APHC010422182026

**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI**

**Bench Sr.No:-99
[3543]**

WP Nos. 23030 AND 22905 OF 2026

Between

M/s. Asn Traders ...Petitioner

Vs.

The Assistant Commissioner St and Others ...Respondent(s)

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**CORAM : SRI JUSTICE NINALA JAYASURYA
SRI JUSTICE T.C.D.SEKHAR**

DATE : 25th August 2026

Present :

Advocate for Petitioner: C SANJEEVA RAO

Advocate(s) for Respondent(s): GP FOR COMMERCIAL TAX,

HON'BLE SRI JUSTICE NINALA JAYASURYA

AND

HON'BLE SRI JUSTICE T.C.D. SEKHAR

WP Nos.23030 AND 22905 OF 2026

COMMON ORDER:- *(Per Hon'ble Sri Justice T.C.D. Sekhar)*

1. As the petitioner and the issue involved in these writ petitions are one and the same, they are being disposed of by this common order.

2. The petitioner is a registered person under the G.S.T. regime has not filed his returns for the months of May, 2023 and October, 2025. On account of the non-filing of the returns in GSTR-3B Forms, the best judgment assessment orders were passed for the month of May, 2023 on 14.07.2023 and for the month of October, 2025 on 26.12.2025 .

3. The petitioner, after passing these assessment orders, had filed GSTR-3B Forms and had also paid the necessary taxes, in relation to the periods in dispute on 30.08.2023 and 28.04.2026 respectively by paying late and additional late fee as required under Section 62(2) of GST Act.

4. Thereafter, the 1st respondent, had initiated proceedings for recovery of the dues mentioned under the assessment orders specified above. Aggrieved by the same, the petitioner has approached this Court, by way of the present Writ Petition.

5. Sri C.Sanjeeva Rao, learned counsel for the petitioner, relying upon Section 62 of the Goods and Services Tax Act, 2017 (herein referred to as 'the G.S.T. Act'), contends that, the best judgment assessment orders, passed in the absence of returns, is deemed to be withdrawn once the dealer files the necessary Forms and pays the tax payable under the said returns within 60 days from the date of receipt of the Order and that, the proviso to Section 62 (2) of the G.S.T. Act, extends this period by another 60 days, if late fee and additional late fee are paid. He would submit that, once the payments are made by the petitioner, the orders on the basis of which coercive steps are being taken for recovery of tax would have to be treated as withdrawn.

6. On the other hand, the learned Assistant Government Pleader for Commercial Tax appearing for the respondents, contends that the provisions of Section 62 were

amended, on 01.10.2023, due to which the original period of 30 days granted for filing of the returns and payment of taxes, had been extended to 60 days and the proviso for extension of further 60 days was brought in only, on 01.10.2023. He would submit that, in such circumstances, the provisions of Section 62 of the G.S.T. Act, would not be available to the petitioner. However, the Government Pleader does not dispute the payment of late fee and additional late fee made by the petitioner.

7. Learned counsel for the petitioner relies upon the judgment of the Hon'ble High Court of Madras (Madurai Bench), in W.P.(MD) No.18740 of 2024, dated 02.08.2024, wherein a similar issue was considered. The Hon'ble High Court of Madras, after considering similar submissions, had held that in view of the amendment to the Act and the spirit of the amendment, it would be appropriate to condone the delay in the filing of the GSTR-3B returns and consequently, the assessment orders would have to be deemed to be withdrawn.

8. Following the principles set out by the Hon'ble High Court of Madras, these Writ Petition are allowed, declaring that the assessment order, dt.14.07.2023 for the period May, 2023

and order dt.26.12.2025 for the period October, 2025 are deemed to have been withdrawn. Further, consequential proceedings initiated to recovery the tax dues under the aforesaid orders are set aside.

There shall be no order as to costs. As a sequel, pending applications, if any shall stand closed.

JUSTICE NINALA JAYASURYA

JUSTICE T.C.D. SEKHAR

25.08.2026
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HON'BLE SRI JUSTICE NINALA JAYASURYA
AND

THE HONOURABLE SRI JUSTICE T.C.D. SEKHAR

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