

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/SPECIAL CIVIL APPLICATION NO. 15910 of 2020**

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DESIGN POINT CONSULT PRIVATE LIMITED

Versus

THE UNION OF INDIA & 3 other(s)

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Appearance:

MR DARSHAN B GANDHI(9771) for the Petitioner(s) No. 1

MR SP MAJMUDAR(3456) for the Petitioner(s) No. 1

MR PRIYANK LODHA for the Respondent(s) No. 5

MR ANKIT SHAH(6371) for the Respondent(s) No. 1,2,3,4

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CORAM: HONOURABLE MS. JUSTICE SONIA GOKANI

and

HONOURABLE MS. JUSTICE NISHA M. THAKORE

Date : 17/12/2021

ORAL ORDER

(PER : HONOURABLE MS. JUSTICE SONIA GOKANI)

1. Rule. Learned advocate Mr. Ankit Shah waives service of notice for and on behalf of the respondent nos. 1 to 4. For respondent no.5, learned Senior Standing Counsel Mr. Priyank Lodha appears and waives service of notice of rule.

2. The petitioner is a private company registered under the Companies Act. It is registered with Service Tax Department having its Service Tax Registration No. AACCD3815HST001. It is providing Architectural Drawing Service, Business Auxiliaries, Interior Decoration, etc.

3. On 26.04.2018, a search was carried out by the Service Tax Departmental Officers at the premise of the petitioner company and the department assessed the short paid service

tax for the period from 2012-13 to 2017-18 to the tune of Rs. 1,53,11,355/-. The working of tax liability has been mentioned in the show cause notice dated 24.09.2020 which is impugned here. The petitioner paid service tax of INR 20,41,602/- and INR 11,10,675/- respectively.

3.1. In the year 2019, Central Government by Finance (No. 2) Act, 2019 introduced Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 (hereinafter referred to as 'the SVLDR Scheme') providing for settlement of legacy disputes relating to central excise and service tax by paying certain specified percentage of tax dues.

3.2. On 16.09.2019, the petitioner informed the respondent no.3 showing his inclination to opt for the SVLDR Scheme. On 24.11.2019, an application was filed and the declaration was made under the category 'Investigation, Inquiry or Audit' and sub-category 'Investigation by Commissionerate'. The petitioner declared the total sum of Rs.1,29,36,305/- as unpaid service tax liability and accordingly, INR 53,57,477.50/- was required to be paid under the scheme after claiming the deduction of pre-deposit of INR 11,10,675/-.

3.3. The petitioner was unable to make payment as per the acknowledgment. It once again filed another form SVLDRS-1

on 31.12.2019. Other particulars of the declaration like amount of unpaid tax liability admitted and balance amount payable remained the same. On 20.01.2020, after filing the declaration on 31.12.2019, the petitioner addressed a letter to the Joint Commissioner of SVLDR Committee and informed that they were unable to make payment in connection with the declaration dated 21.11.2019 and another declaration dated 31.12.2019.

3.4. On 22.01.2020, in response to the said declaration of the petitioner under Rule 6 of the SVLDR Scheme Rules, 2019, the Joint Commissioner of SVLDRS Committee verified the declaration and form No. SVLDRS-3 was issued. On 29.01.2020, a mandate form for making the payment of unpaid tax liability was issued to the petitioner and on 30.06.2020 the extension was granted vide Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020. This was sequel to corona outbreak and the date was extended to 30.06.2020.

3.5. On 01.07.2020, the petitioner addressed a letter to the Joint Commissioner of SVLDRS Committee and explained its financial hardship and requested to provide further time for payment of INR 53,57,477.50/-. Yet another communication on

17.07.2020 was addressed for granting time for the payment of amount declared under the Scheme. On 17.08.2020, the respondent no.2 informed that there was no provision of payment of tax dues by way of installments. The petitioner clarified as to why it is not feasible to pay the amount and therefore, on 24.09.2020, a show cause-cum-demand notice was issued under Section 73(1) of the Finance Act, 1994 to the petitioner demanding the payment of INR 1,34,16,629/- along with interest as per the applicable rate under Section 75, penalty under Section 78 and late fees under Section 70 of the Finance Act.

3.6. The prayers sought for are as follows: -

“(A) Your Lordships may be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, order or quashing and setting aside the impugned communication dated 17.08.2020 addressed by the respondent no. 02- at Annexure-L;

(AA) Your Lordship may be pleased to issue a writ of mandamus or writ in the nature of mandamus or any other appropriate writ or order quashing and setting aside the impugned show cause notice dated 23.09.2021 issued by the respondent no.05 - Deputy Commissioner of Central GST and Central Excise Division-I, Surat at Annexure-Q;

(B) Your Lordships may be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, order granting the payment of INR 53,57,477.50/- in 24 equal monthly installments to the petitioner as per declaration under Form SVLDR-1 by the petitioner on 31.12.2019

under SVLDR Scheme, 2019;

(C) Your Lordships may be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, order or quashing and setting aside the impugned show cause cum demand notice dated 24.09.2020 issued by the respondent no. 03 - at Annexure-M;

(D) During the pendency and final disposal of the present petition Your Lordships may be pleased to stay further operation, implementation and execution of the impugned show cause notice dated 24.09.2020 issued by the respondent no.03 - Assistant Commissioner at Annexure-M;

(E) Pass any such other and/or further orders that may be thought just and proper, in the facts and circumstances of the present case."

4. The affidavit-in-reply on behalf of the respondent nos.2 to 4 has been filed wherein it has given the details of declaration filed by the petitioner for payment of the tax dues against the SVLDR Scheme. It is further the say of the respondent that vide communication dated 17.08.2020, it was communicated that there was no provision of payment of tax dues in SVLDR Scheme by way of installment and the scheme was extended till 30.06.2020, if no payment has been made against the tax dues, they will not be in a position to avail the benefit of SVLDRS, 2019.

4.1. It is also the say of the respondent that SVLDRS-3 for the sum of Rs.53,57,477.50/- was issued on 22.01.2020, much

before the stage of lockdown on 22.03.2020. The declarant has requested to issue the same against ARN so that they can again generate NEFT mandate for payment of tax dues. The petitioner had wrongly given the reason of covid-19. It is further the say of the respondent that CBEC Master Circular No. 1053/02/2017-CX dated 10.03.2017 provides for the consultation of the noticee before the issuance of show cause notice where the payment of duty is above Rs. 50 lakhs.

4.2. According to the respondent, there is no need for the respondent to consult with the noticee before issuance of show cause notice for preventive reasons. The case originated from the intelligence gathered by the officers of the CGST and CE, Surat Commissionerate. The issue of financial crunch has not been believed.

5. The affidavit-in-rejoinder and additional affidavit on behalf of the petitioner are pressed into service. It is emphatically reiterated by the petitioner that it was facing financial difficulties because of covid and the funds were blocked with the debtors which are the Government Authorities and the Local Government. The petitioner was required to make payment of Rs. 53,57,477/-. He had to do that in tranche and in absence of sufficient fund, he was

unable to do that. Therefore, the petitioner has urged that the liberal view may be taken and the financial hardship shall need to be regarded. He, therefore, has urged that let the installments be granted to him.

6. We have heard learned advocates appearing for the both the sides who have also chosen to give their written statements which are not required to be reiterated. Suffice to note that there are two issues which deserve consideration by this Court. Firstly, as to whether the request of grant of installments of the liability arisen in SVLDRS-3 can be permitted and, secondly, whether the show cause notices dated 24.09.2020 and 23.09.2021 would require any indulgence.

7. Without reiterating all that has been pleaded before this Court and as mentioned herein above, the Court needs to refer as to whether the difficulties presented by the petitioner before us is genuine for the Court to intervene and indulge.

7.1. It is quite apparent from the chronology of the events that the petitioner was subjected to the search and afterwards when the respondent has come out with the SVLDR Scheme in the year 2019, the last date of payment of dues by the declarant under sub-section (5) of Section 127 was eventually

fixed at 28.02.2021.

7.2. The two aspects would weigh with this Court, firstly, it was an unprecedented circumstance of the worldwide pandemic due to COVID-19 virus. The Apex Court in Miscellaneous Civil Application No. 665 of 2021 in SMW(C) No. 03 of 2020 due to outbreak of COVID-19 pandemic had taken a *suo motu* cognizance of the difficulties that may be faced by the litigants in filing petitions/applications/suits/appeals and all other proceedings. On 23.03.2020 the Court directed the extension of period of limitation in all proceedings before the Courts/Tribunals including the Supreme Court. Thereafter, the second surge also since had a devastating effect, the Supreme Court Advocates on Record Association had intervened in the *suo motu* petition and the Court passed the following order: -

“We also take judicial notice of the fact that the steep rise in COVID-19 Virus cases is not limited to Delhi alone but it has engulfed the entire nation. The extraordinary situation caused by the sudden and second outburst of COVID-19 Virus, thus, requires extraordinary measures to minimize the hardship of litigant-public in all the states. We, therefore, restore the order dated 23rd March, 2020 and in continuation of the order dated 8th March, 2021 direct that the period(s) of limitation, as prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings, whether condonable or not, shall stand extended till further orders.

It is further clarified that the period from 14th March, 2021 till further orders 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.

We have passed this order in exercise of our powers under Article 142 read with Article 141 of the Constitution of India. Hence it shall be a binding order within the meaning of Article 141 on all Courts/ Tribunals and Authorities.”

The Court disposed of the said Misc. Civil Application with following directions: -

“I. In computing the period of limitation for any suit, appeal, application or proceeding, the period from 15.03.2020 till 02.10.2021 shall stand excluded. Consequently, the balance period of limitation remaining as on 15.03.2021, if any, shall become available with effect from 03.10.2021.

II. In cases where the limitation would have expired during the period between 15.03.2020 till 02.10.2021, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 03.10.2021. In the event the actual balance period of limitation remaining, with effect from 03.10.2021, is greater than 90 days, that longer period shall apply.

III. The period from 15.03.2020 till 02.10.2021 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 5 proceedings.

IV. 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."

8. This Court noticed that in his letter addressed to the Joint Commissioner on 01.07.2020, the petitioner had pleaded his financial hardship due to non-receipt of the amount from the various government entities. List of amount due also had been provided to the officer concerned which is as follows: -

Sr. No.	Entity Name:	Inv Date	Date	Total Due
001	A P M C Market	14	28.09.2011	44,02,172
002	Exe off Rohtak	21	03.02.2016	9,55,800
003	Meerut Municipal Corporation	49	25.03.2017	5,65,870
004	Nagar Sadaneseva Vapi	4	03.05.2014	50,000
005	Kanakpur Kansad Municipality	39	03.01.2017	7,66,272
Gujarat Urban Development Mission (GUDM)				
006	GUDM - Bharuch Drainage	8	30.05.2016	13,74,000
007	GUDM - Kalol Drainage	9	30.05.2016	6,76,739
008	GUDM - Vapi Drainage	11	30.05.2016	15,34,300
009	GUDM - Gadhda Drainage	14	30.05.2016	1,67,106
010	GUDM - Pardi Water Supply	16	04.10.2010	70,000
011	GUDM - Dharampur Drainage	26	01.11.2010	8,23,304
012	GUDM - Kalol IHSDP	13	04.10.2010	25,754
013	GUDM - Kanjari Drainage	38	23.02.2011	2,11,469
014	GUDM - Kanjari Water Supply	31	28.08.2009	13,400
015	GUDM -Karjan Drainage	41	04.03.2011	2,11,800

016	GUDM - Mahudha Base Map	15	04.10.2010	48,095
017	GUDM - Mahudha Water Supply	14	04.10.2010	50,000
018	GUDM - Mandavi Water Supply	17	04.10.2010	50,000
019	GUDM - Savali Water Supply	19	04.10.2010	28,000
020	GUDM - Thasara Drainage	25	01.11.2010	42,446
021	GUDM - Thasara Water Supply	26	01.11.2010	63,000
022	GUDM - Vapi Water Supply	18	04.10.2010	1,10,000
Total Outstanding				1,22,39,527

9. We noticed that the purpose of the scheme is to bring an end to the litigation and encourage the assessee to pay the outstanding dues. It also cannot be overlooked that there was a statutory period of limitation provided. The Apex Court needed to exercise their power under Article 142 read with Article 141 of the Constitution of India and the prescribed period of limitation for initiation of the proceedings and termination of the proceedings had been extended. This was done soon after the pandemic, in a *suo motu* proceedings, and the same had been extended upto 02.10.2021.

9.1. If the limitation period in every suit has been extended for initiation and termination of the proceedings, noticing the worldwide phenomena of pandemic due to COVID-19 virus and the decision of the Apex Court rendered in case of **Small Scale Industrial Manufactures Association (Regd.) vs. Union of India and Others [2021 SCC OnLine SC 246]**

according to us, this scheme which is basically brought for giving a quietus to the disputes existing between the parties and hence, the request of the petitioner for allowing him to make the payment under the SVLDR Scheme needs to be considered. On its own, the authority concerned had extended the same under sub-section (5) of Section 127 upto 30.06.2020 and for the Union Territory of Jammu and Kashmir and Union Territory of Ladakh, the last date for payment of dues was extended till 20.02.2021.

10. It is not in dispute that the report of DG (System) and the Zonal Chief Commissioner of CGST and CX, as pointed out to us, reflects the amount of Rs. 3972.01 crores pending for realization as on 01.07.2020 in respect of 23,781 ARNs. Vide Circular dated 14.07.2020, the Chairman of CBIC directed the Zonal Chief Commissioner to contact major declarants who were unable to pay upto 30.06.2020 due to some difficulties and which they may be paying in a near future. According to the petitioner, the said amount is recoverable by 30.09.2020 in the prescribed format. This is also showing one kind of intention for extension of permitting the people to make payment under the scheme.

11. We noticed that reliance is placed on the decision of

Madras High Court rendered in case of N.Sundararajan vs. Union of India [W.P. 2097 & 2098 of 2021], where the Court directed the authorities to accept the payment with 15% interest from 01.07.2020 till 17.09.2021.

11.1. There are other decisions also sought to be relied upon of this Court in case of Indus Project Ltd. vs. Union of India [SCA 14638/2018, decided on 20.09.2018] and in case of Cengres Tiles Ltd. vs. State of Gujarat [SCA 19180/2018, decided on 26.12.2018], where the payment of GST arrears in installments has been granted by this Court.

11.2. In Direct Tax Vivad se Vishwas Scheme also the time limit was extended till 30.09.2021 vide Circular No. 16/2021 dated 29.08.2021 without any additional payment of interest.

12. These are all clear indications from which the clue can be taken and more particularly, when the Court noticed that the outstanding dues from the various government authorities is of more than Rs. 1.22 crores (rounded off) in a period like this, when the request is made for making payment, if in the past the petitioner could not make the same on account of the outstanding dues of the government authorities, which he could not recover due to pandemic, his request could have been considered sympathetically and bearing in mind all these

surrounding circumstances. In absence of such consideration on the part of the respondent, the Court needs to intervene.

13. The only question that remains now is of the issuance of show cause notice without pre-consultation notice. The CBEC Master Circular dated 10.03.2017 provides for the pre-consultation as a mandatory requirement as can be traced to Section 83 of the Finance Act. The instructions issued by the CBEC as per Section 37(B) of the Central Excise Act would be binding on the authorities of the department. The statutory circulars would be binding upon the department so long as they are not inconsistent with statutory provisions nor mitigate the rigor of the law.

14. The decision in case of Commissioner of Central Excise, Bolpur vs. Ratan Melting & Wire Industries [(2008) 13 SCC 1] which later on was followed in State of Tamil Nadu vs. India Cements Ltd. [(2011) 13 SCC 247] is heavily relied upon. This Court in case of Dharamshil Agencies vs. Union of India [SCA 8255/2019, decided on 23.07.2021] has held that the show cause notice without issuance of pre-consultation is null and void.

15. An amount due under the show cause notice is Rs. 1,34,16,629/- on 24.09.2021 along with interest under Section

75 of the Finance Act, penalty and late fees. The Board has made pre-show cause notice consultation mandatory for the Principal Commissioner/Commissioner prior to the issuance of show cause notice in case of demand of duty above Rs. 50 lakhs. This Court in case of Dharamshil Agencies (supra) has also dealt with the very issue as under: -

“6. As stated earlier, the broad facts as stated in the petition by the petitioners, are not in dispute. The petitioners have basically challenged the impugned show-cause notice dated 12.4.2019 on the ground of being violative of the master Circular dated 10.3.2017 issued by the Board (Annexure-E). The short question, therefore, that falls for consideration before the Court is, whether the pre-show-cause notice consultation dated 12.4.2019 (Annexure-D) calling upon the petitioners at 13.55 hours to remain present before the respondent No.2 at 16.00 hours on the same day, could be said to be an illusory or an eye-wash notice only with a view to show the compliance of the Circular dated 10.3.2017 issued by the Board ?

7. At the outset, it may be noted that as per the settled legal position, the Circulars issued by the Board are binding to and have to be adhered to by the respondent authorities. The Board had earlier issued circulars and instructions on the show-cause notices and issued the master circular dated 10.3.2017 (Annexure-E) consolidating the earlier circulars to ensure clarity and ease of reference. It has been mentioned in the said master circular that the said circular was issued as an effort to compile relevant legal and statutory provisions, circulars of the past and to rescind the circulars which had lost relevance. Paragraph 5 of the said Circular deals with the consultation with the noticee before issue of show-cause notice. The said paragraph being relevant reads as under:-

“5. Consultation with the noticee before issue of Show Cause Notice: Board has made pre show cause notice consultation by the Principal Commissioner/Commissioner prior to issue of show cause notice in cases involving demands of duty above Rs.50 lakhs (except for preventive/office related SCN’s) mandatory vide instruction issued from F. No.1080/09/DLA/MISC/15, dated 21 st December 2015. Such consultation shall be done by the adjudicating authority with the assessee concerned. This is an important step towards trade facilitation and promoting voluntary compliance and to reduce the necessity of issuing show cause notice.”

8. In view of the afore-stated Circular, it is clear that the Board had made issuance of pre-show-cause notice consultation mandatory for the Principal Commissioner/Commissioner prior to the issuance of show-cause notice in cases involving the demands of duty above Rs.50 lac and that such consultation was to be done by the adjudicating authority with the assessee as an important step towards the trade facilitation and for promoting necessary compliance, as also to reduce the necessity of issuing show-cause notice. Despite such mandatory requirement of the pre-show-cause notice consultation at the instance of the respondent authority, in utter disregard of the said mandate, and without considering the laudable object behind issuing such circular, the respondents issued the impugned pre-show-cause notice consultation dated 12.4.2019 delivering the same to the petitioner assessee at 13.55 hours and calling upon them to remain present before the respondent No.2 at 16.00 hours. The petitioners having requested for reasonable time for the effective consultation, without considering the said request, the respondent No.2 issued the show-cause notice on the same day i.e. on 12.4.2019. Such a high-handed action on the part of the respondent No.2, not only deserves to be deprecated but to be seriously viewed.

9. Though it was sought to be canvassed by the learned Advocate Mr.Vyas for the respondents that

the petitioners had sought time to see that the demand for the relevant period gets timebarred as the returns for the relevant period were filed on 15.4.2014 and the demand for the recovery of service tax could be made within the period of five years, which was to expire on 15.4.2019, the Court does not find any substance in the same. It was the respondent authorities who had not issued the pre-show-cause notice for consultation immediately after the final audit report issued on 28.2.2019, and they waited till the last date on 12.4.2019, knowing fully well that the period of five years was to expire on 15.4.2019. If the respondents did not take any steps on time, and issued the pre-show-cause notice for consultation on the last date as an eye-wash, it could not be said that the petitioner assessee had requested for time to prevent the respondent authorities from making demand of the service tax, which was to expire on 15.4.2019. Such a pre-consultation notice and the impugned show-cause notice issued on 12.4.2019, being in contravention of the circular dated 10.3.2017 issued by the Board, the same cannot be sustained and deserve to be quashed and set aside.

*10. It is required to be noted that as such the demand made in the impugned show-cause notice was within the prescribed time limit. Now, since the said notice is sought to be set aside on the ground that adequate opportunity of hearing was not given to the petitioners for consultation prior to the issuance of the said notice, the petitioners cannot be permitted to take unfair advantage on the ground that the demand made in the notice had now become time-barred in view of the statutory provisions. A precise observations made by the Supreme Court in this regard in case of *The Director of Inspection of Income-tax (Investigation), New Delhi (supra)* be reproduced as under:-*

“6. ... The Court in exercising its powers under Article 226 has to mould the remedy to suit the facts of a case. If in a particular case a Court takes the view that the Income-tax Officer while passing an order under s. 132(5) did not give an adequate opportunity to the party concerned it should not be left with the only option of quashing it and putting the party at an

advantage even though it may be satisfied that on the material before him the conclusion arrived at by the Income-tax Officer was correct or dismissing the petition because otherwise the party would get unfair advantage. The power to quash an order under Article 226 can be exercised not merely when the order sought to be quashed is one made without jurisdiction in which case there can be no room for the same authority to be directed to deal with it. But in the circumstances of a case the Court might take the view that another authority has the jurisdiction to deal with the matter and may direct that authority to deal with it or where the order of the authority which has the jurisdiction is vitiated by circumstances like failure to observe the principles of natural justice the Court may quash the order and direct the authority to dispose of the matter afresh after giving the aggrieved party a reasonable opportunity of putting forward its case. Otherwise, it would mean that where a Court quashes an order because the principles of natural justice have not been complied with it should not while passing that order permit the Tribunal or the authority to deal with it again irrespective of the merits of the case. ...”

11. In view of the above, without expressing any opinion on the merits of the demand raised in the impugned show-cause notice, the Court hereby sets aside the impugned notice dated 12.4.2019 (Annexure-D) on the ground that the petitioners were not granted an adequate opportunity for the consultation prior to the issuance of the said notice. The parties are relegated to the stage prior to the issuance of the impugned show-cause notice. The respondent No.2 will now issue afresh pre-show-cause notice for consultation in view of the Circular dated 10.3.2017 giving the petitioner a reasonable opportunity of making effective consultation, and the respondent No.2 shall issue the show-cause notice only on having been satisfied for issuance of the same. It is clarified that the petitioner shall extend full cooperation to the respondent authority by providing necessary information that may be asked

for and shall not raise the issue of limitation in respect of the demand, if made, by the respondent authority, as the action of raising demand was taken by the respondent authority within the prescribed time limit, in view of the decision of the Supreme Court in case The Director of Inspection of Income-tax (Investigation), New Delhi (supra)."

16. In the instant case also, there is no adherence to the said circular by adapting the pre-consultation as contemplated under the circular. This itself is the reason for the Court to quash and set aside the show cause notices. Thus, not only on the ground of absence of pre-consultation before issuance of the show cause notice but also from the discussion held hereinabove in respect of need for the intervention on non-grant of any installment for making payment, the Court is inclined to allow this petition.

17. With the foregoing discussion, petition succeeds. Rule made absolute accordingly.

17.1. The petitioner is permitted to make payment under the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 within a period of six (6) weeks from the date of receipt of copy of this order with statutory interest at the rate prescribed thereon from the first date of his application which he has not abided by. Consequently, the show cause notices dated 24.09.2020 and 23.09.2021 are hereby quashed without

entering into the merits with a liberty to the respondents that in the event of any default on the part of the petitioner in making payment or in the eventuality of his failure on merits in the SVLDR Scheme, their right to recover and issue the show cause notice in the future date shall not be in any manner curtail by virtue of this quashment.

18. This also in no manner is indicative of any suggestion by the Court either to not entertain his case on merit but only to clarify that this quashment will not affect the right of the either party in pursuing the remedies, once merit fails.

(SONIA GOKANI, J)

Bhoomi

(NISHA M. THAKORE, J)

