IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-06-2026

CORAM

THE HON'BLE MR JUSTICE SENTHILKUMAR RAMAMOORTHY

WP No. 22814 of 2026
and W.M.P.Nos.24747 & 24748 of 2026

M/s.Ayiswarya Polymers
6 - B Sengalipalayam
NGGO Colony,
Coimbatore - 641022
Represented by its partner
Mr. D. Krishnakumar

..Petitioner(s)

Vs

The Assistant commissioner
of GST and Central Excise Coimbatore 1 Division,
1667, Adithya Towers, Trichy Road,
Ramanathapuram, Coimbatore-641 045

..Respondent(s)

PRAYER: Writ Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari, call for the records on the file of respondent and quash the same as illegal, arbitrary and devoid of merit of the respondent impugned order dated 23.10.2025 with F. No. GEXCOM/ TECH/GST/ 3469/ 2025-CGST- DIV-CBE-I with REF No. MA331025103298B passed under the CGST/TNGST (Act) for the year 2018 - 19 along with the order for rejection u/s 128A dated 23.10.2025 with reference number ZD331025236377K (impugned order).

For Petitioner(s): Mr.G.Sudhakar

For Respondent(s): Mr.K.S.Ramasamy, Sr. SC

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ORDER

An order in original was issued on 30.12.2022. Pursuant thereto, the petitioner made payments on 27.03.2023 and 06.09.2024. It is common ground that the entire tax demand under said order in original was discharged. The petitioner, however, erroneously remitted a sum of Rs.3,69,334/- in the wrong head, i.e., IGST, instead of CGST and SGST. On that basis, the application for waiver under Section 128-A of applicable GST enactments was rejected. Said order is challenged herein.

2. Mr.K.S.Ramasamy, learned standing counsel, accepts notice on behalf of the respondent. He submits that no case is made out for interference because the petitioner admittedly made payment under the IGST head instead of CGST and SGST.

3. Under Section 128-A, a person is eligible to apply for waiver if such person pays the full amount of tax payable as per the show cause notice or order under Section 73 or appellate order under Section 107. In the case at hand, the

agreed position is that the entire tax liability was discharged, albeit by making payment under the wrong head.

4. Learned counsel for the petitioner asserts that this was merely a clerical error in as much as the petitioner has no IGST liability. This factual possession is not controverted by the respondent. Learned counsel for the respondent, however, adds that the statute and the rules framed therein do not enable transfer from one head to the other.

5. A provision for waiver or exemption is required to be construed strictly with regard to substantive requirements. As regards procedural requirements, substantial compliance is sufficient. This principle was affirmed by the Supreme Court in cases such as *Commissioner of Customs (Import), Mumbai v. Dilip Kumar and Company and Others, (2018)9 SCC 1*.

6. Given the fact that the petitioner remitted the full tax upon receipt of an order under Section 73 within the time limit specified in that regard, I am of the view that there is substantial compliance. Consequently, the matter warrants re-consideration. To enable such re-consideration, the impugned order is set aside and the matter is remanded for re-consideration. After providing a reasonable opportunity to the petitioner, the application for waiver shall be re-considered after taking note of the observations contained in this order. A fresh order shall

be issued within ***three months*** from the date of receipt of a copy of this order. The petitioner shall comply with any procedural requirements in order to ensure that the tax is remitted into the appropriate head.

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

25-06-2026

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

To

The Assistant commissioner
of GST and Central Excise Coimbatore 1 Division,
1667, Adithya Towers, Trichy Road,
Ramanathapuram, Coimbatore-641 045

SENTHILKUMAR RAMAMOORTHY, J.

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