IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-04-2026

CORAM

THE HON'BLE MR JUSTICE C. SARAVANAN

WP No. 14675 of 2026

and

WMP.Nos.15912 and 15915 of 2026

Sri Siva Viruthambigai
Rep. By its Proprietor,
Mr. A. Suresh,
No.1, Bazaar Street, Sirupakkam,
Cudallore - 637001

..Petitioner(s)

Vs

The Deputy State Tax Officer II,
Virudhachalam,
Commercial Taxes Building,
Vayalur, Ulundurpet Main road,
Virudhachalam -606 001

..Respondent(s)

Prayer : Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for records of the impugned order in GSTIN 33DMRPS9711N1Z4/2021-22 dated 15.11.2025 along with DRC-07 order under Section 73, Ref No. ZD331125274521P dated 15.11.2025 passed by the respondent and quash the same as illegal, arbitrary .

For Petitioner(s): Mr.Poojesh
for Mr.Abishek A M

For Respondent(s): Mr.V.Prashanth Kiran
Government Advocate

ORDER

Mr. V.Prashanth Kiran, the learned Government Advocate, takes notice on behalf of the 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 Respondent.

3. The Petitioner is before this Court against the impugned Order dated 15.11.2025, thereby the following demand has been confirmed.

Summary of Liability for 2021-22

Sr. No.	Description	SGST	CGST	IGST	CESS	Total
1	2	3	4	5	6	7
1	Total Tax due in (Excess Claim of ITC) Above	51264	51264	0	3352	105880
2	Interest	35595	35595	0	2327	73517
3	Penalty on amount in S.No.1	10000	10000	0	10000	30000
4	Late Fee	19000	19000	0	0	38000
5	Total (1+2+3+4)	115859	115859	0	15679	247397

4. The impugned Order has been passed in the absence of the reply to the Show Cause Notice in DRC 01 dated 16.09.2025 issued for the tax assessment period April 2021-March 2022.

5. A Perusal of the Summary of Liability for 2021-22 as extracted above indicates that the Petitioner has no case in so far as challenged to the payment of late fee in terms of the decision of this Court in ***Ms.Kandan Hardware Mart*** Vs. ***The Assistant Commissioner (ST)(FAC)*** in **W.P.No.27029 of 2023** vide order dated **02.01.2026**. Operative portion of the said order reads as under:-

> "*205. The Division Bench of the Himachal Pradesh High Court in the case of* ***M/s.R.T.Pharma*** *Vs.* ***Union of India and others,*** *while dealing with a similar issue arising out of delay in filing of the* ***"Annual Returns"*** *in GSTR-9 under Section 39 of the respective GST Enactments held that it would be unjust to deny a* ***"Late Fee"****, waiver to a taxpayer who filed their Goods and Services Tax (GST) Annual Returns (GSTR-9 and GSTR-9C) before a specific Amnesty Notification was issued in* ***Notification No.7/2023-Central Tax*** *dated* ***31.03.2023****, and was amended by* ***Notification No.25/2023-Central Tax*** *dated* ***17.07.2023****.*
>
> *206. Therefore, the benefit of the above Notifications namely* ***Notification No.7/2023- Central Tax*** *dated* ***31.03.2023*** *as amended by* ***Notification No.25/2023-Central tax*** *dated* ***17.07.2023*** *has to be extended to all those Petitioners in* ***Table – 4A*** *who had filed the returns before* ***01.04.2023.***
>
> > *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.*
> >
> > *208. It is therefore held that the Petitioners in* ***Table-4A*** *are neither liable for* ***"Late Fee"*** *over and above Rs.10,000/- under each of the respective GST Enactments nor liable for*

*"**General Penalty**" under Section 125 of the respective GST Enactments.*

*209. As far as the case of Petitioners in **Table-4B** namely the Petitioners in W.P.No.19967 of 2023 and W.P.Nos.23356, 30854, 9867 of 2024 and W.P.Nos.47726, 38007, 48941 of 2025 are concerned, they have been subjected to only "**Late Fee**" under Section 47(2) of the respective GST Enactments. They have not been subjected to "**General Penalty**" under Section 125 of the respective GST Enactments.*

*210. Since these Petitioners have also filed the "**Annual Returns**" before **01.04.2023**, they cannot be subjected to "**Late Fee**" over and above **Rs.10,000/-** under each of the respective GST Enactments as ordered in the case of those Petitioners in **Table-4A**.*

*211. As far as the case of Petitioner in **Table-4C** namely the Petitioner in W.P.No.3915 of 2024 is concerned, the said Petitioner has filed the "**Annual Return**" only on **19.01.2024** for the Tax Period 2020-2021. It was within the time under Section 44(2) of the respective GST Enactments as the said date would have expired on **31.12.2024**. However, there is no scope for granting any waiver from payment of "**Late Fee**" under section 47 of the respective GST Enactments, as it was long after the date specified in Section 44(1) of the respective GST Enactments read with Rule 80(1) of the respective GST Rules. The said Petitioner has been imposed with "**General Penalty**" of Rs.25,000/- each under Section 125 of the respective GST Enactments. There is no scope for imposing "**General Penalty**" under Section 125 of the respective GST Enactments for the reasons stated for the other Petitioners. Therefore, to that extent W.P.No.3915 of 2024 deserves to be allowed.*

212. In the result,

*(i)W.P.Nos.3540, 3567, 3570, 3902 and 3966 of 2024 as detailed in **Table-3** are allowed. Therefore, "**General Penalty**" imposed under Section 125 of the respective GST Enactments on these Petitioners are set aside.*

*(ii)W.P.Nos.27029, 27032, 27036, 32599, 34352, 34357, 35186 of 2023 and W.P.Nos.3572, 3916, 15690 of 2024 and W.P.Nos.9988, 28786, 42416, 46522 of 2025 as detailed in **Table-4A** are allowed. Therefore, "**General Penalty**" imposed under Section 125 of the respective GST Enactments on these Petitioners are set aside. These Petitioners are liable to pay a "**Late Fee**" of **Rs.10,000/-** under the respective GST Enactments.*

*(iii)W.P.No.19967 of 2023 and W.P.Nos.23356, 30854, 9867 of 2024 and W.P.Nos.47726, 38007, 48941 of 2025 as detailed in **Table-4B** are allowed. These Petitioners are liable to pay a "**Late Fee**" of **Rs.10,000/-** under the respective GST Enactments.*

*(iv) W.P.No.3915 of 2024 in **Table-4C** is partly allowed. However, imposition of "**General Penalty**" under Section 125 of*

*the respective GST Enactments is set aside in view of imposition of **"Late Fee"** against the Petitioner.*

(v) No costs. Consequently, all connected Writ Miscellaneous Petitions are closed."

The dispute partly covered by the ratio, although the decision rendered in the context of annual return.

6. At this stage, the learned counsel for the Petitioner submits that the Petitioner is willing to pre-deposit **25%** of the disputed tax and entire late fee.

7. The learned counsel for the Petitioner has also made an endorsement to that effect in the Court bundle, which is extracted hereunder:-

" Petitioner is consenting to conditional deposit of 25% of disputed tax and late fee"

8. Recording the above consent, the case is remitted back to the Respondent to pass a fresh order on merits subject to the Petitioner depositing 25% of the disputed tax at Sr.No.1 and depositing the entire late fee at Sr.No.4 within a period of 30 days from the date of receipt of a copy of this Order

9. Within such time, the Petitioner shall also file a reply to the Show Cause Notice in GST DRC-01 dated 16.09.2025 together with requisite documents to substantiate the case by treating the impugned Order dated 15.11.2025 as an addendum to the Show Cause Notice dated 16.09.2025.

10. In case the Petitioner complies with the above stipulations, the Respondent shall proceed to pass a final order on merits and in accordance with law as expeditiously as possible, preferably, within a period of three (3) months of such reply/pre-deposit. Subject to the Petitioner complying with the above stipulations, the attachment of the bank account of the Petitioner if any, shall also stand automatically vacated.

11. It is made clear that bank attachment shall be lifted subject to the Petitioner depositing 25% of the disputed tax as ordered above and the Petitioner not being in arrears of any other amount for any other tax period barring the amount demanded under the impugned Order.

12. 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 tax in accordance with law as if this Writ Petition was dismissed *in limine* today.

13. Needless to state, before passing any such order, the Respondent shall give due notice to the Petitioner.

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

17-04-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

VV

To

The Deputy State Tax Officer II,
Virudhachalam,
Commercial Taxes Building,
Vayalur, Ulundurpet Main road,
Virudhachalam -606 001

C.SARAVANAN, J.

VV

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