IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.01.2026

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THE HON'BLE MR JUSTICE C. SARAVANAN

W.P.Nos.1763, 1775 & 2048 of 2026
and
W.M.P.Nos.1844, 1846, 1851, 1852, 2187 & 2195 of 2026

M/s. A K Facility Services Private Limited
Rep by its Director, Komathan A
S/o. Mr. Angappan,
31, Padavattamman Koil Street,
Thiruporur, Kancheepuram,
Tamilnadu – 603110.

..Petitioner in all Writ Petitions

Vs

1. The Union of India,
   Represented by its Secretary (Revenue),
   Department of Revenue,
   Ministry of Finance,
   Government of India, North Block,
   New Delhi – 110 011.

2. The Central Board of Indirect Taxes and Customs,
   Represented by its Director, Department of Revenue,
   Ministry of Finance, Government of India,
   New Delhi – 110001.

3. The State of Tamil Nadu,
   Represented by its Secretary,
   Finance Department,
   Chennai.

4. The Assistant Commissioner (ST),
Thirukazhukundram Assessment Circle,
Station No.42, Wahab Nagar,
Thirukazhukundram – 603109.

..Respondent in all Writ Petitions

PRAYER in W.P.No.1763 of 2026: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, calling for the records pursuant to the impugned order of assessment vide DRC 07 on 24.02.2023 vide Ref No.ZD3302231231923 on the file of the 4th Respondent and quash the same and direct the 4th Respondent herein to give the benefits of waiver of interest as provided in Section 128A of CGST Act is applicable to the petitioner.

PRAYER in W.P.No.1775 of 2026: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, calling for the records pursuant to the impugned order of assessment vide DRC 07 dated 09.12.2022 vide Ref No.ZD331222030999C on the file of the 4th Respondent and quash the same and consequently direct the 4th Respondent herein to give the benefits of waiver of interest as provided in Section 128A of CGST Act is applicable to the petitioner.

PRAYER in W.P.No.2048 of 2026: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, calling for the records pursuant to the impugned order of assessment vide DRC 07 on 27.01.2023 vide Ref No.ZD330123098368A on the file of the 4th Respondent and quash the same and consequently direct the 4th Respondent herein to give the benefit of waiver of interest as provided in Section 128A of CGST Act is applicable to the petitioner.

For Petitioner : Ms.Lakshmi Gopinathan
(In all Writ Petitions)

For Respondents : Mr.S.M.Deenadayalan,
Senior Standing Counsel,
For R1 & R2.
(In all Writ Petitions)

Mrs.Amirtha Poonkodi Dinakaran,
Government Advocate,
For R3 & R4.
(In all Writ Petitions)

COMMON ORDER

These Writ Petitions are taken up for final disposal at the stage of admission itself, with the consent of the learned counsel appearing on either side.

2. The petitioner in all these writ petitions is one and the same and the respondents are also common. Hence, these writ petitions are disposed of by this common order.

3. The petitioner has challenged the impugned assessment orders passed by the 4th respondent in Form GST DRC-07 dated 24.02.2023, 09.12.2022 and 27.01.2023 respectively, for the assessment years 2019–2020, 2017-2018 & 2018-2019 respectively, whereby interest has been levied for belated filing of returns.

4. The brief facts of the case are that the petitioner is a registered assessee under the provisions of the Central Goods and Services Tax Act, 2017 and the Tamil Nadu Goods and Services Tax Act, 2017. The petitioner had filed GSTR-3B returns belatedly for the relevant period and consequently, proceedings were initiated by the respondent department.

5. The impugned orders have been passed levying interest under Section 50(1) of the respective GST enactments for delayed payment of tax.

6. According to the petitioner, the impugned orders were passed without proper opportunity of hearing and without considering the subsequent developments in law.

7. The learned counsel for the petitioner submitted that, by virtue of the newly inserted Section 128A of the CGST Act, 2017, introduced pursuant to GST Council recommendations and notified with effect from 01.11.2024, a mechanism has been provided for waiver of interest and/or penalty relating to demands raised under Section 73 of the CGST Act, 2017 for the financial years 2017–18, 2018–19 and 2019–20, subject to fulfillment of prescribed conditions.

8. It is further submitted that relevant notifications and circulars issued by the Government of India also clarify the manner in which such benefit can be availed and therefore, the petitioner may be permitted to approach the competent authority for appropriate relief.

9. Per contra, the learned Senior Standing Counsel for the Respondent Nos.1 & 2 and the learned Government Advocate for the Respondent Nos.3 & 4 submitted that the petitioner has an effective alternative remedy by way of appeal under Section 107 of the CGST Act, 2017 and without exhausting the same, the present writ petitions are not maintainable.

10. I have considered the rival submissions and perused the materials placed on record.

11. It is not in dispute that the petitioner had filed returns belatedly and that interest has been levied under Section 50(1) of the Act. However, in view of the subsequent statutory developments, particularly the introduction of Section 128A, which provides for waiver of interest and penalty in specified cases, I am of the view that liberty can be given to avail the benefit of such provision, if the petitioner is otherwise entitled for the same.

12. In such circumstances, this Court is not inclined to interfere with the impugned orders on merits. However, liberty is granted to the petitioner to work out the remedy in the manner known to law.

13. Accordingly, these Writ Petitions are disposed of with liberty to the petitioner either:

(i) to file an appeal under Section 107 of the CGST/TNGST Act, 2017 against the respective impugned orders; and/or

(ii) to file an appropriate application for waiver of penalty and interest under Section 128A of the CGST Act, 2017,

within a period of 30 days from the date of receipt of a copy of this order.

14. If such appeal/application is filed within the stipulated time, the same shall be entertained by the competent authority without reference to limitation and procedural requirements stipulated either in the Act/Rule or Notification and shall be considered on merits and in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

22.01.2026

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

1. The Union of India,
Represented by its Secretary (Revenue), Department of Revenue,
Ministry of Finance,
Government of India, North Block,
New Delhi – 110 011.

2. The Central Board of Indirect Taxes and Customs,
Represented by its Director, Department of Revenue,
Ministry of Finance, Government of India,
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3. The State of Tamil Nadu,
Represented by its Secretary,
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Thirukazhukundram Assessment Circle,
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C.SARAVANAN J.

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