IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29-01-2026

CORAM

THE HON'BLE MR JUSTICE C. SARAVANAN

WP No. 2242 of 2026

AND

WMP NO. 2476 OF 2026,WMP NO. 2477 OF 2026,

WMP NO. 2480 OF 2026

Tvl. Bharathi Hair Enterprise
(Rep. by its Proprietor Paramasivam)
16/ 41A Pulikuthi Street No 3 Near Sangeeth
Theatre
Gugai Salem Tamilnadu 636006.

..Petitioner(s)

Vs

1. The Assistant Commissioner (ST)
   Annathanapatty Assessment Circle,
   Commercial taxes office Buildings,
   Pitchards Road, Hasthampatty,
   Salem 636 007
2. The Branch Manager
   Axis Bank 388 Trichy Main Road
   59 Pulikuthi Main Road
   Salem 636006

..Respondent(s)

PRAYER

Writ Petition filed under Art.226 of Constitution of India seeking for issuance of Writ of Certiorari, calling for the records on the files of the first Respondent herein vide Ref No GSTIN 33BPNPP8821F1ZN /2022-23 dated 29th April 2025 along with the summary of the order in GST DRC 07 no ZD330425211857E dated 29th April 2025 for the period between April 2022 to March 2023 quash the same.

For Petitioner(s): Ms. S. Vishnupriya

For Respondent(s): Mrs.K.Vasanthamala,
Government Advocate for R1

ORDER

Mrs.K.Vasanthamala, learned Government Advocate takes notice for the 1st Respondent.

2.This Writ Petition is being disposed of at the stage of admission itself with the consent of the learned counsel for the Petitioner and the learned Government Advocate for the 1st Respondent.

3.The Petitioner is before this Court against the impugned Assessment Order dated 29.04.2025 in Form GST DRC-07 passed under Section 73 of the respective GST Enactments for the tax period 2022-2023, which was preceded by a Show Cause Notice in Form GST DRC-01 dated 11.01.2025, to which the Petitioner failed to file a reply and thus, suffered the impugned order dated 29.04.2025.

4. By the impugned order, the demand that has been confirmed against the petitioner is extracted as under:-

Sl. No.	**Penalty**	**Late Fee**	**Total**
1.	25000.00	34000.00	59000.00
2.	25000.00	34000.00	59000.00
Total	**50000.00**	**68000.00**	**118000.00**

5. The issue is now attained clarity recently and this Court has ordered that there is no scope for levying General Penalty under Section 125 when the Late Fee has already imposed under Section 47(2) of respective GST Enactments on the very same assessee as the levy of late fee itself is penal in nature.

6. Considering the same, this Writ Petition is disposed of in terms of decision rendered by this Court in ***Ms.Kandan Hardware Mart, Represented by its Proprietor E.Palani vs. The Assistant Commissioner (ST) (FAC), Park Town Assessment Circle, Chennai – 600 003*** in ***W.P.No.27029 of 2023, dated 02.01.2026*** wherein it has been observed as under:-

> *"190. In Tvl.Jainsons Casters and Industrial Products referred to supra in W.P.No.36614 of 2024 rendered on 04.02.2025, this Court held that there is no scope for imposing "General Penalty" under Section 125 of the respective GST Enactment once "Late Fee" under Section 47 has been levied under these Enactments. "Late Fee"*

though not described as a "Penalty" is penal in nature; and the imposition of "Penalty" consequence without any element of mens rea is unjustifiable. In my view, there is no scope for levying both on a Registered Person.

191. The Petitioners in Table-3 [W.P.Nos.3540, 3567, 3570, 3902, 3966 of 2024] and the Petitioner in Table-4B [W.P.No.9867 of 2024] filed the "Annual Returns" under Section 44(1) of the respective GST Enactments within the time batch specified in the Notification No.7/2023-Central Tax dated 31.03.2023 as amended by Notification No.25/2023-Central tax dated 17.07.2023.

192. They have therefore been imposed with a lighter "Late Fee" of Rs.10,000/- under each of the respective GST Enactments in terms of the above Notification.

193. They are however questioning the imposition of "General Penalty" under section 125 of the respective GST Enactments. Since it has been already concluded that "Late Fee" under Section 47(2) of the respective GST Enactments was penal in nature, there cannot be imposition of "General Penalty" under Section 125 of the respective GST Enactments over and above the "Late Fee" levied at concessional rate under the above-mentioned Notifications.

194. I am also inclined to adopt the above ratio in Tvl.Jainsons Casters and Industrial Products referred to supra. I therefore hold that there is no scope for imposing "General Penalty" under section 125 of the respective GST Enactments over and above the "Late Fee" levied on them at concessional rate under the above-mentioned Notifications.

195. In the light of the above observations, W.P.Nos.3540, 3567, 3570, 3902, 3966 of 2024 from Table-3 deserve to be allowed.

206……..

207. Since these Petitioners are liable to pay "Late Fee", the question of imposing "General Penalty" under Section 125 of the respective GST Enactments cannot be countenanced in view of the reasons that "General Penalty" under Section 125 of the respective GST Enactments can be imposed only in the absence of 'any other penalty' under the respective GST Enactments."

7. The learned counsel for respondent also conceded that the aforesaid decision has not been appealed against as of now and that the same continues to govern the field.

8. Recording the above submission and while upholding the levy of Late Fee, this Writ Petition is disposed of by setting aside the General Penalty of Rs.50,000/- imposed on the petitioner under Section 125 of respective GST Enactments. The petitioner is directed to pay a Late Fee of Rs.68,000/- as confirmed by the impugned order within a period of 30 days from the date of receipt of a copy of this order.

9.In case the Petitioner complies with the above stipulations, the impugned order dated 29.04.2025 passed by the Respondent shall stand quashed and also recovery proceedings shall also be dropped.

10. In case the Petitioner fails to comply with any of the stipulations, the Respondent is at liberty to proceed against the Petitioner to recover the late fee in accordance with law as if this Writ Petition was dismissed *in limine* today.

11. This Writ Petition stands disposed of with the above observations. No costs. Connected Writ Miscellaneous Petitions are closed.

29-01-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

RPP

To

The Assistant Commissioner (ST)
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Commercial taxes office Buildings,
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C.SARAVANAN J.

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