CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI.

PRINCIPAL BENCH,
COURT NO. IV

SERVICE TAX APPEAL NO. 52126 OF 2024 (SM)

[Arising out of the Order-in-Appeal No. 193 (AK)/ST/JDR/2023 dated 28/06/2023 passed by The Commissioner (Appeals), Central Excise & Central Goods and Service Tax, Jodhpur.]

M/s NAFFA, ……**Appellant**
C/o Mrs. Sabar Jain,
D-10, Kalindi Vihar, Station Road,
Kankroli, Rajsamand – 313 324 (Raj.).

Versus

The Commissioner, Central Excise ….**Respondent**
& CGST Commissionerate – Udaipur,
142-B, Hiran Magri, Sector – 11,
Udaipur, Rajasthan – 313 001.

APPEARANCE:

None for the appellant.
Shri Rohit Issar, Authorized Representative for the Department

CORAM:
HON'BLE MR. P.V. SUBBA RAO, MEMBER (TECHNICAL)

FINAL ORDER NO. 51333/2026

DATE OF HEARING/DECISION : 10.08.2026

P.V. SUBBA RAO

This appeal is filed by NAFFA[1] to assail the order-in-appeal dated 28.06.2023[2] passed by the Commissioner (Appeals), Central Excise & CGST Jodhpur in which he upheld the order of the Deputy Commissioner and rejected the appellant's appeal. The appellant is engaged in promoting the

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1. **the appellant**
2. **impugned order**

goods of other parties which was discovered during audit on investigation. It was found that the appellant was liable to pay service tax as this service fell within the definition of "promotion or marketing of brand of goods/services/event service". The amounts received by the appellant for the services were obtained from Form 26AS of the appellant from Income Tax and after completing investigation, show cause notice dated 28.12.2020[3] was issued demanding service tax of Rs. 44,28,208/- for the period 2015-2016 to 2017-2018 (upto June 2017). During enquiry, the appellant filed an application for settlement of the dispute under the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019[4] by filing an application in SVLDRS-I. The application was rejected as the appellant was excluded under section 125 (1) (f) (i) of the Finance Act, 2019 as the appellant had filed the declaration after initiation of enquiry by the department. After the rejection of the SVLDRS, the SCN dated 28.12.2020 was issued to the appellant proposing to recover service tax with interest and penalties.

2. The proposals in the SCN were decided by the Assistant Commissioner in his order dated 06.01.2020.

3. Aggrieved, the appellant filed an appeal before the Commissioner (Appeals) who, by the impugned order, upheld the order of the Assistant Commissioner.

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3. SCN
4. SVLDRS

4. The contention of the appellant both before the Commissioner (Appeals) and before me is only that the appellant's application under SVLDRS was wrongly rejected. The appellant does not contest nor has contested at any stage the tax liability. The Commissioner (Appeals) has recorded the following reasons to hold that the appellant's request under SVLDRS was correctly rejected.

> "7.1 I have carefully gone through the facts of the case and submissions made by the appellant in their appeal memorandum. The moot point of the appeal is whether the appellant was liable to pay service tax of Rs. 44,28,203/- along with applicable interest.
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> 7.2 I find that the appellant contested that their application filed under SVLDRS scheme was rejected without giving any opportunity, therefore, demand confirmed in the impugned order is not correct. I find further, the appellant contested that pre-notice consultation was not done in their case in terms of Circular No. 1053/02-2017-CX dated 10.03.2017. In this regard, I find that the appellant had filed an application under SVLDRS-2019 vide ARN-LD1501200005447 dated 15.01.2020 wherein tax due amounting to Rs. 35,11,449/- was declared by them under voluntary disclosure which was rejected by the designated committee under section 125 (1) (f) being declaration filed by them found incorrect during verification by the jurisdictional authority and an enquiry was carried out against them. I further find that as per Rule 6 (3) of the SVLDRS Rules, 2019, opportunity of personal hearing is to be granted in case where the amount estimated to be payable by the declarant exceeds the amount declared by the declarant. There was no provision of granting personal hearing in the cases where SVLDRS application was rejected under section 125 (1) (f) (i) of the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019. In view of the above discussion, I do not find any merit in the contention of the appellant that their SVLDRS application was rejected without giving opportunity of personal hearing as there was no provision in

> the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 for reconsideration of any application which was rejected by the designated committee under section 125 (1) (f) (i) of the said Scheme. Accordingly, I reject the contention of the appellant".

5. In this appeal, the prayer is to set aside the order-in-original passed by the Assistant Commissioner although in Form ST-5 at Sl. No. 3, the order-in-appeal has been assailed.

6. I find that SVLDRS Scheme is a dispute settlement scheme between the Government and the assessee and unless the assessee falls within the parameters prescribed under the scheme, the settlement is not possible. It is for the assessee to decide whether or not to apply under the scheme and it is for the Government to decide whether or not to accept the application. As per section 125 (1) (f) (i) of the Finance Act, 2019 "all persons shall be eligible to make a declaration under the scheme except, inter alia, a person making the voluntary disclosure after being subjected to any inquiry or investigation or audit". In this case, the undisputedly the appellant had filed an application after enquiry and investigation and therefore, the appellant clearly did not fall within the scope of this scheme.

7. Another contention of the appellant is that the Committee had not provided it an opportunity of being heard. I find that there is no scope for upholding a personal hearing before accepting or rejecting an application of SVLDRS. Under

section 127 (2) and (3) of the Finance Act, 2019, the Designated Committee for examining the application under SVLDRS has to given an opportunity of being heard only if there is a dispute in the amount payable. This opportunity under section 127 (3) does not extent to those persons who do not fall within the scheme at all.

8. In view of the above, I find that the impugned order is correct and proper and calls for no interference.

9. The impugned order is accordingly upheld and the appeal is dismissed.

(Order dictated and pronounced in open court.)

(P.V. SUBBA RAO)
MEMBER (TECHNICAL)

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