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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25-09-2026

CORAM

THE HON'BLE MR JUSTICE C. SARAVANAN

WP(MD) No. 27738 of 2026
and
WMP(MD)No.21061 of 2026

CNR:{HCMD011356142026}

M/s.Hayakriva Associates and Builders,
Represented by its Proprietor K.Vijay Anand,
GSTIN 33AAHFH0120M1ZR
19/20, C1 1st Floor,
Rajaji Street, Gandhi Nagar,
Madurai - 625020

..Petitioner(s)

Vs

1. The Deputy Commissioner of CGST
   and Central Excise,
   Madurai II Division, No.5, V.P. Rathinasamy
   Road, Bibikulam, Madurai 625002.

2. The Superintendent of GST and Central Excise,
   North Range, Central Revenue Buildings,
   3rd Floor, No.5, V.P.Rathinasamy Road,
   Bibikulam, Madurai - 625002

..Respondent(s)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned FORM GST VOID ORDER bearing Reference No. ZD331225353428F dated 23.12.2025 passed by the 1st respondent, quash the same and consequently direct the respondent to give effect to the FORM GST SPL-05 dated 07.08.2025 and extend the benefit of waiver of interest and penalty under Section 128A of the CGST Act, 2017 to the petitioner.

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For Petitioner(s) : Mr.N.Sudalai Muthu

For Respondent(s) : Mr.R.Gowri Shankar
Senior Central Government Standing Counsel

ORDER

Mr.R.Gowri Shankar, learned Senior Central Government Standing Counsel takes notice for the respondents.

2. This Writ Petition is taken up for final hearing at the time of admission with the consent of the learned counsel for the petitioner and the learned Senior Central Government Standing Counsel for the respondents.

3. The petitioner is before this Court challenging the impugned order dated 23.12.2025, whereby the proposal contained in the Show Cause Notice in SCN No. 05/2024 (O.C. No. 63/2024), dated 22.01.2024, has been confirmed for the tax period 2018–19.

4. The dispute arose on account of the belated payment of tax declared in the monthly returns and in GSTR-3B, as well as the belated filing of GSTR-3B. Subsequently, the petitioner opted to settle the dispute under Section 128A of the CGST Act, 2017, which was also accepted by the designated authority on 07.08.2025, with the issuance of Form GST SPL-05. However, the said order was subsequently revoked on 23.12.2025.

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5. There is no dispute that the petitioner was proceeded against only under Section 73 and not under Section 74 of the respective GST enactments, 2017. There is also no dispute that the petitioner has discharged the tax liability, pursuant to which the application filed under Section 128A of the CG ST Act, 2017, was initially allowed on 07.08.2025.

6. The issue has now been considered by this Court in ***Incompressible Fluid Control System v. Assistant Commissioner, Chennai***, reported in ***(2026) 45 Centax 261 (Mad.).*** The learned Senior Central Government Standing Counsel also fairly concedes that the issue is covered against the Department in view of the said decision of this Court. The conclusions in paragraphs 38 to 40 are reproduced below:

> "*38. The conclusions that follow from the above discussion and analysis of the relevant provisions may be summarised as under:*
>
> *(i) The initiation of proceedings under Section 73 of applicable GST enactments is a sine qua non for filing an application for waiver.*
>
> *(ii) If recovery measures were to be initiated under Section 79 of applicable GST enactments, without invoking Section 73, by relying on Section 75(12), the taxable person cannot file an application under Section 128A. On the other hand, once the revenue decides to determine liability under Section 73, whether in relation to self-assessed tax or*

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otherwise, it is open to the taxable person to file an application under Section 128A.

(iii) Once an order accepting the waiver application is issued in Form GST SPL 05, unless the matter falls within the scope of sub-rule (16) or (17) of Rule 164, it is not open to the GST authorities to issue an order declaring that the earlier approval order is void by reference to Section 161 or otherwise.

(iv) If the order is not issued within the time limit prescribed in sub-rule (13), there shall be deemed approval of the application and conclusion of proceedings in terms of sub-rule (14), provided the substantive conditions stipulated in Section 128A are complied with.

(v) The implied exclusion of cases relating to self-assessed tax cannot be read into Section 128A. The meaning, as gleaned from the text and context, does not warrant such implied exclusion.

(vi) The scope and ambit of Section 128A cannot be curtailed by the issuance of Circular No.238.

(vii) The time limits prescribed in Rule 164 are mandatory.

Adjudication of individual cases

39. The individual cases forming part of this batch are required to be decided in light of the above principles. These cases fall into distinct categories. The first category, which is the largest, consists of cases wherein the taxable person concerned otherwise fulfilled all the requirements of Section 128A and Rule 164, but the waiver application was rejected on the ground that such application pertained to self-assessed tax arising out of belated filing of GSTR

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3B returns. As will be noticeable, the reason for rejection is couched in some cases as ineligibility for waiver of interest. This is merely another way of framing rejection of waiver applications in relation to self-assessed tax. In some of these cases, the rejection orders were issued beyond the time limit prescribed in sub-rule (13). All these rejections are untenable and liable to be set aside for reasons discussed earlier. The particulars of these cases are set out below in a table:

W.P. No.	Petitioner	Respondent/ 1st Respondent	Date of Application (Form GST SPL 02)	Date of SCN (Form GST SPL 03)	Reply (Form GST SPL 04)	Date of Rejection (Form GST SPL 07) (Impugned order)	Reason for rejection stated in Form GST SPL 07
11409 of 2026	M/s. Sri Renuka Impex	The Deputy Commercial Tax Officer	31.03.2025	19.06.2025	Not filed	08.09.2025	Per Para 4 of Circular No. 238/32/2024-GST, Section 128A waiver does not extend to interest on delayed return filing or delayed reporting of supplies, as this relates to self-assessed liability recoverable under Section 75(12) of the CGST Act.
1311, 1317 & 1320 of 2026	Tvl. Goodwill Services	The Assistant Commissioner (ST)	Unclear (However, it is deducible from the date of SCN that the application was made within time.)	02.06.2025	Not filed	20.11.2025	The interest amount pertaining to the belated filing of GSTR-3B returns is not eligible for waiver under the scheme.
44260 & 44263 of 2025	M/s. Keen Erectors	The Assistant Commissioner	Unclear (However, it is deducible from the date of SCN that the application was made within time.)	14.05.2025	Not filed	11.10.2025	Interest levied for belated filing of GSTR 3B return cannot be waived
6199 of 2026	Tvl. Classic Services	The Assistant Commissioner (ST)	30.06.2025	12.09.2025	Not filed	07.11.2025	The waiver is sought for interest only. Hence, not eligible.
6246 of 2026			02.06.2025	06.06.2025		07.11.2025	
6259 of 2026			28.03.2025	02.06.2025		15.11.2025	The interest amount pertaining to the belated filing of GSTR-3B returns is not eligible for waiver under the scheme.

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6230 of 2026	Tvl. Classic Services	State Tax Officer	11.03.2025	06.06.2025	Not filed	14.11.2025	Interest levied for belated payment of tax cannot be waived as per circular Circular No. 238/32/2024-GST.

W.P. No.	Petitioner	Respondent/ 1st Respondent	Date of Application (Form GST SPL 02)	Date of SCN (Form GST SPL 03)	Reply (Form GST SPL 04)	Date of Rejection (Form GST SPL 07) (Impugned order)	Reason for rejection stated in Form GST SPL 07
44261 of 2026	Tvl. Chenni Spun Pipes	Assistant Commissioner (ST)	07.03.2025	02.06.2025	25.06.2025	17.07.2025	Interest levied for belated filing of GSTR 3B return cannot be waived
12838 of 2026	Tvl.R.K.ENTERPRISES	The State Tax Officer (ST)	02.04.2025	13.05.2025	Not filed	06.10.2025	As the demand pertains to self-assessed tax under section 75(12) the taxpayer is not eligible for waiver of interest/ penalty u/s 128A
38101 & 38105 of 2025	Tvl. SKM Industries	The State Tax Officer	05.03.2025	05.06.2025	20.06.2025	05.08.2025	Interest levied for belated filing of GSTR 3B return and belated payment of tax cannot be waived
26587 of 2026	Oviya Construction	Deputy Commercial Tax Officer	24.06.2025	13.09.2025	Not filed	31.10.2025	As per Circular No. 238/32/2024-GST dated 15.10.2024, the benefit of waiver of interest and penalty shall not be applicable in the cases where the interest has been demanded on account of delayed filing of returns, or delayed reporting of any supply in the return, as such interest is related to demand of interest on self-assessed liability and does not pertain to any demand of tax dues and is directly recoverable u/s 75(12)
26393 of 2026	ABC Ceramic Services	The Assistant Commissioner	28.03.2025	04.09.2025	Not filed	30.09.2025	Ineligible for the waiver as the waiver was sought for a defect pertaining to GSTR -1 vs GSTR - 3B

40. A second category, which is closely related to the first category, consists of cases wherein the waiver applications were initially allowed by issuing an order in Form GST SPL – 05. Subsequently, an order declaring the earlier order to be void was issued. These orders are also invalid for reasons discussed earlier and are liable to be set aside. The particulars of

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these cases are set out below:

W.P. No.	Petitioner	Respondent/ 1st Respondent	Application Date (Form GST SPL 02)	Date of SCN (Form GST SPL 03)	Reply (Form GST SPL 04)	Form GST SPL 05	Void Order (Impugned order)	Reason for rejection stated in Void Order
44253 of 2026	Tvl. Chenni Spun Pipes	Assistant Commissioner (ST)	07.03.2025	06.05.2025	08.05.2025	13.05.2025	27.10.2025	Waiver shall not be applicable in the cases where interest has been demanded on account of delayed filing of returns/ reporting
7928 of 2026	Tvl. Senthil Security Solutions	Assistant Commissioner (ST)	12.06.2025	27.06.2025	28.06.2025	11.07.2025	17.12.2025	Ineligible for the waiver as per Circular 238/32/2024 as the waiver was sought for a defect pertaining to GSTR - 7 Vs GSTR - 3B
23886 of 2026	Greenland Associates	State Tax Officer	31.03.2025	30.07.2025	04.09.2025	30.09.2025	17.12.2025	The taxpayer not eligible for waiver as per serial number 4 of Circular No. 238/32/2024-GST dated 15.10.2024
6028 of 2026	R.Venkata ramanan	State Tax Officer	28.06.2025	-	-	01.11.2025	05.11.2025	Waiver order was generated due to a technical glitch in the GST portal.

41. A third category consists of cases where the application for waiver was filed belatedly or the payment was made belatedly. Since both these requirements are essential, these rejections are in order and no interference is warranted. The particulars of said cases are set out below:

Cases where the application for waiver was filed belatedly

W.P No.	Petitioner	Respondent/ 1st Respondent	Date of Application(Form GST SPL 02)	Date of Rejection (Form GST SPL 07) (Impugned Order)
9766 of 2026	Menaka	State Tax Officer	23.07.2025	23.09.2025
21378 of 2026	Incompressible Fluid Control System	The Assistant Commissioner	17.09.2025	26.09.2025
16441 of 2026	M/s KGK Industries	Deputy Commercial Tax Officer	24.12.2025	29.01.2026

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22085 & 22087 of 2026	Tvl. Constient Global Solutions Private Limited	Assistant Commissioner (ST) (FAC)	15.04.2026	11.05.2026

Belated Payment

W.P No.	Petitioner	Respondent / 1st Respondent	Date of Application(Form GST SPL 02)	Date of SCN (Form GST SPL 03)	Reply (Form GST SPL 04)	Date of Rejection (Form GST SPL 07)	Reason for Rejection (stated in order dated 10.01.2026)
22688 of 2026	Sharmila Sundar	Deputy Commercial Tax Officer	29.06.2025	02.07.2025	09.07.2025	10.01.2026	i)The payment was actually made only on 30.06.2025. ii)The taxpayer has not withdrawn the appeal within the due date of payment. (The appeal was not withdrawn and the final order was passed in the appeal on 23.06.2025, modifying the original order)

42. In W.P.No.11327 of 2026, the petitioner asserts that he was unaware of the order under Section 73 until the attachment order was issued. This is a case wherein no application for waiver has been filed as on date. In W.P.No.38025 of 2025, after filing a waiver application belatedly on 01.08.2025, the petitioner has requested for a Mandamus to direct the consideration thereof. Based on conclusions drawn earlier, these writ petitions are liable to be dismissed.

43. In conclusion, these writ petitions are disposed of on the following terms:

(a) W.P.Nos. 11409 of 2026, 1311 of 2026, 1317 of 2026, 1320 of 2026, 44260 of 2026, 44263 of 2025, 6199 of 2026, 6246 of 2026, 6259 of 2026, 6230 of 2026, 44261 of 2026, 12838 of 2026, 38101 of 2025, 38105 of 2025, 26587 of 2026, 26393 of 2026, 44253 of 2026, 7928 of 2026, 23886 of 2026 & 6028 of 2026 are allowed by setting

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aside the respective order of rejection of the waiver application or the void order, as the case may be, and holding that the respective petitioner is entitled to a waiver in terms of Section 128A. Where applicable, any consequential orders issued pursuant to orders declaring the approval order in Form GST SPL - 05 to be void are set aside.

(b) W.P. Nos. 9766 of 2026, 21378 of 2026, 16441 of 2026, 22085 of 2026, 22087 of 2026 and 22688 of 2026 are dismissed.

(c) W.P. No.38025 of 2025 is dismissed.

(d) W.P.No.11327 of 2026 is also dismissed.

(e) Consequently, connected miscellaneous petitions are closed. No costs."

7. In view of the above, the impugned order is quashed and the case is remitted back to the respondents to pass a fresh order in accordance with law.

8. Accordingly, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
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C.SARAVANAN, J.
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To

1. The Deputy Commissioner of CGST and Central Excise,
   Madurai II Division, No.5, V.P. Rathinasamy Road, Bibikulam, Madurai
   625002.

2. The Superintendent of GST and Central Excise,
   North Range, Central Revenue Buildings,
   3rd Floor, No.5, V.P.Rathinasamy Road,
   Bibikulam, Madurai – 625002

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