IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20-01-2026

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THE HON'BLE MR JUSTICE C. SARAVANAN

WP No. 1716 of 2026
and
WMP.Nos.1793 & 1796 of 2026

TVL. Ajantha Super Market,
Represented by its Proprietor Sudhagar
Dineshkumar,No. 21A, Nainampatti Road Street,
Edappadi, Salem 636 003.

..Petitioner(s)

Vs

1. The Deputy State Tax Officer 2
   Edappady Assessment Circle,
   S.M.V.T. Nagar, Vellandivalasu,
   Edappady, Salem,
   Tamilnadu.
2. The Deputy Commissioner CT ST
   GST Appeals, Salem, TamilNadu.

..Respondent(s)

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus calling for the records on the files of the 1st Respondent herein in his proceeding in FORM GST SPL 05 with Reference No ZD3309253898060 dated 27.09.2025 along with the accompanying detailed order in GSTIN 33AOZPD0820Q1ZK/2019-20 dated

27.09.2025 for the year 2019-20 in so far as it relates to the defect no.4, and quash the same while directing the 1st Respondent herein to re-dispose the Waiver application filed by the Petitioners on 04.04.2025 vide Form GST SPL-02.

For Petitioner(s):	M/S. A.P. Karventhan R. Harish Kumar Shanmuga Thakka Raja
For Respondent(s):	Mr.C.Harsharaj, Special Government Pleader

ORDER

Mr.C.Harsharaj, learned Special Government Pleader, takes notice for the Respondents.

2. This Writ Petition is being disposed of at the time of admission with the consent of the learned counsel for the Petitioner and learned Special Government Pleader for the Respondents.

3. In this Writ Petition, the Petitioner has challenged the order dated 27.09.2025 in Form GST SPL – 05 whereby application seeking waiver of interest / penalty under GST amnesty provisions under Section 128A of the respondent GST Enactments has been partly allowed and partly disallowed. The petitioner is aggrieved by the denial of waiver of tax, interest and penalty.

The petitioner has sought the benefit of Sections 16(5) and 16(6) of the respective GST Enactments inserted by the **Finance (No.2) Act, 2024 (15 of 2024)** dated **16.08.2024** with effect from 27.09.2024 *vide* **S.O.4253 (E) with retrospective effect from 01.07.2017.**

4. The learned counsel for the petitioner submits that the impugned order is squarely contrary to the clarifications issued by the Central Board of Indirect Taxes and Customs vide **Circular No.238/32/2024/2024-GST** dated **15.10.2024**, wherein it has been clarified as under:-

> *" 3.2.4 In cases where the amount of tax payable as per the notice / statement / order includes the amount that was demanded due to contravention of provisions of sub-section (4) of section 16, which is however not payable anymore due to the retrospective insertion of sub-section (5) and sub-section (6) to section 16, the full amount of tax payable as per the notice / statement / order as mentioned in sub-section (1) of section 128A for eligibility of waiver of interest or penalty or both shall be calculated after deducting the amount, which is not payable anymore as per sub-sections (5) or sub-section (6) of section 16, as per sub-rule (5) of Rule 164. In this regard, it is also to be mentioned that, where the taxpayer is deducting the amount of input tax credit which was denied on account of contravention of sub-section (4) of section 16, but which is now available as per retrospectively inserted provisions of sub-section (5) or sub-section (6) of section 16 of the CGST Act, he is not required to file an application for rectification for the same in terms of the special procedure notified under Section 148 vide notification No.22/2024-Central tax dated 8th October 2024."*

5. The learned Special Government Pleader for the respondents on the other hand submits that while there is no dispute that the petitioner is entitled to waiver of interest under Section 128A of the respective GST Enactments, the

petitioner is not entitled to waiver relating to the Input Tax Credit. The Input Tax Credit was denied on account of belated availing as per the order dated 28.08.2024.

6. The learned Special Government Pleader for the respondents further submitted that the petitioner has filed an appropriate application in terms of **Notification No. 22/2024- Central Tax** dated **08.10.2024** issued under Section 148 of the respective GST Enactments as amended.

7. Having considered the submissions made by the learned counsel for the petitioner and learned counsel for the respondents, this Court of the view that it is not open to the respondents to advance arguments contrary to the circulars issued by the Central Board of Indirect Taxes and Customs.

8. In the light of the law laid down by the Supreme Court of India in ***The Ratan Melting & Wire Industries vs. Collector of Central Excise, (2008) 13 SCC 1***, the clarifications issued by the Board are binding on the Department. Such clarifications, though not binding on the Courts, are binding on the departmental authorities and a beneficial circular cannot be denied to the assessee.

9. Even otherwise, this Court finds no reason to deny the benefit of Input Tax credit under Section 16 of the respective GST Enactments, provided the petitioner is otherwise entitled to such benefit. The entitlement arises in terms of the aforestated statutory by way of insertion of amendment Sections 16(5) and 16(6) to the respective GST Enactments.

10. Therefore, the case is remitted back to the respondents only for the limited purpose of examining whether the petitioner satisfies the requirements under Section 16 of the respective GST Enactments.

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

20-01-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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C.SARAVANAN, J.

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