

**Cases involving confiscation/ redemption fine are within the ambit of Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019**

The Hon'ble High Court of Gujarat in **M/S Synpol Products Pvt. Ltd. v. Union of India [R/Special Civil Application No. 21744 of 2019 dated February 27, 2020]** held that taxpayers whose case involves confiscation and redemption fine are eligible to file declaration under Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 (**"the Scheme"**).

**Facts:**

Synpol products (**"the Petitioner"**) submitted a requisite declaration under the Scheme. The order has been made by the adjudicating authority confirming demand of duty, ordering recovery of interest, imposing penalty and ordering confiscation of goods and imposing fine in lieu of confiscation, against which appeal is pending before the appellate forum.

Designated Committee (**"the Committee"**) served notices upon the Petitioner, calling upon them to show cause as to why the declarations should not be treated as void as the Scheme allows the only waiver of duty, interest, and penalty but not fine in lieu of confiscation. The committee rejected the declaration made by the Petitioner, by stating that the cases involving confiscation and redemption fine have not been covered under the Scheme.

This writ petition is filed by the Petitioner after being aggrieved by the order passed by the Committee under the Scheme, rejecting the declaration made by the Petitioner.

**Issue:**

Whether cases involving confiscation and redemption fine fall under Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019.

**Held:**

The Hon'ble High Court of Gujarat in **R/Special Civil Application No. 21744 of 2019 dated February 27, 2020** held as under:

- Analyzed that, clauses (a) to (h) of Section 125 of the Finance Act, 2019 (**"the Finance Act"**) categorically states that persons whose case involve confiscation and fine in lieu of confiscation does not fall under the categories of person who are not eligible to make a declaration under the Scheme. Hence, persons who have received the order to pay a fine in lieu of confiscation or to whom show cause

notices of confiscation of goods have been issued are not ineligible to make declaration under the Scheme.

- Further stated that, Section 129(1)(a) of the Finance Act, it is mention that the declarant shall not be liable to pay further duty, interest, or penalty but it does not expressly provide that the declarant shall not be liable to pay fine/redemption fine. The Scheme does not provide any express provision to discharge the declarant from the liability to pay fine.
- However, the FAQs, flyers and press notes state that the essence of the Scheme is that it provides substantial relief in the tax dues for all categories of cases as well as full waiver of interest, fine, and penalty. Thus, there is no intention of the legislature to exclude cases involving confiscation and fine in lieu of confiscation. Also when the board has issued FAQs, press notes and flyers wherein it is stated that the scheme grants waiver of interest, penalty and fine, the same would be applicable for redemption fine inasmuch as it is only other fine contemplated under the act.
- Allowed the petition and held that, in the case where redemption fine is imposed and quantified, discharge certificate can only be issued after settlement of redemption fine, is not in consonance with the Scheme which contemplated putting an end to the matter.

### **Comments:**

The Respondent filed a special leave petition against the above judgment which was dismissed by the Hon'ble Supreme Court [***S.L.P. NO. 449 of 2021 dated March 03, 2021***].

### **Relevant Provisions:**

#### **Section 125 of the Finance Act**

*"Declaration under the Scheme*

*125. (1) All persons shall be eligible to make a declaration under this Scheme except the following, namely:-*

*(a) who have filed an appeal before the appellate forum and such appeal has been heard finally on or before the 30th day of June, 2019;*

*(b) who have been convicted for any offence punishable under any provision of the indirect tax enactment for the matter for which he intends to file a declaration;*

*(c) who have been issued a show cause notice, under indirect tax enactment and the final hearing has taken place on or before the 30th day of June, 2019;*

*(d) who have been issued a show cause notice under indirect tax enactment for an erroneous refund or refund;*

*(e) who have been subjected to an enquiry or investigation or audit and the amount of duty involved in the said enquiry or investigation or audit has not been quantified on or before the 30th day of June, 2019;*

*(f) a person making a voluntary disclosure,-*

*(i) after being subjected to any enquiry or investigation or audit; or*

*(ii) having filed a return under the indirect tax enactment, wherein he has indicated an amount of duty as payable, but has not paid it;*

*(g) who have filed an application in the Settlement Commission for settlement of a case;*

*(h) persons seeking to make declarations with respect to excisable goods set forth in the Fourth Schedule to the Central Excise Act, 1944.*

*(2) A declaration under sub-section (1) shall be made in such electronic form as may be prescribed.”*

### **Section 129(1)(a) of the Finance Act**

*“Issue of discharge certificate to be conclusive of matter and time period*

*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;”.*

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