

**IN THE CUSTOMS, EXCISE & SERVICE TAX  
APPELLATE TRIBUNAL, CHENNAI**

**Service Tax Appeal No. 40535 of 2017**

(Arising out of Order in Appeal No. 682/2016 (STA – I) dated 29.11.2016 passed by the Commissioner of Service Tax (Appeals – I), Chennai)

**Hindustan Grabs Services**

4/341, 1<sup>st</sup> South Main Road  
Sri Kapaleeshwarar Nagar  
Neelangerai, Chennai – 600 041.

**Appellant**

Vs.

**Commissioner of GST & Central Excise**

Chennai South Commissionerate  
MHU Complex, Nandanam,  
Chennai – 600 035.

**Respondent**

**APPEARANCE:**

Shri N. Viswanathan, Advocate for the Appellant  
Smt. G. Kripa, Authorised Representative for the Respondent

**CORAM**

**Hon'ble Shri M. Ajit Kumar, Member (Technical)**  
**Hon'ble Shri Ajayan T.V., Member (Judicial)**

FINAL ORDER NO. 41407/2025

Date of Hearing: 17.11.2025  
Date of Decision: 01.12.2025

**Per M. Ajit Kumar,**

This appeal is filed by the appellant against Order in Appeal No. 682/2016 (STA – I) dated 29.11.2016 passed by the Commissioner of Service Tax (Appeals – I), Chennai (impugned order).

2. Brief facts of the case are that the appellant, a proprietary firm and provider of Maintenance of Repair Service etc., filed Declaration in Form VCES – 1 under Service Tax 'Voluntary Compliance Encouragement Scheme, 2013' (**VCES**) on 26.12.2013 declaring tax dues of Rs.45,77,179/- for the period from April 2011 to December

2011 on account of non-payment of service tax payable by them. Vide letter dated 27.12.2013, they informed that they had paid Service Tax of Rs.42,51,431/- towards the 'tax dues' and furnished copies of challans evidencing the same. The learned Designated Authority vide order dated 10.3.2014 rejected the payment of Rs.24,43,439/- as being deposited prior to the enactment of the VCES as the same came into effect from 10.05.2013. However, the pending dues for the VCES was worked out to be Rs.21,33,740/- and out of it, an amount of Rs.18,07,992/- paid after 10.05.2013 (date when VCES came into force), was adjusted and the balance amount of Rs.3,25,748/- was demanded from the appellant along with interest for the amount statedly not covered under VCES. The appeal preferred before the Ld. Commissioner (Appeals) came to be rejected. Hence the present appeal.

3. The Ld. Advocate Shri N. Viswanathan appeared for the appellant and Ld. Authorized Representative Smt. G. Kripa appeared for the respondent.

3.1 The appellant's counsel Shri N. Viswanathan submitted that following the introduction of the VCES in 2013, the appellant submitted a declaration as provided under the scheme, to the Designated Authority on 26.12.2013. This was well within the time provided by the Scheme and was duly acknowledged by the designated authority on 27.12.2013. While some tax dues were paid by the appellant between 14.03.2013 and 25.03.2013, which was prior to the enactment of the VCES scheme on 10.05.2013, these payments still fell within the definition of 'tax dues' as per Sec. 105(1)(e) of the

Finance Act, 2013. The Ld. Counsel stated that the department rejected their declaration and re-determined the tax dues based on Board's circular dated 08.08.2013, an action which is contrary to the statutory definition of the term 'tax dues' in VCES. The Ld. Counsel stated that the Circular went beyond the provisions of the Act and was invalid. He prayed that the impugned order of the First Appellate Authority may be set aside.

3.2 The Ld. Authorized Representative Smt. G. Kripa has taken us through the orders and provisions of the VCES. She prayed that the appeal may be rejected.

4. We have heard the rival parties are perused the appeals. Although no specific 'prayer' has been made in the Appeal Memorandum, Sl. No. 24 of Form ST - 5 states that relief claimed as: 'To set aside the order of the lower appellate authority in its entirety with consequential relief and pass such order as deemed fit and proper'.

5. The VCES was introduced in the Budget of 2013-14, as a beneficial legislation that offered a one-time amnesty for service tax defaulters by way of (i) waiver of interest and penalty; and (ii) immunity from prosecution, to the declarant who had not disclosed true liability in the returns filed during the period from 01.10. 2007 to 31.12. 2012 and who makes a truthful declaration of all his pending "tax dues" during the said period and pays the same. It came into force on 10.05.2013. The following category of persons were excluded from the provisions of the Scheme.

- (i) Any person who has furnished return under section 70 of the Chapter and disclosed his true liability, but has not paid the disclosed amount of service tax or any part thereof;
- (ii) Person on whom notice or order of determination has been issued in respect of any period on any issues can not file a declaration on such issue for any subsequent period.

We find that the appellant has not been stated to have faced any disqualification on account of these provisions in the impugned order.

6. In this context it would be relevant to reproduce the definition of 'tax dues' as appearing in section 105(e) and the procedure for making a declaration as per section 107 of VCES 2013.

SECTION 105. Definitions.-(1) in this Scheme, unless the context otherwise requires.

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(e) "tax dues" means the service tax due or payable under the Chapter or any other amount due or payable under section 73A thereof, for the period beginning from the 1<sup>st</sup> day of October, 2007 and ending on the 31<sup>st</sup> day of December, 2012 including a cess leviable thereon under any other Act for the time being in force, but not paid as on the 1st day of March, 2013.

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SECTION 107. Procedure for making declaration and payment of tax dues. (1) Subject to the provisions of this Scheme, a person may make a declaration to the designated authority on or before the 31<sup>st</sup> day of December, 2013 in such form and in such manner as may be prescribed.

(2) The designated authority shall acknowledge the declaration in such form and in such manner as may be prescribed.

(3) The declarant shall, on or before the 31st day of December, 2013, pay not less than fifty per cent of the tax dues so declared under sub-section (1) and submit proof of such payment to the designated authority.

(4) The tax dues or part thereof remaining to be paid after the payment made under sub-section (3) shall be paid by the declarant on or before the 30th day of June, 2014

Provided that where the declarant fails to pay said tax dues or part thereof on or before the said date, he shall pay the same on or before the 31st day of December, 2014 along with interest thereon, at such rate as is fixed under section 75 or, as the case may be, section 738 of the Chapter for the period of delay starting from the 1st day of July, 2014

(5) Notwithstanding anything contained in sub-section (3) and sub-section (4), any service tax which becomes due or payable by the declarant for the month of January, 2013 and subsequent months shall be paid by him in accordance with the provisions of the Chapter and accordingly, interest for delay in payment thereof, shall also be payable under the Chapter.

(6) The declarant shall furnish to the designated authority details of payment made from time to time under this Scheme along with a copy of acknowledgement issued to him under sub-section (2)

(7) On furnishing the details of full payment of declared tax dues and the interest, if any, payable under the proviso to sub-section (4), the designated authority shall issue an acknowledgment of discharge of such dues to the declarant in such form and in such manner as may be prescribed.”

7. We find that section 105(e) has two requirements, apart from conditions which are not disputed, that go to the root of this dispute.

(i) The service tax due or payable should pertain to the period beginning from 01.10.2007 and ending on 31.12.2012.

(ii) It should not have been paid as on 01.03.2013.

We find that it is not disputed that the ‘tax dues’ arose during the period from April 2011 to December 2011 and was hence covered by the term ‘tax dues’ as defined under the VCES. It is further not disputed that the dues were not paid as of 01.03.2013 and were paid between 14.03.2013 to 25.03.2013. The provisions of section 105(e) are hence satisfied.

8. Section 107 which prescribes the procedure for making declaration and payment of tax dues require that declarants pay not less than 50% of the tax dues declared before 31.12.2013 **after the Designated Authority has acknowledged the declaration made.**

It is revenue's case that payments made before the acceptance of declaration cannot be accepted to have been made under the VCES.

9. It has been held by Constitutional Courts that in case of a conflict among the different provisions of a statute, substantive law which defines the rights and liabilities of individuals their duties, life, liberty etc prevails over procedural law which deals with legal process involving actions and remedies. The Hon'ble Supreme Court in **Jai Jai Ram Manohar Lal Vs National Building Material Supply, Gurgaon**

[(1969) 1 SCC 869] held:

"5. .... **Rules of procedure are intended to be a handmaid to the administration of justice.** A party cannot be refused just relief merely because of some mistake, negligence, inadvertence or even infraction of the Rules of procedure."

Further the Apex Court in **Uday Shankar Triyar Vs Ram Kalewar Prasad Singh and Another** [(2006) 1 SCC 75], listed the **exceptions to the above principle** as extracted below:

"17. Non-compliance with any procedural requirement relating to a pleading, memorandum of appeal or application or petition for relief should not entail automatic dismissal or rejection, unless the relevant statute or rule so mandates. Procedural defects and irregularities which are curable should not be allowed to defeat substantive rights or to cause injustice. Procedure, a handmaiden to justice, should never be made a tool to deny justice or perpetuate injustice, by any oppressive or punitive use. **The well-recognised exceptions to this principle are:**

(i) where the statute prescribing the procedure, also prescribes specifically the consequence of non-compliance;

(ii) where the procedural defect is not rectified, even after it is pointed out and due opportunity is given for rectifying it;

(iii) where the non-compliance or violation is proved to be deliberate or mischievous;

(iv) where the rectification of defect would affect the case on merits or will affect the jurisdiction of the court;

(v) in case of memorandum of appeal, there is complete absence of authority and the appeal is presented without the knowledge, consent and authority of the appellant.”

We find that the procedural inconsistency leading to the present dispute is not hit by the above exceptions. Hence relief sought cannot be denied to the appellant on procedural ground.

10. We are also persuaded by the fact that VCES was a beneficial legislation and as per the recent judgment of the Hon'ble Supreme Court in **URMILA DIXIT Vs SUNIL SHARAN DIXIT AND ORS.** [2025 INSC 201 / CIVIL APPEAL NO. 10927 OF 2024, Dated: 02.01.2025], wherein it was held that interpretation of the provisions of a beneficial legislation must be in line with a purposive construction, keeping in mind the legislative purpose. Furthermore, it was stated that beneficial legislation must be interpreted in favour of the beneficiaries when it is possible to take two views. We find that the purpose of VCES was to encourage voluntary compliance and bring prolonged litigation to a close. Being a beneficial scheme for taxpayers, the divergent views must be answered in favour of the taxpayer appellant. Hence on these grounds also the appeal merits to be decided in the appellant's favour.

11. We are hence of the opinion that the appellant has complied with the provisions of VCES and the declaration filed in VCES – I could not have been rejected and is held valid. The impugned order hence merits

to be set aside and the appeal is allowed regarding the eligibility of the appellant to avail the benefit of the scheme. Remaining dues, if any, should be paid within 90 days of receipt of this order. On payment of full amount of tax dues, the appellant is eligible for consequential relief and immunities as per law. The appeal is disposed of accordingly.

(Order pronounced in open court on 01.12.2025)

**(AJAYAN T.V.)**  
Member (Judicial)

**(M. AJIT KUMAR)**  
Member (Technical)

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