BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.11.2025

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.33475 of 2025 AND
W.M.P.(MD)No.26415 of 2025

Tvl.J.M.J.Plastics,
Rep. by its Proprietor C.Starlin,
GSTIN 33CVDPS7028A1ZU,
101-1, Othaveedu Masthanpatti,
Vandiyur, Madurai – 625 020. ... Petitioner

Vs.

1. The Appellate Deputy Commissioner(ST),
Goods and Service Tax,
CT Complex, Dr.Thangaraj Salai, KK Nagar,
Madurai – 625 020.

2. The Deputy State Tax Officer-2,
Madurai Rural East Assessment Circle,
Commercial Taxes Buildings, Madurai. ... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the first respondent to restore the petitioner's appeal filed vide ARN # AD 331224040650N on 18.12.2024 against the assessment order dated 27.08.2024 passed in GSTIN:33CVDPS7028A1ZU/2019-20(Reference No.ZD3308242386191) for the assessment year 2019-20 and to hear the appeal on merits, thereby giving the petitioner back its opportunity to contest the demand.

For Petitioner : Mr.N.Sudalai Muthu

For Respondents : Mr.R.Suresh Kumar,
Additional Government Pleader.

* * *

ORDER

Heard both sides.

2. The case on hand pertains to the assessment year 2019-20. The assessment order dated 27.08.2024 was issued calling upon the petitioner to pay a sum of Rs.2,63,702/- towards tax together with interest and penalty. Aggrieved by the same, the petitioner filed an appeal before the appellate authority. The appeal was taken on file on 18.12.2024 and numbered. During the pendency of the appeal, Amnesty Scheme came into force. The assessees who withdrew the appeal and paid the entire tax amount and filed waiver application were held eligible for availing the benefit of the Amnesty Scheme. During the pendency of the appeal, Amnesty Scheme was introduced by inserting Section 128A of CGST Act, 2017. The scheme was applicable only to those cases covered under Section 73 of the Act and not under Section 74 of the Act. Section 128A (1) of the Act reads as follows:-

"1) Notwithstanding anything to the contrary contained in this Act, where any amount of tax is payable by a person chargeable with tax in accordance with,—

(a) a notice issued under sub-section (1) of section 73 or a statement issued under sub-section (3) of section 73, and where no order under sub-section (9) of section 73 has been issued; or

(b) an order passed under sub-section (9) of section 73, and where no order under sub-section (11) of section 107 or sub-section (1) of section 108 has been passed; or

(c) an order passed under sub-section (11) of section 107 or sub-section (1) of section 108, and where no order under sub-section (1) of section 113 has been passed, pertaining to the period from 1st July, 2017 to 31st March, 2020, or a part thereof, and the said person pays the full amount of tax payable as per the notice or statement or the order referred to in clause (a), clause (b) or clause (c), as the case may be, on or before the date, as may be notified by the Government on the recommendations of the Council, no interest under section 50 and penalty under this Act, shall be payable and all the proceedings in respect of the said notice or order or statement, as the case may be, shall be deemed to be concluded, subject to such conditions as may be prescribed:

Provided that where a notice has been issued under sub-section (1) of section 74, and an order is passed or required to be passed by the proper officer in pursuance of the direction of the Appellate Authority or Appellate Tribunal or a court in accordance with the provisions of sub-section (2) of section 75, the said notice or order shall be considered to be a notice or order, as the case may be, referred to in clause (a) or clause (b) of this sub-section:

Provided further that the conclusion of the proceedings under this sub-section, in cases where an application is filed under sub-section (3) of section 107 or under sub-section (3) of section 112 or an appeal is filed by an officer of central tax under sub-section (1) of section 117 or under sub-section (1) of section 118 or where any proceedings are initiated under sub-section (1) of section 108, against an order referred to in clause (b) or clause (c) or against the directions of the Appellate Authority or the Appellate Tribunal or the court referred to in the first proviso, shall be subject to the condition that the said person pays the additional amount of tax payable, if any, in accordance with the order of the Appellate Authority or the Appellate Tribunal or the court or the Revisional Authority, as the case may be, within three months from the date of the said order:

> Provided also that where such interest and penalty has already been paid, no refund of the same shall be available."

3. The assessee was expected to do the following three things:-

a) Withdraw the appeal filed by him against the assessment order.

b) Pay the entire tax amount.

c) File an application for waiver of interest and penalty.

4. Since 31.03.2025 was prescribed as the last date for availing amnesty, the petitioner herein withdrew the appeal on 31.03.2025. He had also remitted the entire tax amount of Rs.2,63,702/-. The petitioner claims that his Chartered Accountant submitted the waiver application. But then, due to technical glitches, it could not be uploaded. In this background, the present request has been made for restoring the appeal filed by him. The petitioner states that as a result of the withdrawal of the appeal, he cannot pursue the remedy before the appellate authority. Since his waiver application had not been uploaded, the assessment order had become final. Thus, he has been deprived of the benefit under the Amnesty Scheme.

5. In such circumstances, one has to apply the presumption set out in Section 114 of the Indian Evidence Act corresponding to Section 114 of the Bharatiya Sakshya Adhiniyam, 2023. The petitioner should be deemed to have acted as a prudent person. When he had withdrawn the appeal and also remitted the entire tax amount on 31.03.2025 in all probability, he would have attempted to upload the waiver application also. By not filing the waiver application itself, the assessee would stand to lose. One can take judicial notice of the fact that since 31.03.2025 happened to be the end of the financial year, there would definitely have been a heavy filing rush. Since it was also the last date for availing the benefit of the amnesty scheme, the server may have collapsed. Therefore, the explanation of the assessee that even though his Chartered Accountant attempted to upload the waiver application, it could not be uploaded is credible and plausible.

6. My attention is drawn to the order dated ***10.09.2025 in W.P.(MD)No.21330 of 2025 (M/s.Sun Tamil Nadu Security Management Services Private Limited, Madurai Vs. The***

Commissioner of GST and Central Excise, Madurai Region) which reads as follows:-

> "30. As there is substantial compliance with the scheme under Section 128A of the respective GST enactments read with Notification No.21/2024-Central Tax dated 08.10.2024 and the corresponding Notification issued by the State Government dated 08.10.2024 under Section 128A(1) of the TNGST Act, 2017, the delay in withdrawing the appeal should not be put against the Petitioner. The scheme has to construed liberally keeping the object for which Section 128A was inserted in the respective GST enactments.
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> 31. Therefore, the benefit of the aforesaid scheme is to be allowed to the Petitioner as the Petitioner has taken steps to withdraw the appeal in Appeal No.237 of 2023 though under Section 128A(3), the appeal should have been withdrawn on or before the date notified under subsection 1 of Section 128A of the respective GST enactments i.e., 31.03.2025."

I am inclined to adopt the very same approach in this case also. Since the filing of online application may prove to be difficult and there could be technical impediments, I permit the petitioner to submit a manual application before the second respondent. It shall be accepted and the same shall be disposed of in terms and in accordance with the scheme set out in Section 128A of the GST Act. This writ petition stands disposed of on these terms. No costs. Consequently, connected miscellaneous petition is closed.

21.11.2025

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

To:

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G.R.SWAMINATHAN, J.

PMU

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