



2024:KER:69344

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

WEDNESDAY, THE 11<sup>TH</sup> DAY OF SEPTEMBER 2024 / 20TH BHADRA,

1946

WP(C) NO. 31543 OF 2024

**PETITIONER:**

JEWEL HOMES PRIVATE LIMITED,  
CASA GRANTE BUILDING, KALOOR,  
ERNAKULAM, PIN - 682 017,  
REPRESENTED BY ITS MANAGING DIRECTOR  
MR. P.A. JIHAS.

BY ADV RAMESH CHERIAN JOHN

**RESPONDENTS:**

- 1 THE JOINT COMMISSIONER,  
OFFICE OF THE PRINCIPAL COMMISSIONER,  
CENTRAL EXCISE, CUSTOMS & SERVICE TAX COCHIN,  
CENTRAL REVENUE BUILDING, I.S. PRESS ROAD, KOCHI,  
PIN - 682 018.
- 2 THE COMMISSIONER,  
CENTRAL BOARD OF INDIRECT TAXES & CUSTOMS  
(ERSTWHILE CENTRAL BOARD OF EXCISE & CUSTOMS,  
CENTRAL REVENUE BUILDING, I.S. PRESS ROAD, KOCHI,  
PIN - 682 018.
- 3 THE SUPERINTENDENT,  
CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS,  
OFFICE OF THE SUPERINTENDENT, ERNAKULAM RANGE 3,  
CENTRAL TAX AND CENTRAL EXCISE,  
KOCHI COMMISSONERATE, CENTRAL EXCISE BHAVAN,  
KATHRIKKADAVU, COCHIN, PIN - 682 017.

BY ADV SRI.SUVIN R.MENON (SC)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR  
ADMISSION ON 11.09.2024, THE COURT ON THE SAME DAY  
DELIVERED THE FOLLOWING:



## **JUDGMENT**

The petitioner is a company engaged in the business of construction and sale of residential apartments. The petitioner was an assessee under the provisions of the Finance Act, 1994. For the period from 01-10-2008 to 30-06-2010, the petitioner was assessed to pay service tax of Rs.1,41,97,591/- and a penalty of Rs.1,41,97,591/- together with interest payable thereon. Ext.P1 is the order dated 24-03-2017 adjudicating the aforesaid liability on the petitioner. A Dispute Resolution Scheme known as 'Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019', was introduced by the Central Government for settling disputes with assessees like the petitioner. The petitioner sought to avail the benefit of the scheme for settling the dispute leading to the issuance of Ext.P1 order. The petitioner was accordingly issued with a statement under the scheme (Form No.SVLDRS-3) permitting the petitioner to settle the liability by paying a sum of Rs.85,18,554.60/-. According to the petitioner, though Ext.P3 required the petitioner to pay the amount by 30-06-2020 (in terms of the provisions contained in Section 127 of the Finance (No.2) Act, 2019), the petitioner was



able to pay the amount only on 03-07-2020. According to the petitioner, the petitioner was unable to pay the amount on or before 30-06-2020 only on account of the disruptions caused by the Covid-19 pandemic.

2. The learned counsel appearing for the petitioner submits that in the directions issued by the Supreme Court in *Suo Motu Writ Petition (C)No.3 of 2020*, the payment made by the petitioner should be deemed to be within time for the purposes of the scheme.

3. Heard the learned Standing Counsel appearing for the respondents. The learned Standing Counsel submits that the scheme is a Dispute Resolution Scheme and the terms of the Dispute Resolution Scheme have to be strictly complied with in order to enable assesseees like the petitioner to obtain benefits under the scheme. It is submitted that there is no provision under the scheme for extending the time for payment, and since admittedly the petitioner has not paid the amounts within the time specified under the scheme, the petitioner is not entitled to the benefit of the scheme, and the entire amount adjudicated under Ext.P1 is liable to be paid by the petitioner.

4. Having heard the learned counsel appearing for the



petitioner and the learned Standing Counsel appearing for the respondents, I am of the view that the petitioner is entitled to succeed. The fact that the petitioner was entitled to settle the disputes leading to Ext.P1 order by opting for settlement under the scheme is not disputed. It is also not disputed that the petitioner had filed an application for settling the dispute under the provisions of the scheme and had also been issued a declaration permitting the petitioner to settle the dispute by paying a sum of Rs.85,18,554.60/-. It is true that, going by the provisions of Section 127 of the Finance (No.2) Act, 2020, the amount had to be paid on or before 30-06-2024. It cannot be disputed that towards the end of March 2020, the entire country was placed under lockdown on account of the Covid-19 pandemic, and considering the disruptions caused on account of the Covid-19 pandemic, the Supreme Court had taken cognisance of the difficulties placed by various persons, and while disposing of *Suo Motu Writ Petition (C)No.3 of 2020* by order dated 08-03-2021, the Supreme Court had issued the following directions:

1. *"In computing the period of limitation for any suit, appeal, application or proceeding, the period from 15.03.2020 till 14.03.2021 shall stand excluded.*



*Consequently, the balance period of limitation remaining as on 15.03.2020, if any, shall become available with effect from 15.03.2021.*

- 2. In cases where the limitation would have expired during the period between 15.03.2020 till 14.03.2021, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 15.03.2021. In the event the actual balance period of limitation remaining, with effect from 15.03.2021, is greater than 90 days, that longer period shall apply.*
- 3. The period from 15.03.2020 till 14.03.2021 shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A 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.*
- 4. The Government of India shall amend the guidelines for containment zones, to state.*

*“Regulated movement will be allowed for medical emergencies, provision of essential goods and services, and other necessary functions, such as, time bound applications, including for legal purposes, and educational and job-related requirements.”*

Since the last date for payment under the scheme fell within



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the aforesaid period, I am of the view that it is covered by the directions issued by the Supreme Court in the above order, and therefore it has to be held that the delay of three days in remitting the amount under the scheme cannot lead to a situation where the petitioner is denied the benefits of the scheme.

The writ petition will therefore stand allowed, directing that if the petitioner has paid the amounts payable by the petitioner in terms of the Scheme on 03-07-2020, the same shall be treated as sufficient compliance of the terms of the scheme, and the proceedings against the petitioner will stand regulated accordingly.

**Sd/-  
GOPINATH P.  
JUDGE**

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APPENDIX OF WP(C) 31543/2024

**PETITIONER'S EXHIBITS**

- Exhibit P1** TRUE COPY OF ORDER IN ORIGINAL NO. 52/2017/ST DATED 24.03.2017 FOR THE PERIOD 01.10.2008 TO 30.06.2010 ALONG WITH TYPED CLEAR COPY OF THE ORDER PASSED BY THE 1ST RESPONDENT.
- Exhibit P2** TRUE COPY OF THE ORDER NO. 1/2020-SVLDRS 2019 DATED 13.11.2020 ISSUED BY THE BOARD.
- Exhibit P3** TRUE COPY OF THE APPLICATION FILED ONLINE BY THE PETITIONER DATED 30.12.2019 IN THE PRESCRIBED FORM NAMELY SVLDRS-1 AND SVLDRS-3 OPTING TO SETTLE THE OUTSTANDING ARREARS FOR AN AMOUNT OF RS. 85,18,554.60/- AFTER AVAILING THE BENEFIT OF DEDUCTION AS PER THE SCHEME.
- Exhibit P4** TRUE COPY OF THE E-RECEIPT DATED 03.07.2020 ACKNOWLEDGING THE RECEIPT OF THE AMOUNT OF RS. 85,18,554.60/- PAYABLE AS PER THE SCHEME.
- Exhibit P5** TRUE COPY OF THE INTIMATION DATED 02.08.2024 ISSUED BY THE 3RD RESPONDENT.