BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.03.2026

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THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.(MD) No.7536 of 2026
and
W.M.P.(MD) No.6167 of 2026

M/s.BIG PEAT COMPANY,
Rep. by its Partner, John Jose,
GSTIN: 33AALFB3614Q1Z8,
6/166 - 8, Sawyarpuram Road,
Servaikaran Madam, Thoothukudi. ... Petitioner

Vs.

1.The State Tax Officer,
Tuticorin III Assessment Circle,
Commercial Tax Building, Tuticorin.

2.The Deputy Commissioner (ST)(GST Appeals),
Commercial Tax Building,
New Bus stand, Palayamkottai,
Tirunelveli. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari to call for the records of the impugned order for rejection of application submitted under Section 128A of the GST Act in Form GST SPL 07 Ref.No.ZD3309254099219 dated 29.09.2025 passed by the first respondent and quash the same as it is without jurisdiction and clear violation of statutory provisions.

For Petitioner : Mr.S.Karunakar

For Respondents : Mr.R.Suresh Kumar
Additional Government Pleader

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O R D E R

This Writ Petition is filed challenging the order dated 29.09.2025 passed by the first respondent, rejecting the application submitted by the petitioner under Section 128A of the CGST Act, 2017.

2. It is the contention of the learned counsel for the petitioner that the petitioner is an exporter holding GSTIN No. 33AALFB3614Q1Z8. Based on the audit of accounts, the first respondent issued a notice on 27.09.2023 and passed an order dated 30.12.2023, requantifying the demand, which included the tax, interest, and penalty. Aggrieved by the said order, the petitioner filed an appeal before the second respondent on 27.03.2024, raising grievances against the assessment. While the appeal was pending, the Government introduced the GST Amnesty Scheme, 2025, under Section 128A of the CGST Act, providing for waiver of interest and penalties on tax demands for the financial years 2017-18 to

2019-20 (in non-fraud cases). The taxpayers were required to pay the outstanding tax liability on or before 31.03.2025, withdraw the pending appeals against the said order and file the required forms in SPL-01 or SPL-02 on or before 30.06.2025.

3. Accordingly, the petitioner paid the tax liability, withdrew the appeal and submitted the required forms in SPL-02 within the prescribed time. While considering the request for waiver, the impugned order came to be passed on 29.09.2025. The same has been passed primarily on the ground that where the entire demand pertains only to penalty, the waiver scheme is not applicable.

4. The learned counsel for the petitioner, by pointing out the summary assessment proceedings dated 30.12.2023, would submit that it is a sheer human error by which the entire amount has been shown under the column "penalty", while showing "nil" under the tax and interest. If the original order is perused, it can be seen that it is not a case of penalty alone, but that tax and interest components are also included, in which case the petitioner is entitled to apply under the scheme.

5. Per contra, the learned Additional Government Pleader appearing for the respondents would submit that if the summary assessment order is erroneous, the petitioner ought to have filed a rectification petition within the prescribed time. In any event, unless the same is corrected, the impugned order rejecting the waiver has been passed only based on the said summary assessment proceedings dated 30.12.2023 and therefore, the petitioner cannot straightaway challenge the impugned order alone. The petitioner must first file a rectification petition in respect of the said proceedings dated 30.12.2023 and only after such rectification, the issue of waiver can be considered afresh.

6. I have considered the rival submissions made on either side and perused the material records on record.

7. On a perusal of the original order, it can be seen that the entire amount is not only on penalty, but it is clearly mentioned that a sum of Rs.4,76,135.50 as CGST and Rs.4,76,135.50 as SGST and Rs.232.00 as IGST and a sum of Rs.3,68,164.70 each as interest for CGST and SGST and only a sum of Rs.47,613.00 each as penalty for CGST and SGST. Therefore, by a human error, if the entire amount is mentioned only as

against the penalty in the summary assessment proceedings, the mistake cannot be perpetuated while considering the application under Section 128A of the Act. Without any difficulty whatsoever, when the error is ascertainable, it is for the first respondent, who passed the order under Section 128A of the Act, to have taken into account the correctness or otherwise of the said summary proceedings and ought to have considered the application on its own merits.

8. In view thereof, this Writ Petition is allowed on the following terms:

i. The impugned order dated 29.09.2025 shall stand set aside and the matter shall stand remanded back to the file of the first respondent for fresh consideration.
ii. Notwithstanding the summary assessment proceedings dated 31.12.2023, the amount shall be treated as tax, interest and penalty.
iii. The petitioner's application for waiver under the said Scheme shall be considered, if the petitioner is otherwise eligible as per the Scheme.
iv. A fresh order shall be passed after giving an opportunity of hearing to the petitioner.
v. The entire exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.

vi. No costs. Consequently, the connected Miscellaneous Petition is closed.

23.03.2026

JEN
Neutral Citation : Yes / No

To

1.The State Tax Officer,
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Commercial Tax Building, Tuticorin.

2.The Deputy Commissioner (ST)(GST Appeals),
Commercial Tax Building,
New Bus stand, Palayamkottai,
Tirunelveli.

D.BHARATHA CHAKRAVARTHY, J.

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