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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.04.2026

CORAM

THE HON'BLE MR JUSTICE C. SARAVANAN

WP Nos.13749 & 13752 of 2026
and
W.M.P.Nos.15013, 15016, 15021 & 15022 of 2026

M/s.Kumar and Co.,
(Represented by its Proprietor
Mr.Arumugam Kumar)
Sy.No.87/1, 87/2, Shoolagiri Taluk
BS Thimmasandra Village
Krishnagiri, Tamil Nadu 635 105. ...Petitioner in both W.P.Nos.

Vs

The State Tax Offficer
Hosur North -2 Assessment Circle
Commercial Taxes Building, Second Floor
Hosur, Krishnagiri
Tamil Nadu. ...Respondent in both W.P.Nos.

Prayer in W.P.No.13749/2026: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records on the files of the respondent herein in FORM GST DRC-07 with Reference No.ZD330324158411S along with detailed order No:33BDAPK1999J1ZC/ 2019-20 both dated 25.03.2024, for the tax period APR 2019-MAR 20 and quash the same.

Prayer in W.P.No.13752/2026: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records

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on the files of the respondent herein in FORM GST DRC-07 with Reference No.ZD3303241601601 along with detailed order No:33BDAPK1999J1ZC/ 2020-21 both dated 25.03.2024, for the tax period APR 2020-MAR 21 and quash the same.

For Petitioner(s) in both W.P.Nos. : Mr.A.P.Karventhan

For Respondent(s) in both W.P.Nos. : Mr.TNC.Kaushik
Additional Government Pleader

COMMON ORDER

Mr.TNC.Kaushik, learned Additional Government Pleader takes notice for the Respondent.

2. These Writ Petitions are being disposed of at the stage of admission itself with the consent of the learned counsel for the petitioner and the learned Additional Government Pleader for the Respondent.

3. In these Writ Petitions, the petitioner has challenged the respective impugned order dated 25.03.2024 for the respective period 2019-2020 and 2020-2021. By the impugned order, the petitioner has been mulcted with General Penalty under Section 125 of the respective GST Enactments, 2017 and Late Fee under Section 47 of the respective GST Enactments, 2017.

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4. The aforesaid impugned order was preceded by a show cause notice in DRC-01 dated 14.10.2023. However, the petitioner neither filed Annual return of the Financial years 2019-2020 and 2020-2021 nor filed any reply the aforesaid Show Cause Notice. Thus, the impugned order has been passed.

5. Heard the learned counsel for the petitioner and learned Additional Government Pleader appearing for the respondent.

6. Both the learned counsel for the petitioner and the respondent submitted that the issue is no longer *res integra* and is covered by the order of this Hon'ble Court in ***Kandan Hardware Mart vs. The Assistant Commissioner (ST)(FAC)***, rendered on ***02.01.2026 in W.P.No.27029 of 2023*** and batch cases. The operative portion of the said order reads as under:

> *"190. In **Tvl.Jainsons Casters and Industrial Products** referred to supra in W.P.No.36614 of 2024 rendered on **04.02.2025**, this Court held that there is no scope for imposing **"General Penalty"** under Section 125 of the respective GST Enactment once **"Late Fee"** under Section 47 has been levied under these Enactments. **"Late Fee"** though not described as a **"Penalty"** is penal in nature; and the imposition of **"Penalty"** consequence without any element of mens rea is unjustifiable. In my view, there is no scope for levying both on a Registered Person.*
>
> *191. The Petitioners in **Table-3** [W.P.Nos.3540, 3567, 3570, 3902, 3966 of 2024] and the Petitioner in **Table-4B** [W.P.No.9867 of 2024] filed the **"Annual Returns"** under Section 44(1) of the respective GST Enactments within the time specified in the **Notification No.7/2023-Central Tax** dated*

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31.03.2023 *as amended by* ***Notification No.25/2023-Central tax*** *dated* ***17.07.2023****.*

192. They have therefore been imposed with a lighter ***"Late Fee"*** *of Rs.10,000/- under each of the respective GST Enactments in terms of the above Notification.*

193. They are however questioning the imposition of ***"General Penalty"*** *under section 125 of the respective GST Enactments. Since it has been already concluded that* ***"Late Fee"*** *under Section 47(2) of the respective GST Enactments was penal in nature, there cannot be imposition of* ***"General Penalty"*** *under Section 125 of the respective GST Enactments over and above the* ***"Late Fee"*** *levied at concessional rate under the above-mentioned Notifications.*

194. I am also inclined to adopt the above ratio in ***Tvl.Jainsons Casters and Industrial Products*** *referred to supra. I therefore hold that there is no scope for imposing "****General Penalty"*** *under section 125 of the respective GST Enactments over and above the* ***"Late Fee"*** *levied on them at concessional rate under the above-mentioned Notifications.*

195. In the light of the above observations, W.P.Nos.3540, 3567, 3570, 3902, 3966 of 2024 from ***Table-3*** *deserve to be allowed.*

196. The Petitioner in ***Table-4B*** *[W.P.No.9867 of 2024] has been levied with* ***"Late Fee"*** *of Rs.1,17,038/- (Rs.58,519 x 2). The said Petitioner had filed the* ***"Annual Return"*** *on* ***15.06.2023****. This filing of* ***"Annual Return"*** *was within the time limit prescribed under* ***Notification No.7/2023-Central Tax*** *dated* ***31.03.2023*** *as amended by* ***Notification No.25/2023-Central tax*** *dated* ***17.07.2023****.*

197. There are, however, no indications that the said Petitioner has been imposed with a ***"General Penalty"*** *under Section 125 of the respective GST Enactments. Therefore, W.P.No.9867 of 2024 deserves to be allowed.*

198. Therefore, the Petitioner in W.P.No.9867 of 2024 is entitled to the benefit of ***Notification No.7/2023-Central Tax*** *dated* ***31.03.2023*** *as amended by* ***Notification No.25/2023-Central Tax*** *dated* ***17.07.2023****.*

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*199. As far as the case of Petitioners in **Table-4A** namely the Petitioners in W.P.Nos.27029, 27032, 27036, 32599, 34352, 34357, 35186 of 2023 and W.P.Nos.3572, 3916, 15690 of 2024 and W.P.Nos.9988, 28786, 42416, 46522 of 2025 are concerned, these Petitioners have challenged both imposition of **"Late Fee"** imposed under Section 47(2) of the respective GST Enactments and also **"General Penalty"** imposed under Section 125 of the respective GST Enactments.*

*200. They had filed the returns before the cut-off date prescribed in **Notification No.7/2023-Central Tax** dated **31.03.2023** as amended by **Notification No.25/2023-Central Tax** dated **17.07.2023**. They cannot be denied the benefit of the said Notification, merely because in the **49th GST Council Meeting** held on **18.03.2023**, GST Council failed to address the issue.*

*201. To deny the benefit of partial waiver from payment of **"Late Fee"** under the above Notification particularly to these Petitioners in **Table-4A,** who had filed the **"Annual Returns"** before the dates specified in Notification **No.7/2023-Central Tax** dated **31.03.2023** as amended by **Notification No.25/2023-Central tax** dated **17.07.2023**. Challenge to the levy of **"Late Fee"** is to treat them unfairly. They cannot be singled out is justified as they have filed the **"Annual Returns"** before the cut-off dates stipulated in these Notifications.*

*202. Further, if the GST Council had found mitigating circumstances to give partial waiver from payment of **"Late Fee"** to those Registered Persons who had failed to file **"Annual Returns"** and could file their **"Annual Returns"** between **01.04.2023** and **31.08.2023** in terms of the above Notifications. I see no reason why the Petitioners in **Table-4A** who had filed the **"Annual Returns"** before the dates mentioned in the above Notifications should not be given the benefit of partial waiver in terms of the above Notification issued under Section 128 of the respective GST Enactments.*

*203. To single them out would amount to hostile discrimination and contrary to Article 14 of the Constitution of India. To suspend **"Late Fee"** would also lead to mistrust in the tax administration and would be an anathema to Article 14 of the Constitution of India.*

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204. To single out would amount to arbitrary exercise of law failing the test of arbitrariness recognized under Article 14 of the Constitution of India.

*205. The Division Bench of the Himachal Pradesh High Court in the case of **M/s.R.T.Pharma** Vs. **Union of India and others,** while dealing with a similar issue arising out of delay in filing of the **"Annual Returns"** in GSTR-9 under Section 39 of the respective GST Enactments held that it would be unjust to deny a **"Late Fee"**, waiver to a taxpayer who filed their Goods and Services Tax (GST) Annual Returns (GSTR-9 and GSTR-9C) before a specific Amnesty Notification was issued in **Notification No.7/2023-Central Tax** dated **31.03.2023**, and was amended by **Notification No.25/2023-Central Tax** dated **17.07.2023**.*

*206. Therefore, the benefit of the above Notifications namely **Notification No.7/2023- Central Tax** dated **31.03.2023** as amended by **Notification No.25/2023-Central tax** dated **17.07.2023** has to be extended to all those Petitioners in **Table – 4A** who had filed the returns before **01.04.2023.***

*207. Since these Petitioners are liable to pay **"Late Fee"**, the question of imposing **"General Penalty"** under Section 125 of the respective GST Enactments cannot be countenanced in view of the reasons that **"General Penalty"** under Section 125 of the respective GST Enactments can be imposed only in the absence of 'any other penalty' under the respective GST Enactments.*

*208. It is therefore held that the Petitioners in **Table-4A** are neither liable for **"Late Fee"** over and above Rs.10,000/- under each of the respective GST Enactments nor liable for **"General Penalty"** under Section 125 of the respective GST Enactments."*

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7. Considering the same, the cases are remitted back to the respondent to pass a fresh order in view of the impugned order. Needless to state, while passing the order, the respondent shall be guided by the ratio of the Court in the case of ***Kandan Hardware Mart*** and by the statutory requirement of section 47 of the respective GST Enactment and the notification has been issued directly.

8. Accordingly, this Writ Petition is disposed of. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

10.04.2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
dna

To

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Commercial Taxes Building, Second Floor
Hosur, Krishnagiri
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C.SARAVANAN, J.

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