

**Applicability Ofkar Vivad Samadhan Scheme (K Vs. S), 1998**

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**Court :** Kolkata

**Decided On :** Sep-13-2013

**Judge :** Bench

**Appellant :** Applicability Ofkar Vivad Samadhan Scheme (K

**Respondent :** S), 1998

**Judgement :**

APO 21.of 2000 W.P.423 of 1999 IN THE HIGH COURT AT CALCUTTA Civil Appellate Jurisdiction Original Side COLLECTOR OF CUSTOMS Versus J.K.CORPORATION LTD.& DESIGNATED AUTHORITY Appellant Respondent BEFORE: The Hon'ble CHIEF JUSTICE Mr.ARUN MISHRA The Hon'ble JUSTICE JOYMALYA BAGCHI Date :

13. h September, 2013.

For the Appellants : Mr.S.B.Saraf with Mr.S.K.Saha, Advocates For the respondent : THE COURT applicability of : The question arises as to Kar Vivad Samadhan Scheme (KVSS).1998 to the case in question.

The relevant provisions of Kversus Scheme, viz.

Section 95(ii)(a),(b) and (c) are quoted below : 95.

Scheme not to apply in certain cases. The provisions of this Scheme shall not apply (i) .

(ii) in respect of tax arrear under any indirect tax enactment, (a) in a case where prosecution for any offence punishable provisions of under indirect any any tax enactment has been instituted on or before the date declaration of under filing section of the 88, in respect of any tax arrear in respect of such case under such indirect tax enactment; (b) in a case where show cause notice or a notice of demand under any indirect tax enactment has not been issued ; (c) in a case reference admitted where or no appeal or writ is pending and petition before any appellate authority or High Court or the Supreme Court or no application for revision is pending before the Central Government on the date of declaration made under section 88.

It applicable is when apparent no that notice has the Scheme been issued.

is In not the instant case, as apparent from the Notice dated 31-3-1998 being Annexure A that a specific demand of Rs.3,22,01,357.00 along with interest at the rate of 24% per annum had been raised.

The duty demanded along with interest receipt was of required the to letter.

be Thus, paid it within is 3 days on preposterous to suggest that it was not a notice of demand under any indirect tax and enactment.

It was clearly a notice of demand under the Customs Act.

The cut off date was 31-3-1998 as notice had been issued on 31-3-1998.

It was clearly covered under Kversus Scheme as apparent from the provisions contained in Section 95(ii)(b) of the Kversus Scheme, 1998.

Thus, we find no illegality in the decision rendered by the single Judge holding that Kversus Scheme,1998 was to be applicable in the instant case.

The appeal is devoid of any merit accordingly dismissed.

However, as and the same is the respondent has not entered appearance, there will be no order as to costs.

Photostat certified copy of this order be made available to the parties upon compliance of usual formalities.

( JOYMALYA BAGCHI, J.) Rs.AR(CR) (ARUN MISHRA, C.J.)

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