BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.10.2025

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.28425 of 2025
and
W.M.P.(MD)Nos.22067 & 22069 of 2025

P.Senthil Kumar ... Petitioner

Vs.

The State Tax Officer (ST),
Tuticorin-II Assessment Circle,
Tuticorin District. ... 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 of the respondent in his proceedings in GSTIN. 33EAMPS3327G1ZK/2024-2025 dated 14.11.2024, and quash the same and consequently direct the respondent to defreeze the account of the petitioner in Tamil Nadu Mercantile Bank, Mullakadu Branch, Tuticorin.

For Petitioner : Mr.J.Jeyakumaran

For Respondent : Mr.R.Suresh Kumar
Additional Government Pleader

ORDER

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 September 2024. 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of the service of the assessment order under sub-section (1), the said assessment order shall be deemed to have been withdrawn but the liability for payment of interest under sub-section (1) of section 50 or for payment of late fee under section 47 shall continue."

Invoking the said provision, GSTR 3A notice was issued on 28.10.2024. Thereafter, the impugned order was passed on 14.11.2024. While so, the petitioner herein filed their returns belatedly on 16.09.2025. 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 petitioner's bank account has been frozen. It is true that the returns were not filed within time. However, considering the fact that the time limit set out in the statute is not mandatory, delay in filing the returns stands condoned. The statutory mandate is that once the late return is filed, the order making the assessment is deemed to have been withdrawn. Therefore, the respondent is directed to lift the attachment order made on the writ petitioner's bank account immediately.

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

13.10.2025

Index : Yes / No
Internet : Yes/ No
rmi

G.R.SWAMINATHAN, J.

rmi

To

The State Tax Officer (ST),
Tuticorin-II Assessment Circle,
Tuticorin District.

W.P(MD)No.28425 of 2025

13.10.2025