IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16-06-2026

CORAM

THE HON'BLE MR JUSTICE SENTHILKUMAR RAMAMOORTHY

WP No. 21488 of 2026
and W.M.P.Nos.23250 & 23251 of 2026

A Gurusamy
Proprietor of Tvl Best Lab Instruments Furnitures
41, Singaram Pillai Street,
Mugappair 600 050

..Petitioner(s)

Vs

State Tax Officer (ST)
Padi Assessment Circle
Integrated Registration and Commercial Tax
Building, Nazarathpet,
Poonamalle, Chenani 600 123

..Respondent(s)

PRAYER: Writ Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records in GSTIN No 33AFLPG1359Q1Z2/2018-19 on the files of the Respondent and quashing the impugned order dated 01-11-2025 with the reference no. ZD331125009839D for the FY 2018-19 passed by the Respondent as arbitrary.

For Petitioner(s):	Mr.Kabil Dev S
For Respondent(s):	Mr.L.Gokulraj, Government Counsel (Tax)

****

ORDER

An assessment order in respect of assessment period 2018-19 was issued on 25.04.2024. The petitioner applied for waiver of interest and penalty on 19.02.2025 before an appellate order was passed. Said application was rejected under the order impugned herein.

2. Learned counsel for the petitioner contends that the reason for rejection does not fall within Section 128A of applicable GST enactments.

3. Mr.L.Gokulraj, learned Government Counsel (Tax), accepts notice for the respondent.

4. Section 128-A reads, in relevant part, as under:

> ***"128A. Waiver of interest or penalty or both relating to demands raised under section 73, for certain tax periods***
>
> *(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;*
>
> *(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 under section 50 and penalty under 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."

5. In this case, an assessment order was issued on 25.04.2024. Therefore, the petitioner has applied in terms of clause (b) of sub-section (1). The application relates to a period covered in sub-section (1). In the impugned rejection order, the respondent has recorded that the petitioner is ineligible on account of having availed of Input Tax Credit from non existing tax payers, cancelled dealers and return defaulters. In such event, proceedings should have been initiated under Section 74 of applicable GST enactments, whereas the record shows that proceedings were initiated under Section 73.

6. For reasons set out above, impugned rejection order is unsustainable and is hereby set aside. As a corollary, the respondent is directed to re-consider and pass orders on the application for waiver by taking note of the observations set out in this order. A fresh order shall be issued within ***thirty days*** from the date of receipt of a copy of this order.

7. This writ petition is disposed of on the above terms. There shall be no order as to costs. Consequently, the connected writ miscellaneous petitions are closed.

16-06-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
RNA

To

State Tax Officer (ST)
Padi Assessment Circle
Integrated Registration and Commercial Tax
Building, Nazarathpet,
Poonamalle, Chenani 600 123

SENTHILKUMAR RAMAMOORTHY, J.

RNA

WP No. 21488 of 2026
and W.M.P.Nos.23250 & 23251 of 2026

16-06-2026