

letter/order dated 23.12.2019 (Annexure P-5) has argued that his application under the SVLDR Scheme was made on 14.10.2019 against the demand of penalty of Rs. 1,98,597/- and redemption fine of Rs.9,64,062/- (Annexure P-3). While rejecting his application, it was observed that since the matter involves redemption of fine and this fine was in lieu of confiscation of goods which had not been proposed for relief in the said scheme as the said scheme only relates to the matters involving demand of duty, interest and penalty.

He has referred to a judgment passed by the High Court of Gujarat in a case titled as ***Synpol Products Pvt. Ltd. Vs. Union of India, 2020 (32) G.S.T.L 705 (Guj.)*** *(Annexure P-6). While interpreting the contents of the Sabka Vishwas Scheme, 2019, it was held that when the Central Board of Indirect Taxes and Customs had issued flyers, press release and FAQs, it was clearly stated that there would be full waiver of interest, fine and penalty and also complete immunity from prosecution and the cases involving redemption of fine and confiscation cannot be excluded under the said scheme. In this backdrop, the explanation given by the Board with respect to redemption fine cannot be treated separately than the amount of duty under the scheme. The term 'fine' mentioned in the Board's flyers, press release and FAQs cannot be fine imposable under Section 9 of the Central Excise Act, 1944 and the fine mentioned in flyers, press release and FAQs is redemption fine only, As per Section 125 of the Scheme, a declarant cannot be made ineligible to file a declaration for non-payment of redemption fine. The declarant is required to include redemption fine as part of the duty demanded so as to calculate the amount in arrears as per Section 121 (c) of the Scheme.*

Leamed counsel for the petitioner has also stated that ***Special Leave to Appeal (C) No. 449 of 2021*** *against the aforesaid judgment has been dismissed on 03.03.2021 and the judgment has attained finality.*

*He has referred another judgment of **Allahabad High Court passed in Writ Tax No. 832 of 2020 M/s. Jay Shree Industries Vs. Union of India 838 of 2020, allowed on 06.08.2021** whereby the application under the SVLDR Scheme had been rejected by the designated committee on 17.11.2020 on the ground that there was an outstanding amount of Rs.30 lacs of redemption fine and the application could not be considered unless the petitioner paid that amount and in this backdrop, discharge certificate could not be issued under Section 129 of the Scheme.*

xxxxx

Keeping in view the aforesaid judgment passed by Gujarat High Court, upheld by the Hon'ble Supreme Court after dismissal of Special Leave to Appeal (C) No. 449 of 2021 and the object of the SVLDR Scheme, writ petitions are allowed and the orders of the designated committee are being set aside. The matter is remanded back to designated committee to consider the case of the petitioner(s) as per the SVLDR Scheme and redetermine payable including redemption fee/fine under the SVLDR Scheme by passing fresh order. The designated committee will give six months' time after making assessment under the SVLDR Scheme so that the petitioner(s) can deposit the amount in time."

42. In ***Messers Espee Electrotech LLP (supra),*** the Bombay High Court has also categorically held that redemption fine is nothing but a duty and the same would be waived upon the payment of the amount in terms of the SVLDR Scheme:

"*3.3 It is the contention of Petitioner that the issue of waiver of redemption fine is covered by SVLDR Scheme or not is no more res integra in the light of the decision of (i) the Gujarat High Court in **Synpol Products Pvt.***

Ltd. vs. Union of India (374) E.L.T. 851 *and SLP has also been dismissed by the Supreme Court, (ii) the Allahabad High Court in* ***M/s. Jay Shree Industries vs. Union of India & Anr. 2021 (8) TMI 446*** *and (iii) this Court in* ***HP Adhesives Limited vs. Union of India & Ors. WP No. 3743 of 2021 dtd. 20th February 2023.*** *Petitioner further submitted that under the Scheme what is required to be deposited is the amount of tax dues relating to the duty and, therefore, Respondents are not justified in rejecting the application since once the duty is settled under the scheme, waiver of penalty and fine is consequential.*

xxx

3.7 Assuming we accept the contention of respondents that "redemption fine" is nothing but a "duty" then even in that case, the SVLDR Scheme grants immunity/waiver from such "redemption fine" if the basic excise duty is paid as per the Scheme. This is so because under Section 124, what is required to be paid is the prescribed percentage of "tax dues" which is defined in Section 123 to mean the amount of duty disputed and the "amount of duty" is further defined in Section 121 (d) to mean the amount of "central excise duty". Therefore, when Section 124 speaks of payment required to be made of the tax dues, it is certain percentage of central excise duty which entitles the applicant to waiver/immunity under Section 129 of the SVLDR Scheme. Therefore, payment has to be of basic excise duty and not redemption fine to avail benefit of SVLDR Scheme. Admittedly, "redemption fine" cannot be considered as "central excise duty". Section 129 (1) (a) which provides immunity/waiver states that the declarant shall not be liable to pay any further duty, interest or penalty. The phrase "further duty" by accepting the contention of respondents would cover redemption fine also. ***To put it simply, what is required***

to be paid for availing benefits of the scheme is the prescribed percentage of central excise duty which is payable as per Section 3 of the Central Excise Act and when Section 129(1)(a) which grants immunity/waiver refers to "any further duty", it would mean any payment other than central excise duty and, therefore, by accepting the contention of respondents, "redemption fine" would fall within the phrase "any further duty". Therefore even on this count, the rejection of the application by respondents is not justified"

43. In ***Juice Electricals Ltd. (supra)*** the following view was expressed by the Court:

> *"12. With respect to the above issue, the Co-ordinate Bench of this Court, to which one of us was a party (Jitendra Jain, J.) has passed a detailed judgment holding that the redemption fine is akin to penalty and once the petitioner's application under SVLDR Scheme accepting the payment of excise duty is accepted, the declarant is immune from imposition of any redemption fine and, therefore the benefit of the scheme gets extended to the redemption fine also. The relevant paragraphs 3.5, 3.6 & 3.8 of the decision in the case of* ***M/s. Esbee Electrotech LLP (supra)*** *read as under:-*
>
> > *3.5 The benefit of SVLDR Scheme is available, if the applicant pays "tax dues" as per Section 124 of SVLDR Scheme. Section 123 defines "tax dues" for the purpose of the scheme to mean the "amount of duty" which is being disputed in the appeal. The phrase "amount of duty" is defined in Section 121 (d) to mean 'the amount of central excise duty, the service tax and the cess payable under the indirect tax enactment'. Therefore, on a conjoint reading of Sections 124, 123 and 121 (d) of SVLDR Scheme what is required to be*

paid for availing the benefit of the Scheme is the amount of certain percentage of the amount of excise duty and not the amount of redemption fine. Once the applicant pays the amount of excise duty as required under the Scheme, the applicant is not liable to pay any further duty, interest or penalty with respect to the matters covered in the declaration. Therefore, in our view, the reasons given by Respondents in the application for rejecting the application that Petitioner is required to pay the redemption fine is not borne out from any provisions of SVLDR Scheme.

3.6 Once the applicant pays the amount of duty as per Scheme then Section 129 provides that the applicant shall not be liable to pay any further duty, interest or penalty with respect to the period covered in the declaration. Although in Section 129 (1) (a) of SVLDR Scheme redemption fine is per se not included, but the Central Board of Indirect Taxes and Customs issued flyers, wherein it is stated that the benefit under the Scheme would be total waiver of interest, penalty and fine. To the same effect, is the press note dated 22nd August 2019 issued by the Ministry of Finance, Government of India, wherein it is clarified that there would be no other liability of interest, fine or penalty if the dispute is resolved under the SVLDR Scheme. This issue had come up for consideration before the Allahabad High Court in M/s. Jay Shree Industries (supra) wherein on similar facts, the High Court clarified by analysing the meaning of duty, penalty and fine and came to a conclusion that redemption fine under Section 34 of the Central Excise Act is only a payment akin to penalty and, therefore, a declarant is

entitled to the waiver of redemption fine under Section 129 of SVLDR Scheme. The very same issue also arose before the Gujarat High Court in Synpol Products Pvt. Ltd. (supra) and the High Court in paragraph 4.5 of the said decision recorded that the Revenue has accepted that waiver of fine is allowed under the Scheme although Section 129 (1) of the said Scheme does not refer to fine and the said stand of the Revenue is in line with the clarifications, press release and flyers issued by the Board. The Co- ordinate Bench of this Court in HP Adhesives Limited (supra) has also accepted the decisions Gujarat and Allahabad High Court mentioned above. Therefore, our view, the basis of rejection that waiver of redemption fine is not covered is required to be rejected.

3.8 The reliance placed by Respondents on paragraph 10 of the decision of the Gujarat High Court in Synpol Products Pvt. Ltd. (supra) to justify their rejections is not acceptable since the issue before us is interpretation of Section 121 (d) which defines "amount of duty" which is the phrase used in Section 123 which defines "tax dues", whereas the observations made in paragraph 10 of the Gujarat High Court is in connection with the definition of the phrase "amount in arrears" defined by Section 121 (c). In the instant case, the provisions of Section 121 (c) is not applicable since Petitioner No.1-Firm has filed an appeal which has not attained finality and, therefore, none of the clauses of Section 121 (c) of the Scheme applies to Petitioner's case. Therefore, on facts the observations in paragraph 10 of the Gujarat High Court is not applicable to the case before us."

44. On the other hand, the decision referred to by Mr. Harpreet Singh, ld. Counsel in ***Manpreet Engineering and Construction Company (supra)*** primarily holds that no language can be added into a scheme since such schemes would be liable to be strictly interpreted by the Court. Further, it has also been held that the scheme is also not to be interpreted liberally and no leniency can be granted.

45. The Court has considered the overwhelming decisions which have been cited on behalf of the Petitioner, as also the arguments made on behalf of the Respondents.

46. In the judgments discussed above, all Courts have taken the view that redemption fine would be covered under duty and penalty and a separate mention of redemption fine was not required either under SVLDR Scheme-I or in terms of the Sections in the scheme itself.

47. The scheme of the Central Excise Act, 1944 reveals that whenever there is non-payment of excise duty in respect of any goods, there can be various consequences. There can be seizure of goods and/or relevant material, a redemption fine can be imposed for release of goods. Such seizure or imposition of redemption fine, is nothing but a fine being paid due to non-payment of duty. Once the duty itself gets settled under the SVLDR Scheme, it would not be appropriate to interpret the Scheme in a manner that would be contrary to the intention thereof.

48. The discharge certificate that is to be issued by the Department upon payment of duty in terms of the scheme is for waiver of entire duty, interest or penalty and redemption fine would be part of these three terminologies, as has been rightly interpreted by the CBIC itself in its flyer and FAQs.

49. Tax payers who may not understand complex terminologies in a taxing statute heavily rely upon the FAQs or promotional material published by the CBIC to understand such Schemes. Hence, responsibility has to be borne by the Department to such FAQs which are followed as guidance by the tax payers and arguments to the contrary would not be tenable.

50. Under such circumstances, this Court is of the opinion that when penalties and interest are being waived under the SVLDR Scheme but the redemption fine is not waived, as is being argued by the Respondents, such an interpretation would go contrary to the fundamental purpose and the *raison d'être* of the SVLDR Scheme itself. In the opinion of this Court, the purpose of the SVLDR Scheme is to give a finality to a particular dispute and not to keep the aspect relating to redemption fine pending. Seizure cases are also no exception to this.

51. This Court concurs with the view of various other High Courts discussed above that redemption fine would be waived, once a tax payer has availed of the benefits of the SVLDR Scheme and has paid the amount in terms thereof. Once the payment is made, benefits of the Scheme would also extend to Seizure/Confiscation cases.

52. Thus, the amount of redemption fine which was encashed by Respondent No. 5-Department by way of the bank guarantee would not be sustainable. The Department is, therefore, liable to refund the amount of Rs. 18,12,000/- to the Petitioner along with the statutory interest within a period of two months.

53. The Department shall also issue to the Petitioner, the discharge certificate in terms of Section 129 of the SVLDR Scheme in respect of Petitioner's declaration in Form SVLDRS-1 bearing Declaration No. LD2812190007295, within a period of two months.

54. The petition is allowed in these terms. Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH
JUDGE

SHAIL JAIN
JUDGE

SEPTEMBER 8, 2025
(corrected and released on 17th September 2025)
dj/ss