



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 2343 OF 2021

M/s. Unique Enterprises
Through its Prop.
Shri Fardoon Minoo Irani
Age 56 years, residing at 19, Armaann Villa
Malcolm Baug, Jogeshwari (W),
Mumbai 400 102

...Petitioner

Vs.

1. Union of India
Through the Secretary, Ministry of
Finance, Dept. of Revenue, Branch
Secretariat, Ministry of Law & Justice,
Aayakar Bhavan, M.K. Road,
Mumbai – 400 020

2. The Designated Committee
Under SVLDRS, 2019
CGST Commissionerate Mumbai (East),
Lotus Info Centre, Parel (East),
Mumbai 400 012

...Respondents

Ms. Kiran Doiphode i/by V. M. Doiphode & Co. for the Petitioner.

Mr. Karan Adik a/w S. D. Deshpande for the Respondents.

**CORAM : M.S. Sonak &
Advait M. Sethna, JJ.**

RESERVED ON : 25 November 2025

PRONOUNCED ON : 02 December 2025

Judgment:- (Per Advait M. Sethna, J.)

1. This is a Petition filed under Article 226 of the Constitution of India. The Petitioner prays, mainly, for quashing and setting aside form SVLDRS-3 issued to the Petitioner under the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 (“**said Scheme**” for short) demanding an amount of Rs.12,93,408/- under Arrears category. This forms the subject matter of challenge in the present Petition. The substantive prayers read thus: -

*“(b) to issue a Writ of Certiorari or any other similar writ or order under Article 226 of the Constitution of India calling for the records and proceedings from the office of the Second Respondent and after perusing and examining the legality thereof quash and set aside the Form No. SVLDRS-3 issued to the petitioners.
(Exhibit-J)*

(c) to issue a writ of mandamus or similar writ or order or directions under Article 226 of the Constitution of India, direct the second Respondent to determine the correct amount considering the declaration filed under category “litigation’ or in the alternative, to quantify the amount payable as Rs.31,86,152.40 under the “amount in arrears” category ignoring the directives contained in the CBIC circular dated 25.09.19”

2. Heard Ms. Kiran Doiphode, learned counsel for the Petitioner and Mr. Karan Adik, learned counsel for the Respondents.

3. Rule. The rule is made returnable forthwith with the consent of the parties.

4. The fulcrum of the dispute lies in the Respondent contending that the given case would be covered under the Arrears category under Section 124 (1) (c) of the Finance Act, 2019. (***“Finance Act”*** for short) However, the Petitioner would urge that the show cause notice dated 6 January 1993 was pending before the commissioner of Central Excise/GST in terms of an order of remand dated 30 December 2010 passed by the erstwhile Central Excise and Gold Control Appellate Tribunal, Mumbai (***“Tribunal”*** for short). Therefore, according to the Petitioner, these proceedings squarely fall under the litigation category as being covered under Section 124(1) (a) of the Finance Act. Therefore, the Petitioner having paid an amount of Rs.10 lakhs towards pre-deposit as claimed by it, duly adjusted by the second Respondent in terms of Section 124 (2) of the Finance Act, under Form SVLDRS-2, the Form SVLDRS-3 issued by the second Respondent quantifying the tax/duty at Rs. 12,93,408/- is erroneous and legally untenable.

Factual Matrix:

5. The facts necessary for adjudicating the present Petition are set out below:-

6. The Petitioner claims to be the proprietor of M/s. Unique Enterprises engaged in the manufacturing of condensers and cooling coils.

7. A Show Cause Notice dated 6 January 1993 was issued to the Petitioner by the Commissioner of Service Tax and Central Excise, Mumbai-I demanding Central Excise duty of Rs. 39,53,517/-. Penalty

under Rule 173Q read with 9(2), 52A, 209A, 210 and 226 of the erstwhile Central Excise Rules, 1944 was also proposed to be levied on the Petitioner.

8. Pursuant to the above, an order in original dated 19 December 1997 was issued by the adjudicating authority confirming the demand of Central Excise Duty of Rs.39,53,517/-, penalty of Rs.50,00,000/-, fine of Rs.1,00,000/- and further fine of Rs.30,00,000/- on the Petitioner in light of the reasons set out in the order in original.

9. The Petitioner assailed the order in original before the Tribunal, who by its order dated 29 July 1998 directed the Petitioner to furnish pre-deposit of Rs.10,00,000/- which the Petitioner claims to have duly paid.

10. The Tribunal vide an order dated 30 December 2010 remanded the proceedings for re-quantification of the amount of duty imposed on the Petitioner. Duty amount of Rs.7,19,997/- was confirmed by such order.

11. The above order dated 30 December 2010 was assailed before this Court by way of an Appeal. Consequently, a coordinate Bench of this Court by an order dated 13 March 2012 set aside the order of the Tribunal which confirmed the duty amount of Rs.7,19,997/- on the Petitioner and the proceedings were restored to the Tribunal for de novo consideration in accordance with law.

12. Pursuant to the above, the Tribunal vide an order dated 5

September 2014, for the reasons set out therein, dropped the duty demand of Rs.7,19,997/- on the Petitioner, as the Tribunal felt that such demand was unsubstantiated.

13. The Petitioner then filed a declaration dated 11 December 2019 in Form SVLDRS-1 dated 11 December 2019 under Litigation category as per Section 124(1)(a) of the Finance Act. The same was filed in regard to the duty of Rs.32,33,520/- (Rs.39,53,517/- i.e. demand as per Show Cause Notice less Rs.7,19,997/- i.e. duty dropped) claiming relief at 70% (being Rs.22,63,464/-) under the said provision of the Finance Act.

14. The Respondent No.2 i.e. the designated authority issued form SVLDRS-2 dated 7 January 2020 to the Petitioner under the Arrears category. The estimated amount of duty payable was stated at Rs.8,93,408/- after adjusting Rs.10,00,000/- towards pre-deposit of duty. As per the said Form, the Petitioner was entitled to tax relief of Rs.13,40,112/- under the Arrears category. This was followed by the Petitioner submitting form SVLDRS-2A of the same date i.e. 7 January 2020 disagreeing with the amount quantified by the second Respondent in the said Form under the Arrears category.

15. The Advocate of the Petitioner addressed an email dated 12 February 2020 along with challans evidencing payment of Rs.10,00,000/- towards pre-deposit duly paid by the Petitioner as per the directions of the Tribunal, vide its order dated 29 July 1998.

16. The second Respondent then proceeded to issue Form SVLDRS-3 dated 12 March 2020 to the Petitioner quantifying the tax/duty

amount payable by it under the Arrears category. This as stated in the said Form was estimated as Rs.12,93,408/- after giving tax reliefs of Rs.19,40,112/- i.e. 60% as stipulated under Section 124(1)(c) of the Finance Act. Thus, according to the second Respondent the amount due and payable by the Petitioner was stated to be Rs.12,93,408/- in the said Form SVLDRS -2.

17. Aggrieved by the above actions of the second Respondent including the issuance of Form SVLDRS-3 dated 12 March 2020, the Petitioner, assailing the same has approached this Court by way of the present Petition, which was filed on 26 June 2020.

Rival contentions:

Submissions of the Petitioner:

18. Ms. Doiphode, learned counsel for the Petitioner would urge that this is a clear case where the relief sought in the Petition ought to be granted by directing the second Respondent to grant relief of 70% of the tax dues under the SVLDRS scheme, as the Petitioner's case falls under the Litigation category as envisaged under Section 124(1)(a) of the Finance Act.

19. In support of the above, she would submit that the factual matrix in the given case makes it clear that pursuant to its order dated 5 September 2014, the Tribunal dropped the demand of duty of Rs.7,19,997/-. Accordingly, from the total demand of Central Excise Duty of Rs.39,53,517/- as per the show cause notice dated 6 January 1993, the balance amount of Rs.32,33,520/- (Rs.39,53,517-

Rs.7,19,997/-) remained to be re-quantified and adjudicated in terms of the initial remand order of the Tribunal dated 30 December 2010. It is in such circumstances that the Petitioner filed a declaration under form SVLDRS-1 on 11 December 2019 for an amount of Rs.32,33,520/-. Thus, according to her 70% of the amount of the demand of Rs.32,33,520/- would amount to Rs.22,63,464/- in respect of which the Petitioner is entitled to relief under the litigation category as per Section 124(1)(a) of the Finance Act. Thus, the tax liability of the Petitioner cannot exceed Rs.9,70,056/- (i.e. 30% of Rs.32,33,520/- i.e. the total duty/tax demand).

20. In support of the above submission Ms. Doiphode would contend that the Petitioner had already made a pre-deposit of Rs.10,00,000/- under the challans which she has placed on record, submitted by the Petitioner vide email dated 12 February 2020 to the second Respondent, i.e. designated authority. According to her, it cannot be disputed that the said amount was paid by the Petitioner as it was duly adjusted by the second Respondent in form SVLDRS-2 which was issued on 7 January 2020. It is after adjusting the amount of Rs.10,00,000/- towards pre-deposit made by the Petitioner that the second Respondent estimated the duty/tax demand of the Petitioner at Rs.8,93,408/- under the form SVLDRS-2. Therefore, she would submit that it is crystal clear that such amount of pre-deposit of Rs.10,00,000/- was duly paid by the Petitioner and/or adjusted by the second Respondent. In any event, such payment of pre-deposit could be verified and adjusted by the second Respondent in

determining the final tax dues payable by the Petitioner.

21. Ms. Doiphode would submit that the second Respondent being the designated authority issued form SVLDRS-3 on 12 March 2020 on an erroneous premise that the amount payable by the Petitioner is Rs.12,93,408/-. This is despite the fact that the second Respondent itself had adjusted the amount of Rs.10,00,000/- as pre-deposit paid by the Petitioner when the earlier form SVLDRS-2 was issued on 7 January 2020. Thus, there is a clear inconsistency and non-application of mind on the part of the second Respondent in issuing SVLDRS-3 which completely overlooks the adjustment of Rs.10,00,000/- made by second Respondent themselves, in issuing the form SVLDRS-2.

22. Ms. Doiphode would submit that considering the above this is a clear case where the amount of tax/excise duty due and payable by the Petitioner ought to fall under Litigation category under Section 124(1)(a) and not under the Arrears category as contemplated under Section 124(1)(c) of the Finance Act, 2019. She would reiterate that this is because the duty demand of Rs.32,33,520/- in respect of which the SVLDRS-1 was filed by the Petitioner was pending adjudication and finalization pursuant to the remand order of the Tribunal dated 30 December 2010.

23. Ms. Doiphode would urge that considering the fact that the Petitioner had paid Rs.10,00,000/- towards pre-deposit which was duly adjusted by the second Respondent in issuing the form SVLDRS-2 there is no further tax liability to be incurred by the Petitioner. The

Petitioner is thus entitled to a relief of 70% of the tax dues under the litigation category as contemplated under Section 124(1)(a) of the Finance Act.

24. In support of her submissions, Ms. Doiphode has placed reliance on the decision of Nagpur Bench of this Court in *UCN Cable Network (P) Ltd. Vs. Designated Committee under Sabka Vishwas Legacy Disputes Resolution Scheme, 2019, Nagpur*¹. In this context, she would contend that in the present facts, the matter was remanded back by the Tribunal by its order dated 30 December 2010 for re-quantification of the duty demanded in the show cause notice dated 6 January 1993. Without quantifying the actual duty, which was pending for re-quantification, the demand of duty, penalty and interest which remained pending cannot fall under the Arrears category so as to attract Section 124(1)(c) of the Finance Act. Therefore, according to her, this judgment would squarely apply to the given case.

25. Ms. Doiphode would then rely upon another decision of a coordinate Bench of this Court in *Morde Foods Pvt. Ltd. Vs. Union of India*². In this regard she would urge that the Tribunal by remanding the matter vide its order dated 30 December 2010 reverted the Petitioner back to the stage of show cause notice and thus at the stage of adjudication. Thus, if the Petitioner was at the show cause notice stage without fresh adjudication order., then, certainly, it would be eligible to file a declaration under the litigation category

¹ 2022 (58) G.S.T.L. 407 (Bom.)

² 2021 (50) G.S.T.L. 43 (Bom.)

and would be entitled to 70% of relief of the tax dues under Section 124(1)(a) of the Finance Act.

26. In light of the above, Ms. Doiphode would urge that the Petition be allowed and made absolute.

Case of the Respondents:

27. On the other hand Mr. Adik, learned counsel for the Respondents has strenuously refuted the contentions of the Petitioner to submit that the Petition is devoid of merit. Mr. Adik at the outset, would refer to the Affidavit-in-Reply filed by Annurag Chaudhary, Asst. Commissioner of CGST and Central Excise (SVLDRS) dated 18 November 2025. He would adopt the averments made in the said affidavit-in-reply during the course of his submissions.

28. Mr. Adik would at the outset make reference to paragraph 16(a) of the Tribunal's order dated 30 December 2010. This is to submit that out of the demand of duty of Rs.15,13,252/- only Rs.7,19,997/- was dropped. For the remaining amount of Rs.7,93,255/- no Appeal has been filed by the Petitioner. Consequently, Mr. Adik would urge that since no Appeal has been filed for the confirmed duty demand of Rs.7,93,255/- the Petitioner's case would be covered under the Arrears category. Accordingly, Section 124(1)(c) of the Finance Act shall apply entitling the Petitioner to claim only 60% of the relief of the tax dues as against 70% claimed by the Petitioner.

29. Mr. Adik would urge that the Petitioner has mis-declared the

category as Litigation category in form SVLDRS-1 which was filed by it on 11 December 2019. The Petitioner has not clarified that thereafter form SVLDRS-2 was issued by the designated committee i.e. the second Respondent, which rightly calculated the demand of tax dues under the Arrears category. Mr. Adik submits that it is pertinent to note that there is no dispute on the overall quantum of tax/duty demand declared at Rs.32,33,520/-. Thus, on account of such mis-declaration, according to Mr. Adik by the Petitioner, who, is not entitled to any relief in these proceedings.

30. Mr. Adik strenuously reiterates that against the Arrears of Rs.7,93,255/- by way of tax demand, against the Petitioner, no Appeal was pending nor has it been set aside. Such demand arose under the show cause notice dated 6 January 1993 and which according to the second Respondent was confirmed in the absence of any Appeal filed by the Petitioner. Thus, the amount of tax dues payable by the Petitioner are clearly attributable to the Arrears category. Accordingly, the Petitioner is entitled to only 60% relief under Section 124(1)(c) of the Finance Act. For such reason an amount of Rs.12,93,408/- was due and payable by the Petitioner in respect of which the form SVLDRS-3 was rightly issued by the second Respondent to the Petitioner. There cannot be any irregularity, much less illegality in this regard as Mr. Adik would emphatically contend.

31. Mr. Adik would then submit that as far as the claim of payment of pre-deposit of Rs.10,00,000/- by the Petitioner is concerned, it is not possible for the designated committee i.e. the second Respondent

to verify online the alleged tax deposited vide the TR-6 challans. The designated committee only functions, on the record readily available online or original copies of records produced before itself to settle the dues of the taxpayers. Therefore, as it is not possible to verify the alleged payment of pre-deposit of Rs.10,00,000/- as urged by the Petitioner, no benefit in this regard can be extended to the Petitioner. There is no proof of any payment of such pre deposit of Rs.10,00,000/- furnished by the Petitioner in these proceedings to corroborate its case. Thus, Mr. Adik would urge that the relief sought by the Petitioner are untenable and an amount of Rs.12,93,408/- is due and payable by the Petitioner in terms of the form SVLDRS-3 issued by the second Respondent under the Arrears category, as stipulated under Section 124(1)(c) of the Finance Act.

32. Mr. Adik in light of his submissions advanced would pray that the Petition be dismissed.

33. It is in such backdrop as encapsulated above that we now proceed to note our reasoning and findings.

Analysis and Conclusion:

34. From the factual matrix above, it is discernible that the Tribunal had remanded the matter for re-quantification of the duty demand, initially conforming an amount of Rs.7,19,997/- by its order dated 30 December 2010. Thereafter, such duty demand was set aside by the Bombay High Court by an order dated 13 March 2012, subsequent to which the Tribunal ultimately dropped the duty demand of Rs.7,19,997/- on the Petitioner by its order dated 5

September 2014.

35. Thus, what is pertinent to note are the observations of the Tribunal in the initial remand order for re-quantification of duty dated 30 December 2010. Here, the Tribunal has clearly noted that the task of re-quantifying the amount of duty stand remitted to the adjudicating authority, the question whether any penalty is imposable on the Assessee under Rule 173Q of the Central Excise Rules, 1944 and if so to what extent should also be determined by the Commissioner. This was in the context of the findings of the Tribunal to the effect that in the given circumstances the burden is on the manufacturer i.e. the Petitioner to show that the price charged by them included the duty element on the air conditioners manufactured. However, the Tribunal opined that such burden should be discharged by the manufacturer before the lower/adjudicating authority, which became the basis of remanding the matter for quantification of the duty amount.

36. As noted above, the Tribunal pursuant to the order dated 13 March 2012 of the Bombay High Court on remand directed that the duty demand of Rs.7,19,997/- should be dropped by its order dated 5 September 2014. It is in this context, that the Petitioner would contend that they had paid a sum of Rs.10 lakhs towards pre-deposit paid pursuant to the Tribunal's interim order dated 29 July 1998. This is evidenced by the challans which the Petitioner has placed on record during the course of hearing before the Court and also served a copy to the other side. The Petitioner has contended that the sum

of Rs.10 lakhs paid as pre-deposit was adjusted by the Respondents in computing the duty demand when it issued the form SVLDRS-2 to the Petitioner dated 7 January 2020, which is on record. At this stage, the stand taken by the Petitioner in these proceedings, inspires confidence, in the absence of any contrary material on record, to dissuade us.

37. We note that the Petitioner has relied on two decisions. One in *UCN Cable Network (P) Ltd. (Supra)* and other in *Morde Foods Pvt. Ltd. (Supra)* We find it apposite to extract paragraph 18 of the decision in *UCN Cable Network (P) Ltd.* (supra) which reads as under:

“18. Thus, we find that there is a clearly discernible distinction between the reliefs available under Section 124(1)(a) and those under Section 124(1)(c). This distinction is between amount of duty not yet finalized as show cause notice is pending for some reasons on one hand and the amount of duty having attained finality for the reason of no appeal having been filed before the expiry of the limitation period or an order passed in appeal having attained finality or the declarant having admitted his tax liability in the return filed on or before 30th June, 2019 and not having paid it on the other. In other words, a "litigation" category case would be one wherein the amount of duty has not been confirmed and has not attained finality and whereas an "arrears" category case would be the one where the amount of duty has been confirmed and has attained finality. ”

38. Apropos the above, we note the other decision in *Morde Foods*

Pvt. Ltd. (supra) relied on by the Petitioner where paragraph 30 of the said decision reads thus:-

“30. The situation which arises in the present case is not covered by the eligibility exclusions under sub-section (1) of section 125 or under any of the provisions of the scheme. This is so because though the appeal of petitioner No.1 was heard by CESTAT on 10.05.2019 (which was certainly prior to 30.06.2019), it was finally disposed of subsequently on 08.11.2019. While disposing of the appeal, CESTAT set aside the order in original dated 16.06.2015 and remanded the matter back to the adjudicating authority for de novo decision on the show cause notice dated 24.12.2014 firstly by confining to the point of limitation. Therefore, though the appeal was heard on 10.05.2019, by the subsequent order of CESTAT dated 08.11.2019 the said hearing held on 10.05.2019 was rendered redundant reverting the petitioner back to the stage of show cause notice at the stage of adjudication. This was the position when petitioner No.1 filed its declaration under the litigation category and which facts were available on record when the designated committee decided the said declaration on 13.01.2020. If petitioner No.1 was at the stage of show cause notice with no fresh adjudication order then certainly it would be eligible to file declaration under the litigation category.”

39. It would be equally apposite to advert to Section 124 of the Finance Act, which read thus:-

“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.”

40. On perusal of the above, it is evident that the proceedings would fall in the Litigation category when the amount of tax/duty has not been confirmed and has not attained finality as on 30 June

2019. Whereas Arrears category would be one where such tax/duty amount is not pending but confirmed, as payable.

41. In the given facts it is not disputed that the Petitioner by order of the Tribunal dated 30 December 2010 was relegated to the show cause notice stage for re-quantification of the duty demand. Pursuant thereto, the Petitioner became eligible to file declaration under form SVLDRS scheme, under the Litigation category. Thus, the issue of re-quantification of such duty as demanded in the show cause notice remained pending without it being finally quantified. Also, the Tribunal, by its order of remand dated 30 December 2010 categorically kept the issue of quantification of duty and penalty open to be determined by the Commissioner.

42. Adverting to the provisions of Section 124(1)(a) of the Finance Act (supra) the Petitioner's case would clearly fall under Litigation category under the SVLDRS scheme in the absence of finalization of the quantum of duty demanded from the Petitioner. Although, in these proceedings, as indicated above, the duty demand of Rs.7,19,997/- was dropped, by order of Tribunal dated 5 September 2014, leaving the balance amount of duty to be adjudicated/finalized in the given factual complexion.

43. Considering the above, the Petitioner correctly deducted a sum of Rs.7,19,997/- from the total demand of Rs.39,53,517/- imposed vide the show cause notice dated 6 January 1993. Section 124 (1) (c) cannot be made applicable to such pending demand that is not crystalized pursuant to its adjudication Thus, the Petitioner's case

would fall under the ambit of Section 124(1)(a) of the Finance Act, Petitioner would be legally entitled to relief to the extent of 70% of the tax dues/duty demand.

44. We have noted the submission of Mr. Adik, who has sought to contend that there is no dispute on the over all quantum to be declared which is Rs.32,33,520/- According to him, this case would not fall in the litigation category as no Appeal has been filed by the Petitioner for the confirmed amount of Rs.7,93,255/- as Rs.7,19,997/- towards the duty amount was eventually dropped. However, for the remaining amount of Rs.15,13,252/- no Appeal was filed by the Petitioner and therefore nothing was pending. Such argument, would however, overlook the undisputed position that the Tribunal had remanded the matter for re-quantification of duty demand by its order dated 30 December 2010 by virtue of which the show cause notice remains pending as on 30 June 2019.

45. Further, the stand taken by the Respondents as canvassed by Mr Adik on the said Scheme and the provisions of Section 124 of the Finance Act, contextually, does not sound reasonable. We are afraid that such interpretation, if accepted, would render the Scheme redundant, much less unworkable. Therefore, we cannot countenance the position taken by the Respondent, which is not in consonance with the statutory scheme under Section 124 of the Finance Act coupled with the decisions of this Court cited (*supra*).

46. We now advert to the objection of Mr. Adik with regard to the pre-deposit of Rs.10 lakhs made by the Petitioner is concerned. In

this regard it is pertinent to note that there is neither any corroborative material on record neither in the Affidavit-in-Reply of the Respondents to show that the challans furnished by the Petitioner on record evidencing payment of Rs.10 lakhs should be doubted or disbelieved. This is further fortified by the fact that the Respondents themselves in issuing the form SVLDRS-2 on 7 January 2020 have adjusted Rs.10 lakhs and computing the tax amount payable at Rs.8,93,408/- in terms of Section 124 (2) of the Finance Act. On such basis and material put forth by the Petitioner not controverted by the Respondents, we do not find ourselves in agreement with Mr Adik at this stage, to the effect that the Petitioner has not paid the pre-deposit of Rs.10 lakhs and therefore no benefit in that regard can be extended to the Petitioner. Having said this, the Respondents are at liberty to even verify this position as also fairly contended by the Petitioner.

47. It is thus clear that the proceedings in regard to the quantification of duty as imposed vide show cause notice dated 6 January 1993 did not attain finality on 30 June 2019. This is because even if the duty demand to the extent of Rs.7,19,997/- was ultimately set aside by the Tribunal on 5 September 2014, the quantification issue of duty and penalty still remained pending as on 30 June 2019, making Section 124(1)(a) of the Finance Act, 2019 applicable to the given factual complexion.

48. For all of the above reasons, we are inclined to allow this Petition. We quash and set aside the Form SVLDRS 3 dated 12 March

2020 and/or direct the second Respondent to determine the correct amount considering the declaration filed under Litigation category. This exercise must be completed within two months from the date of uploading of this order.

49. The Rule is made Absolute in terms of the above. No Costs.

50. Parties to act on an authenticated copy of this order.

(Advait M. Sethna, J)

(M. S. Sonak, J.)