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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05-10-2026

CORAM

THE HON'BLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 37621 of 2026
CNR:{HCMA012160082026}
AND
WMP NO. 42239 OF 2026

Case QR

Sri Azhagu Nachiamman Modern Rice Mill,
44/4, Pasungayamangalam Road,
Kallakurichi, Viluppuram District,
Pin - 606 202, represented by its managing
Partner Mr. K. Gnanavel

..Petitioner(s)

Vs

State Tax Officer,
Kallakurichi Assessment Circle,
No. 103/5, Nepal Street, Kallakurichi.

..Respondent(s)

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order bearing Reference No. ZD331224263284M with detailed order annexed thereto bearing Order No 33ABXFS4289F1ZJ /2020-21 dated 30/12/2024 and the consequential issue of Form GST DRC-16 dated 23/07/2026 passed by the Respondent, quash the same

For Petitioner(s): Mr.Tr Ramesh

For Respondent(s): Ms.Amirta Poonkodi Dinakaran, AGP

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Order

This writ petition has been filed challenging the order dated 30.12.2024 passed by the 1st respondent.

2. Ms.Amirta Poonkodi Dinakaran, learned Additional Government Pleader, takes notice on behalf of the respondents.

3. By consent of the parties, the main petition is taken up for disposal at the stage of admission itself.

4. The learned counsel for the petitioner would submit that in this case, the impugned order came to be passed by the 1st respondent on 30.12.2024, by levying a sum of Rs.20,34,210/- towards late fee and a sum of Rs.50,000/- towards penalty. Consequently, the attachment was made by the 2nd respondent vide impugned notice dated 23.07.2026. Hence, this petition.

5. Further, he would contend that the penalty can be imposed in the cases, where there is no provision for late fee. However, in this case, when the provision is very well available for imposing late fee under Section 47 of the GST Act, no penalty can be imposed by the petitioner by invoking Section 125 of the GST Act. Hence, he requests this Court to set aside the penalty portion of

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the impugned order. In support of his contentions, he referred to the order dated 02.01.2026 passed by this Court in ***WP.No.27029 of 2023*** *(Ms.Kandan Hardware Mart vs. The Assistant Commissioner)*

6. He would also submit that the last date for filing returns for the financial year 2021-2022 was on 28.02.2022. However, due to the fault on the part of the petitioner's Accountant, no returns were filed within the time limit. Subsequently, when the petitioner made an attempt to file the returns, the portal was disabled, due to which, he was unable to file the same. As per the provisions of Section 47 of the GST Act, the petitioner is liable to pay the late fee of one hundred rupees for every day of delay in filing the returns. If the late fee is calculated in terms of the said provision, it would come around a sum of Rs.3,29,400/- for the period from the due date for filing the returns (28.02.2022) till the date of filing this petition (03.09.2026). However, without considering the said aspect, the respondent had erroneously imposed the late fee to the tune of Rs.20,34,210/-.

7. He would further submit that the petitioner has already paid the entire disputed tax amount and now, he is ready and willing to pay a sum of Rs.3,29,400/- towards late fee to the respondent. Hence, he requests this Court to lift the attachment made by the respondent vide impugned notice dated 23.07.2026.

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8. In reply, the learned counsel appearing for the respondent had confirmed the submissions made by the petitioner and would submit that the issue involved in this petition has already been squarely covered vide the order dated 02.01.2026 passed by this Court in ***WP.No.27029 of 2023*** *(Ms.Kandan Hardware Mart vs. The Assistant Commissioner).* Hence, she requests this Court to pass appropriate orders.

9. Heard the learned counsel appearing for the petitioner and the respondents and also perused the entire materials available on record.

10. In the case on hand, the impugned order came to be passed by the 1st respondent on 30.12.2024, by levying a sum of Rs.20,34,210/- towards late fee and a sum of Rs.50,000/- towards penalty. Consequently, the attachment was made by the respondent vide impugned notice dated 23.07.2026.

11. As rightly contended by the petitioner, when the provision is very well available for levying late fee under Section 47 of the GST Act, the question of imposing "General Penalty" under Section 125 of the GST Act would not at all arise. The said aspect was also upheld by this Court vide order dated 02.01.2026 passed in ***WP.No.27029 of 2023*** *(Ms.Kandan Hardware Mart vs. The Assistant Commissioner).* However, without considering the said aspect, the impugned order was passed by the respondent by levying both the late fee

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and penalty from the petitioner and thus, no doubt, the penalty portion is liable to be set aside.

12. As far as the late fee is concerned, the same has to be levied in terms of Section 47 of the GST Act. For ready reference, the provisions of the said Section reads as follows:

> "***47. Levy of late fee.***—
>
> *(1) Any registered person who fails to furnish the details of outward or inward supplies required under section 37 or section 38 or returns required under section 39 or section 45 by the due date shall pay a late fee of one hundred rupees for every day during which such failure continues subject to a maximum amount of five thousand rupees.*
>
> *(2) Any registered person who fails to furnish the return required under section 44 by the due date shall be liable to pay a late fee of one hundred rupeesfor every day during which such failure continues subject to a maximum of an amount calculated at a quarter per cent. of his turnover in the State or Union territory"*

13. A reading of the above provision makes it clear that an assess, who failed to furnish the return by the due date, is liable to pay a late fee of one hundred rupees for every day of delay. In such case, if the late fee is quantified in terms of the said provision, it would come around a sum of Rs.3,29,400/- for the period from the due date for filing the returns (28.02.2022) till the date of

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filing this petition (03.09.2026). However, in non-application of mind, the respondent had imposed a sum of Rs.20,34,210/- as late fee for the delay in filing the returns and hence, the same is liable to be set aside.

14. Further, today, it was submitted that the petitioner has already paid the entire disputed tax amount and now, he is ready and willing to pay the entire amount of Rs.3,29,400/- towards late fee to the respondent. In such view of the matter, this Court is inclined to set aside the impugned order dated 30.12.2024 passed by the respondent. Accordingly, this Court passes the following order:

(i) The impugned order dated 30.12.2024 is set aside.

(ii) The petitioner shall pay the late fee to the tune of Rs.3,29,400/- to the respondent within a period of 4 weeks from the date of receipt of a copy of this order.

(iii) Upon payment of the aforesaid amount, the respondent is directed to lift the attachment made vide impugned notice dated 23.07.2026.

15. With the above directions, this writ petition is disposed of. No cost. Consequently, the connected miscellaneous petition is also closed.

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

1. Deputy State Tax Officer-1,
   Kallakurichi Assessment Circle,No.103/5,
   Nepal Street, Kallakurichi

2. State Tax Officer,
   Kallakurichi Assessment Circle,
   No.103/5, Nepal Street, Kallakurichi

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KRISHNAN RAMASAMY J.

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