



W.P.(MD)No.7794 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date of Reserving the Order	Date of Pronouncing the Order
06.04.2026	16.04.2026

CORAM :

THE HONOURABLE MR. JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.(MD)No.7794 of 2026
and
W.M.P.(MD)No.6375 of 2026

Tvl.Madhu Agencies,
Represented by its Proprietrix G.Valliammai,
GSTIN 33AEWPV1149K1ZU,
First Floor, No.36, T.S.No.45/1, Renganathapuram,
Puthur, Tiruchirappalli – 620017.

... Petitioner

-VS-

The State Tax Officer,
Woraiyur Assessment Circle,
Commercial Taxes Buildings,
Trichy.

... Respondent

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings of the respondent in GSTIN: 33AEWPV1149K1ZU / 2021-22 dated 04.12.2025 for the Assessment Year 2021-22 passed under Section 73 of the TNGST Act 2017 and quash the said order insofar as it levies late fee and penalty for belated filing of Form GSTR-9C by erroneously applying Circular No.246/03/2025- GST retrospectively, and consequently direct the



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respondent to extend to the petitioner the benefit of waiver of late fee under Notification No. 08/2025-Central Tax dated 23.01.2025 in full by considering the petitioner's reply dated 17.05.2025 and the fact that the reconciliation statement in Form GSTR – 9C was filed on 20.06.2025 due to technical glitches in the GST portal.

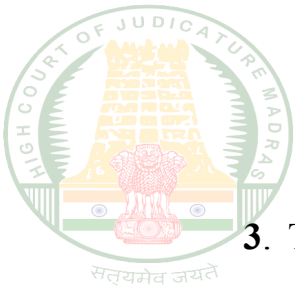
For Petitioner : Mr.N.Sudalai Muthu

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

ORDER

Whether a late fee can be levied under Section 47 of the Central/Tamil Nadu Goods and Services Tax Act, 2017 for non-filing of Form GSTR-9-C within time is the question raised in the instant writ petition.

2. The writ petition challenges the impugned order of assessment dated 04.12.2025, passed under Section 73 of the Tamil Nadu Goods and Services Tax Act, 2017 (hereinafter referred to as "the TNGST Act, 2017"), under which the petitioner has been directed to pay a late fee of Rs.84,700/- for SGST and Rs.84,700/- for CGST, totalling Rs.1,69,400/- for belated filing of the reconciliation statement in Form 9-C.



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3. The impugned order rests on the fact that, for the Assessment Year 2021-2022, the deadline for filing the annual return in Form GSTR-9 was 31.12.2022. The petitioner filed the return late on 13.01.2023, a delay of 13 days. The petitioner does not contest this delay and has, in fact, paid the applicable late fee.

4. However, since the petitioner's turnover exceeded Rs.5 crores, a reconciliation statement in Form GSTR-9C was required to be filed along with the annual return. The petitioner failed to do so and filed it belatedly only on 09.05.2025. Treating the date of filing of Form GSTR-9C as the date of proper filing of the annual return in Form GSTR-9, the respondent has calculated the delay and levied the late fee.

5. The learned counsel for the petitioner argued that, under Section 47 of the TNGST Act, 2017, the late fee is only applicable for delays in filing the annual return in Form -9. Since the return was filed 13 days late, for which the late fee has already been paid, it cannot be extended to cover the delay in filing the reconciliation statement. Therefore, the impugned order is unsustainable.



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6. It is contended that the requirement to file a reconciliation statement is not mandatory as per Section 44. It is only under Rule 80(3) of the Tamil Nadu Goods and Services Tax Rules, 2017 (hereinafter referred to as "the TNGST Rules, 2017) that it is made mandatory for persons with a turnover of Rupees Five Crores and above. Section 47 also does not cover violations of the Rules.

7. It is further argued that since the assessment is for the year 2020-2021, the amnesty granted for filing the annual return in Form-9 by waiving the penalty above Rs.10,000/- should be taken into account, and a higher penalty need not be levied for Form GSTR 9-C.

8. *Mr.N.Sudalai Muthu*, the learned counsel for the petitioner would rely upon the judgment of the Kerala High Court in *Anishia Chandrakanth Vs. Superintendent, Central Tax & Central Excise*¹ in support of his submission.

9. Per contra, *Mr.R.Suresh Kumar*, the learned Additional Government Pleader appearing for the respondent, submitted that Section 44 of the Act was substituted by Act 13 of 2021, with effect from 01.08.2021. Consequently, Rule 80 of the Central Goods and Services Tax Rules, 2017 was also amended, and sub-rule (3) was introduced with effect from 01.08.2021. The said Rule mandates

¹ (2024) 162 taxmann.com 115 (Kerala) : 2024:KER:27620



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the filing of a reconciliation statement along with the annual return. Section 47

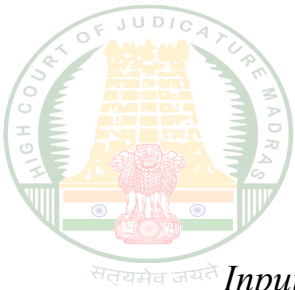
imposes a late fee for non-filing of returns as required under Section 44. Since the petitioner failed to furnish the reconciliation statement within the stipulated time, the levy of a late fee is justified. Even with reference to the amnesty, the petitioner failed to avail of it by not filing Form GSTR-9-C within the period specified therein.

10. I have considered the rival submissions made on either side and perused the materials on record. Originally, Section 44 of the Central Goods and Services Tax Act, 2017 stood as follows:-

"44. Annual return.— (1) Every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person, shall furnish an annual return for every financial year electronically in such form and manner as may be prescribed on or before the thirty-first day of December following the end of such financial year.

(2) Every registered person who is required to get his accounts audited in accordance with the provisions of sub-section (5) of section 35 shall furnish, electronically, the annual return under sub-section (1) along with a copy of the audited annual accounts and a reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year with the audited annual financial statement, and such other particulars as may be prescribed."

11. By an amendment in the year 2021, Section 44 of the Act was substituted and it stood as follows:-



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"44. Annual return.- Every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person shall furnish an annual return which may include a self-certified reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year, with the audited annual financial statement for every financial year electronically, within such time and in such form and in such manner as may be prescribed:

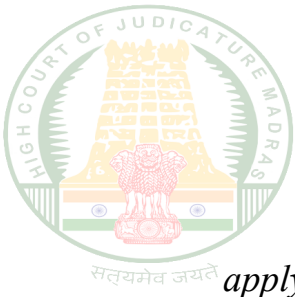
Provided that the Commissioner may, on the recommendations of the Council, by notification, exempt any class of registered persons from filing annual return under this section:

Provided further that nothing contained in this section shall apply to any department of the Central Government or a State Government or a local authority, whose books of account are subject to audit by the Comptroller and Auditor-General of India or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force."

12. Thereafter, a further amendment was carried out in the year 2023. By the same, the existing Section 44 was renumbered as Section 44(1) and subsection (2) was added. Pursuant to the said amendment, Section 44 of the Central Goods and Services Tax Act reads as follows:

"44. Annual return. - (1) Every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person shall furnish an annual return which may include a self-certified reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year, with the audited annual financial statement for every financial year electronically, within such time and in such form and in such manner as may be prescribed:

Provided that the Commissioner may, on the recommendations of the Council, by notification, exempt any class of registered persons from filing annual return under this section:



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Provided further that nothing contained in this section shall apply to any department of the Central Government or a State Government or a local authority, whose books of account are subject to audit by the Comptroller and Auditor-General of India or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force.

(2) A registered person shall not be allowed to furnish an annual return under sub-section (1) for a financial year after the expiry of a period of three years from the due date of furnishing the said annual return:

Provided that the Government may, on the recommendations of the Council, by notification, and subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish an annual return for a financial year under sub-section (1), even after the expiry of the said period of three years from the due date of furnishing the said annual return."

13. With reference to Rule 80 of the Central Goods and Services Tax Rules, 2017, it is seen that, by Notification dated 30.07.2021, the said Rule was amended and sub-rule (3), as it stands today, was introduced by way of the said amendment. Rule 80(3) of the said Rules reads as follows:-

"80. Annual return.

....

....

(3) Every registered person, other than those referred to in the second proviso to section 44, an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person, whose aggregate turnover during a financial year exceeds five crore rupees, shall also furnish a self-certified reconciliation statement as specified under section 44 in FORM GSTR-9C along with the annual return referred to in sub-rule (1), on or before the thirty-first day of December following the end of such financial year, electronically through the common portal either



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directly or through a Facilitation Centre notified by the Commissioner." [Emphasis supplied]

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14. Section 2(97) of the Act defines the term "returns" and is reproduced below for quick reference:

"2.Definitions.

97. "return" means any return prescribed or otherwise required to be furnished by or under this Act or the rules made thereunder;"

15. Section 47 of the Central Goods and Services Tax Act, which provides for the levy of a late fee, is reproduced below:

"47. Levy of late fee. -

(1) Any registered person who fails to furnish the details of outward or supplies required under section 37 or returns required under section 39 or section 45 or section 52 by the due date shall pay a late fee of one hundred rupees for every day during which such failure continues subject to a maximum amount of five thousand rupees.

(2) Any registered person who fails to furnish the return required under section 44 by the due date shall be liable to pay a late fee of one hundred rupees for every day during which such failure continues subject to a maximum of an amount calculated at a quarter per cent of his turnover in the State or Union territory."

16. It must be noted that Circular No.246/03/2025-GST dated 30.10.2025, while clarifying that the Form GSTR-9-C is part of the return in GSTR-9 and



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that the late fee as per Section 47 is applicable, refers to Notification No.08/25 -

Central Tax, dated 23.01.2025, whereby the late fee for delayed filing for any financial year up to 2022-23, to the extent it exceeds the delay in filing the annual return, is applicable, provided the Form GSTR-9-C is filed on or before 31.03.2025 stands waived.

17. In this case, Form GSTR-9-C was not filed on or before 31.03.2025, but only on 20.06.2025, and hence, the levy was issued. The clarifications issued by the Board under Section 168 do not bind the dealer, and as such, the dealer is free to contend otherwise. It must be noted that the levy of fee under Section 47(2) is for failure to furnish the return as required under Section 44 by the due date. It is penal in nature and requires construction as such, and its meaning cannot be expanded or restricted. Therefore, the late fee is applicable if there is failure to furnish returns as required under Section 44. Section 44 prescribes the filing of an annual return within time. It mandates that the return may include a reconciliation statement.

18. In this regard, reference should be made to the judgment of the Hon'ble Supreme Court of India in **Commissioner of Customs vs. Caryaire Equipment India Private Ltd.**² , and Paragraph 23 is extracted hereunder for
2 (2012) 4 SCC 645



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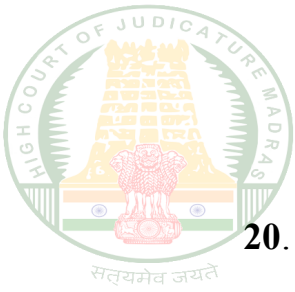
ready reference:-

WEB COPY "23. In *Godfrey Phillips India Ltd. v. State of U.P.* [(2005) 2 SCC 515], this Court has observed thus: (SCC p. 548, paras 73-74)

“73. Having rejected the second premise contended for by Mr.Salve, the next question is whether the language of List II Entry 62 would resolve the issue. The juxtaposition of the different taxes within Entry 62 itself is in our view of particular significance. The entry speaks of ‘taxes on luxuries including [Ed.: The word “including” is emphasised in original also.] taxes on entertainments, amusements, betting and gambling’. The word ‘including’ must be given some meaning. In ordinary parlance it indicates that what follows the word ‘including’ comprises or is contained in or is a part of the whole of the word preceding. The nature of the included items would not only partake of the character of the whole, but may be construed as clarificatory of the whole.

74. It has also been held that the word ‘includes’ may in certain contexts be a word of limitation (South Gujarat Roofing Tiles Manufacturers Assn. v. State of Gujarat [(1976) 4 SCC 601 : 1977 SCC (L&S) 15]).....”
(Emphasis supplied)

19. Thus, it can be seen that “include” ordinarily adds to the natural content. The Hon'ble Supreme Court of India has reiterated that “includes” generally widens the meaning unless the context shows it is used as “means and includes.” Applied here, “may include a self-certified reconciliation statement” expands what an “annual return” can comprise, and Rule 80(3) specifies the cases in which that component must be furnished. Therefore, non-filing of Form GSTR 9-C would constitute non-filing of returns as required under Section 44 of the Act, enabling the levy of a fine under Section 47 of the Act.



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20. It must be further noted that Rule 80(3) uses the phrase “shall also furnish a reconciliation statement as specified under Section 44 in Form GSTR-9C, 'along with the annual return'. The words ‘along with’ in this context are mandatory. A useful reference in this regard is the judgment of the Hon'ble Division Bench of this Court in **Commissioner of Income Tax, Madurai vs. M/s.Ramco Cements Limited**³ and Paragraph 8 is extracted hereunder for ready reference:

"8. Thus, it is crystal clear from the aforesaid provisions that the assessee should furnish the audit report along with his return of income, only pursuant to the amendment by the Finance Act, 2020 with effect from 01.04.2020. Prior to that, the requirement of filing the audit report along with the return of income is not mandatory, but directory and the audit report can be filed at any time before framing of assessment, so as to meet out the requirement of section 80IA(7). It is also settled law that the taxing statute should be read prospectively and not retrospectively. Applying the said legal proposition to the facts of the present case, wherein it is an admitted fact that the respondent / assessee furnished the audit report during the course of assessment relating to the assessment year 2009-10 and they very well complied with the requirement of section 80IA(7) for claiming deduction under section 80IA. Therefore, the CIT(A) allowed the claim of the respondent / assessee, which was also rightly affirmed by the ITAT and the same do not call for any interference at the hands of this Court."

21. Further, a perusal of the GSTR-9-C shows that the assessee has to self-reconcile the Turnover, Tax Paid, Input Tax Credit and other details on the basis of the audited Annual Financial Statement, which only completes the annual

³ T.C.A. No.966 of 2013, dated 04.04.2022



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return in Form GSTR-9. Thus, I am of the view that if a person files Form GSTR-9 without Form GSTR-9-C, it would amount to non-filing of returns as required under Section 44 of the Act, entitling the authorities to impose the late fee. Since these questions in detail were not dealt with by the Kerala High Court in **Anishia Chandrakanth** [cited *supra*], I am unable to agree with the decision rendered therein.

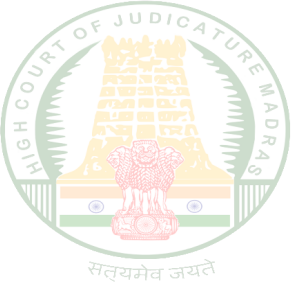
22. Accordingly, the Writ Petition is dismissed; however, liberty is granted to the petitioner to prefer an appeal before the appropriate authority in the manner known to law on factual aspects. No costs. Consequently, the connected Miscellaneous Petition is closed.

16.04.2026

NCC : Yes
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To

The State Tax Officer,
Woraiyur Assessment Circle,
Commercial Taxes Buildings,
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D.BHARATHA CHAKRAVARTHY, J.

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Pre-delivery order in

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