



W.P(MD)No.25139 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 15.09.2025

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.25139 of 2025

and

W.M.P.(MD)Nos.19720 and 19721 of 2025

M/s.SSS SHIPPING AND LOGISTICS,
Represented by its Proprietor,
Sudalaiyandi Devi.

... Petitioner

Vs.

The Assistant Commissioner
Tuticorin III,
Tuticorin,
Tamilnadu - 628001.

... Respondent

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 pertaining to the impugned order passed by the respondent in order Reference No.ZD331023081117V dated 13.10.2023 and quash the same as illegal and direct the respondents to remand the matter for reconsideration.

For Petitioner : Mr.P.Selvakumar

For Respondent : Mr.R.Suresh Kumar,
Addl. Government Pleader.



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ORDER

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Heard both sides.

2.The writ petitioner is an assessee coming under the jurisdiction of the respondent. The petitioner failed to file their returns for the month of August 2023. Section 62 of the Tamil Nadu Goods and Service Tax Act, 2017 reads as follows:-

“62.Assessment of non-filers of returns.

(1) Notwithstanding anything to the contrary contained in section 73 or section 74, where a registered person fails to furnish the return under section 39 or section 45, even after the service of a notice under section 46, the proper officer may proceed to assess the tax liability of the said person to the best of his judgment taking into account all the relevant material which is available or which he has gathered and issue an assessment order within a period of five years from the date specified under section 44 for furnishing of the annual return for the financial year to which the tax not paid relates.

(2) Where the registered person furnishes a valid return within thirty days of the service of the assessment order under sub-section (1), the said assessment order shall be deemed to have been withdrawn but the liability for payment of interest under sub-section (1) of section 50 or for payment of late fee under section 47 shall continue.”



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Invoking the said provision, GSTR 3A notice was issued on 25.09.2023.

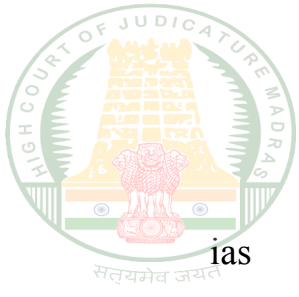
Thereafter, the impugned order was passed on 13.10.2023. Whiles, the petitioner herein filed their returns belatedly on 12.02.2024. Though the statute prescribes time limit of 60 days for filing the late returns, Courts have held that this time limit is not mandatory. Once the late return has been filed, the order making best judgement assessment is deemed to have been withdrawn. Applying the statutory mandate set out in Section 62(2) of the Act, it is declared that the impugned order stands automatically withdrawn. It is open to the respondent herein to verify the returns filed by the writ petitioner. If there is any short-payment, fresh show cause notice can be issued making appropriate demand from the assessee.

3. With the aforesaid liberty to the respondent, this writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

15.09.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No

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G.R.SWAMINATHAN, J.

ias

To:

The Assistant Commissioner
Tuticorin III,
Tuticorin,
Tamilnadu - 628001.

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