HIGH COURT OF CHHATTISGARH, BILASPUR

## Order Sheet

**<u>Writ Petition (T) No. 120 of 2021</u>**

M/s. Associated Thermal Power Systems Private Ltd. *Versus* Principal Commissioner and others

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| **05.08.2021** | Mr. Rahul Tamaskar, counsel for the petitioner.<br>Mr. Tushar Dhar Diwan, Advocate, on behalf of Mr. Ramakant Mishra, Assistant Solicitor General for Respondent No.4/Union of India.<br>Learned counsel for the petitioner would submit that initially there has been demand for non-payment of service tax from 2012-2013 to 2016-2017. Thereafter a Scheme namely ***Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 (for short SVLDRS)*** came into being wherein the assessee was required to file a declaration. Thereafter the demand having been raised, the amount should be deposited within a stipulated time. Accordingly, the petitioner submitted form pursuant to such scheme and initial form SVLDRS was issued to the petitioner and an amount of Rs.5,87,807.60 was raised. The petitioner though made the payment, yet the same was not accepted and reverted back because of certain technical glitch. Subsequently the ordinance was issued vide Annexure P-9 whereby 30 days time from the date of issuance of SVDRS Form was extended and payment uptil 30th June, 2020 was allowed. Thereafter the petitioner tendered the amount vide Annexure P-10 but again it was reverted back which was evident from the bank statement (Annex.P-11) and thereafter the petitioner could deposit the same lately after after 30th June, 2021. It is contended that though the amount was tendered before 30th June, but it could not be accepted by the department, for which, the petitioner cannot be held guilty and thereafter despite the amount having been paid, the petitioner has been served with a show cause notice (Annexure P-17). He would submit that if the amount could not be paid for the technical glitches or for the fault of department, the assessee-petitioner cannot be held liable.<br>Counsel for respondent prays for time to seek instructions and file reply.<br>A perusal of the documents would show that within last extended date of ordinance whereby the date for payment was extended to 30th June, 2020, the remittance was made by the petitioner by 25.06.2020 (Annexure P-10), | |

which came back. Subsequently the deposits were made by transfer and the communications thereof were also sent through E-Mails. Therefore, *prima facie* it appears that though the amount tendered was not accepted in the account of respondents but subsequently the same was paid.

Let the reply be filed within four weeks.

In the meanwhile, considering the documents filed and the prima facie mens-rea projected, it is directed that no coercive steps shall be taken pursuant to the show cause notice Annexure P-17 dated 28.12.2020 till the next date of hearing.

Cc as per rules.

Sd/-
GOUTAM BHADURI
JUDGE

Rao