APHC010395512025

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3543]**
(Special Original Jurisdiction)

WEDNESDAY, THE 4th DAY OF NOVEMBER 2026

PRESENT

THE HON'BLE SRI JUSTICE NINALA JAYASURYA

THE HON'BLE SRI JUSTICE T.C.D.SEKHAR

WRIT PETITION No: 20662 of 2025

Between:

1. DISTRIBUTORY COMMITTEE No.I, K.C. CANAL, 4-12A, NANDIKOTKUR ROAD, ALLUR (VILLAGE), KURNOOL DISTRICT, A.P., REP. BY ITS PRESIDENT, K. VENKATESWARULU.

...PETITIONER

AND

1. THE DEPUTY ASSISTANT COMMISSIONER-1, NANDYAL-I CIRCLE, KURNOOL DIVISION, D.No.29/178-31-B, STATE BANK COLONY, NANDYAL, KURNOOL DISTRICT, ANDHRA PRADESH - 518501.
2. THE ASSISTANT COMMISSIONER STATE TAX, KURNOOL-II CIRCLE, 1ST FLOOR, C.T. COMPLEX, OPP: INDUS SCHOOL, NH-7, GOOTY ROAD, KURNOOL, KURNOOL DISTRICT, A.P.
3. THE STATE OF ANDHRA PRADESH, REP. BY THE PRINCIPAL SECRETARY TO THE GOVERNMENT, REVENUE (CT) DEPARTMENT, A.P. SECRETARIAT BUILDINGS, VELAGAPUDI, GUNTUR DISTRICT, ANDHRA PRADESH.
4. THE CHIEF COMMISSIONER OF STATE TAX, ANDHRA PRADESH, D.No.12-468-4, ADJACENT TO N.H.16, SERVICE ROAD, KUNCHANAPALLI, GUNTUR DISTRICT, ANDHRA PRADESH - 522501.
5. THE GST COUNCIL, 5TH FLOOR, TOWER-II, JANPATH ROAD, CONNAUGHT PLACE, NEW DELHI - 110001.

...RESPONDENT(S):

Counsel for the Petitioner:

Mr. G NARENDRA CHETTY

Counsel for the Respondent(S):

Mr.B V S CHALAPATI RAO

GP FOR COMMERCIAL TAX

The Court made the following order: (Per NJS, J)

Petitioner, a Water Users Association registered under the Goods and Services Tax Act, is doing business of works under contract services. It was allotted certain works relating to K.C.Canal viz., repairs and strengthening, desilting of canal, jungle clearance etc., The said works were completed long back, but Government Agencies had not cleared the said bills. Due to non-payment of the bill amounts, petitioner could not file its GSTR 3B Returns and pay the GST Taxes due. The Department Authorities under the Act finalized the Assessment Proceedings, determined the tax liability and also imposed penalty for non-payment of the same. Aggrieved by the action of the Government Agencies in not releasing the GST Tax Component and Final Bill amounts and the orders of Assessment and Penalty, petitioner filed Writ Petition No.7638 of 2021. By an Order dated 26.03.2025, a Co-ordinate Bench of this Court disposed of the said writ petition, the operative portion of which reads as follows:

> "The issues raised in this batch of cases, namely recovery of tax payable under the APVAT Act / GST Act, from various Government Departments, had come up before this Court in W.P.No.9306 of 2022 & batch. A Division Bench of this Court, by Judgment dated 17.09.2024, had disposed of the said batch of cases with certain directions.
>
> 2. As the issues of law raised in the present set of cases are similar to the facts and issues raised in the earlier batch of cases, these Writ Petitions are being disposed of, with a direction to the respective departments to ascertain and release the G.S.T. amount payable to the petitioners, on account of the contracts executed by them on or before 01.07.2017. The said exercise

> should be completed within a period of four (04) months from the date of receipt of this order. As far as the interest and penalty are concerned, it would be open to the petitioners to approach the appropriate authority under the G.S.T.Act for remission of payment of interest o r penalty, taking into account the special circumstances of these cases and after taking into account the fact that non-payment is said to be on account of the default of the Government agencies in paying the G.S.T. in time."

2. Pursuant to the above referred orders dated 26.03.2025, the petitioner made an application for remission of penalty and interest *vide* Registered post dated 03.06.2025 to the 4th respondent i.e., Chief Commissioner of State Tax as also the 5th respondent.

3. Learned counsel for the petitioner made submissions to impress upon the Court that while the said representation is pending consideration, without waiting for the decision of the respondents 4 and 5, interest and penalty amounts were recovered from the petitioner. Such an action on the part of the 1st respondent, learned counsel contends that, is unjust, arbitrary and contrary to letter and spirit of the above referred order dated 26.03.2025. He submits that in the light of the above mentioned orders, Government Agencies have released GST amount payable by them to the petitioner, which inturn the petitioner paid to the Department. However, the 1st respondent recovered the interest and penalty by attaching the petitioner's bank account.

4. Learned counsel in the aforementioned circumstances, seeks a direction to the GST authorities to refund the amount recovered from the petitioner towards the interest and penalty on the alleged tax dues.

5. Learned Government Pleader Mr.Kalyan Chakravarthy, on the other hand made submissions with reference to Order dated 26.03.2025. On instructions, he submits that the representation / application made by the petitioner for remission of interest and penalty *vide* Registered Post dated 03.06.2025 is pending and no orders have been passed thereon. On a query of this Court, he fairly submitted that appropriate orders on the said application / representation would be passed within the time stipulated by the Court.

6. We have considered the submissions made and perused the material on record.

7. At the outset, it may be appropriate to mention that the above extracted order dated 26.03.2025 is clear and unambiguous. While disposing of the Writ Petition No.7638 of 2021 filed by the petitioner, a direction to the respective Departments to ascertain and release the GST amount payable to the petitioner/s was issued. So far as the interest and penalty is concerned, liberty was accorded to the petitioner/s to approach the appropriate authority under the GST Act for remission of interest and penalty. Neither an observation made nor a direction was issued as regards recovery of interest or penalty imposed on late payment of GST. Under the said circumstances, the action impugned cannot be found fault with. However, the justification or otherwise of levy of interest and penalty in the facts and circumstances of the case and the remission of the same is a matter to be decided by the 4th respondent, to

whom the application / representation is made, in terms of the Order dated 26.03.2025.

8. In the aforesaid view of the matter, the writ petition is disposed of, providing that the 4th respondent shall take appropriate action on the petitioner's application / representation made through registered post on 03.06.2025, in accordance with Law, as expeditiously as possible, within a period of six (6) weeks from the date of receipt of a copy of this order. No costs. Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE NINALA JAYASURYA

JUSTICE T.C.D.SEKHAR

Date: 04.11.2026
BLV

THE HON'BLE SRI JUSTICE NINALA JAYASURYA

THE HON'BLE SRI JUSTICE T.C.D.SEKHAR

W.P.No.20662 of 2025

Dt: 04.11.2026

BLV