Case Citation: (2026) taxcode.in 1669 HC

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.09.2026

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.25703 of 2026

{CNR: HCMD011248222026}

Case QR

and

W.M.P.(MD) Nos.19252 & 19254 of 2026

Sri Balaji Agency,
Represented by its Partner
Mr R.Muthusamy,
7/13, 3rd Cross Street,
V.N.Nagar, Trichy - 620 002. ... Petitioner

Vs.

1.The Commissioner of State Tax,
Commercial Taxes Department,
Ezhilagam, Chepauk,
Chennai - 600 005.

2.The Assistant Commissioner of Service Tax (ST),
Office of the Assistant Commissioner (ST),
Rock Fort Assessment Circle,
Multi Store Building, Kajamalai,
Tiruchirappalli - 620020.

3.The Chief General Manager (Telecom),
Bharat Sanchar Nigam Limited,
No.16, Greams Road, Chennai. ... Respondents

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Prayer : Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari to call for the records relating to the impugned order dated 20.05.2026 passed by the second respondent concerning the petitioner's GSTIN 33AARFS1774JIZQ for F.Y. 2020-21 and the consequential summary order in Form GST DRC-07 bearing Reference No. ZD330526190867V dated 20.05.2026 and quash the same.

For Petitioner : Mr.U.Sabari Kumar

For R1 & R2 : Ms.P.Sudarkodinachiar
Government Advocate (Taxes)

O R D E R

In this Writ Petition, the petitioner has challenged the impugned order dated 20.05.2026, whereby the proposal in the Show Cause Notice in Form GST DRC-01 dated 18.09.2025 has been confirmed after considering the petitioner's reply in Form GST DRC-06 dated 09.12.2025. By the impugned order, the petitioner has been imposed with a late fee of Rs.2,59,200/- under Section 47(2) of the CGST/TNGST Act, 2017 and a penalty of Rs.50,000/- under Section 125 of the Act. The details of the demand are reproduced below:-

Particulars	CGST	SGST	Total
Late Fee under Section 47(2)	Rs.1,29,600/-	Rs.1,29,600/-	Rs.2,59,200/-
Penalty under Section 125	Rs.25,000/-	Rs.25,000/-	Rs.50,000/-
Total Demand	**Rs.1,54,600/-**	**Rs.1,54,600/-**	**Rs.3,09,200/-**

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2. The challenge to the impugned order is on the strength of an order secured by the petitioner from this Court on 26.03.2025 in W.P.Nos. 10979 & 10982 of 2025, which was filed against the recipient of the service, namely, the third respondent herein, Bharat Sanchar Nigam Limited (BSNL). The reliefs sought for by the petitioner in the above Writ Petitions are given below:-

W.P.No.10979 of 2025	***W.P.No.10982 of 2025***
To issue a Writ of Mandamus directing the respondent to forthwith pay all outstanding statutory dues of the petitioner firm, including but not limited to EPF, ESI and GST, directly to the respective statutory authorities and to reimburse the petitioner for the statutory dues already paid by its to the extent such dues were liable to be paid by the respondent.	Tto issue a Writ of Mandamus directing the respondent to forthwith pay all outstanding statutory dues of the petitioner firm, including but not limited to EPF, ESI and GST, directly to the respective statutory authorities and to reimburse the petitioner for the statutory dues already paid by it, to the extent such dues were liable to be paid by the respondent.

3. By an order dated 26.03.2025, this Court has disposed of the said Writ Petitions with the following observations:-

> *"6. In respect of the other dues, this Court is not deciding the matter. I am of the view that when there is no dispute with reference to the amount and the notice issued by the GST is produced along with the typed set of papers, GST authorities need not be made as parties in the writ petitions. These Writ Petitions are disposed of on the following terms:-*

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(i)As per the notice dated 27.02.2025, the petitioner can pay the tax amount on or before 31.03.2025 to the appropriate authorities.

(ii)After payment, the petitioner shall produce the receipt to the respondent and upon production of the receipt, the respondent shall reimburse the amount, within a period of six weeks, from the date of the production of the receipt.

(iii)The parties shall act upon the web copy of the order without waiting for the certified copy of the order.

(iv)Consequently, connected Miscellaneous Petitions are closed. No costs."

4. In the meanwhile, an Assessment Order dated 08.01.2025 for the financial year 2020-21 came to be passed under Section 74 of the respective GST Enactments. The petitioner has challenged the said order passed under Section 74 of the Act in W.P.(MD) No.16248 of 2025. This Court, by an order dated 18.06.2025, stayed the said order dated 08.01.2025 in view of the order passed by this Court in the case of ***Tamil Nadu Telecom Contract Workers Union vs. Bharat Sanchar Nigam Ltd. and others*** in W.P.Nos.34513 of 2019 etc. batch dated 28.04.2021. The operative portion of the said interim order dated 18.06.2025 reads as under:-

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"3. There shall be an order of interim stay in view of the order passed by this Court vide ***W.P.Nos. 34513 of 2019 etc. batch dated 28.04.2021*** *in the case of* ***Tamil Nadu Telecom Contract Workers Union vs. Bharat Sanchar Nigam Ltd. and others.***"

5. It is in this background that the petitioner's contention is that the impugned proceedings seeking to impose the late fee under Section 47(2) of the Act and penalty under Section 125 of the Act are unsustainable.

6. The liability to pay tax under the provisions of the respective GST Enactments arises as soon as the supply is made and the invoice is raised by the petitioner. It is the liability to pay the tax irrespective of the fact whether the consideration is received by the supplier from the recipient of the service or goods, as the case may be. The failure to file the return necessarily attracts the late fee under Section 47(2) of the respective GST Enactments. Since the imposition of penalty on account of late fee has been construed to be penal in nature, this Court has taken a view in ***M/s. Kandan Hardware Mart and others Vs. The Assistant Commissioner (ST) (FAC), Park Town Assessment Circle, Chennai and others***, *vide* order dated 02.01.2026 in W.P.Nos.27029 of 2023 etc., batch, that both cannot go hand in hand together.

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7. Considering the same, I see no merits in this Writ Petition insofar as the challenge to the impugned proceedings imposing the late fee is concerned. Failure to file the return in time, as required under the provisions of the respective GST Enactments, was wholly within the control of the petitioner and therefore, the challenge to the impugned proceedings is without any merit. Therefore, to that extent, this Writ Petition is liable to be dismissed.

8. Therefore, this Writ Petition is dismissed to the extent of the challenge to the imposition of late fee. There shall be no order as to costs.

15.09.2026

JEN
NCC : Yes / No
Index : Yes / No

To
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C.SARAVANAN, J.

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