



W.P(MD)No.28012 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 09.10.2025

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.28012 of 2025

and

W.M.P.(MD)No.21767 of 2025

M.Shajitha Banu

... Petitioner

Vs.

The Assistant Commissioner (ST) (FAC)
Palakkarai Assessment Circle,
CT Buildings,
Trichy - 01.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records on the file of the respondent in Ref No. 33BCZPM6275M1ZM/NOV/2022-23 dated 11.01.2023 for the period November 2022 passed by the respondent under section 62 of TNGST Act 2017 and to quash the same as cryptic, non-speaking, illegal, arbitrary, wholly without jurisdiction.

For Petitioner : Mr.N.Sudalai Muthu

For Respondent : Mr.J.K.Jeyselan,
Government Advocate.



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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 November 2022. 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of the service of the assessment order under sub-section (1), the said assessment order shall be deemed to have been withdrawn but the liability for payment of interest



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*under sub-section (1) of section 50 or for payment of late fee
under section 47 shall continue.”*

Invoking the said provision, GSTR 3A notice was issued on 25.11.2022. Thereafter, the impugned order was passed on 11.01.2023. Whiles, the petitioner herein filed their returns belatedly on 27.01.2023. 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.The assessee was one Abdul Razak Mohamed Ali Jinnah. He had passed away on 30.10.2022. The impugned order has been passed in his name. The order passed in the name of a dead person is a nullity. On this ground also, the impugned order has to be set aside. It is accordingly set aside.



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

09.10.2025

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

The Assistant Commissioner (ST) (FAC)
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G.R.SWAMINATHAN, J.

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