APHC010410842026

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3543]**
(Special Original Jurisdiction)

FRIDAY, THE 14th DAY OF AUGUST 2026

PRESENT

THE HONOURABLE SRI JUSTICE NINALA JAYASURYA

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

WRIT PETITION NO: 22229/2026

Between:

1. M/S. GOODWILL INSULATIONS,, GSTIN-37BFJPM0759R1ZL REP. BY ITS PROPRIETOR, MR. SHUNMUGAM BALA SUBRAHMANYAM MUTYALA 14-25-36/1, ELURU ROAD, YAGARLAPALLI, TADEPALLIGUDEM - 534102, ANDHRA PRADESH

...PETITIONER

AND

1. THE ASSISTANT COMMISSIONER ST FAC, TADEPALLIGUDEM CIRCLE, 2-1-41(13), 1ST FLOOR, AJANTA COMPLEX, K N ROAD, OPP. MRO OFFICE, TADEPALLIGUDEM-534101, WEST GODAVARI DISTRICT, ANDHRA PRADESH.

2. THE CHIEF COMMISSIONER OF STATE TAX, VIJAYA ELITE, 12-468/4, ADJ. SERVICE ROAD TO NH-16, KUNCHANAPALII-522501, GUNTUR DISTRICT, ANDHRA PRADESH.

3. THE STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPAL SECRETARY, REVENUE (CT-II) DEPARTMENT, SECRETARIAT, VELAGAPUDI-522237, GUNTUR DISTRICT, ANDHRA PRADESH.

4. THE UNION OF INDIA, REP. BY ITS SECRETARY (FINANCE) MINISTRY OF FINANCE, NORTH BLOCK, NEW DELHI 110001

...RESPONDENT(S):

Counsel for the Petitioner:

1. C SANJEEVA RAO

Counsel for the Respondent(S):

1. GP FOR COMMERCIAL TAX
2.

THE HONOURABLE SRI JUSTICE NINALA JAYASURYA

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

Writ Petition No:22229 of 2026

The Court made the following Order:

Heard learned counsel for the petitioner. Also heard Mr. P.Soma Raju, learned Assistant Government Pleader for Commercial Tax representing respondents.

2. With the consent of learned counsel on both sides, writ petition is disposed of, at the stage of admission.

3. The petitioner was served with order of assessment under Form GST ASMT-13 dated 21.06.2023 and Summary of the order dated 28.06.2023 for the month of April, 2023. The said orders had been passed under Section 62 of the GST Act on the ground that the petitioner had not been filing its returns.

4. Learned counsel for the petitioner made submissions with reference to the averments made in the writ affidavit and *inter alia* contended that the petitioner could not file monthly returns i.e., for the month of April, 2023 within the period stipulated under the statute. But, the same were filed on 19.08.2023 with 70 days delay and additional late fee was also paid 07.08.2026 (memo dated 10.08.2026 is filed to that effect). He further submits that though applicable interest and late fee is paid on the delayed return for the month of April, 2023, respondent No.1 have not withdrawn the Orders

dated 21.06.2023/28.06.2023, as such, petitioner is constrained to file the writ petition.

5. The details of the date of demand order, date of filing of returns etc., are set out in the table below:

Month	**Date of impugned Demand Order**	**Date of filing of Form GSTR 3B**	**CGST late fee u/s 62(2)**	**SGST Late fees u/s. 62(2)**	**Additional late fee in Form DRC-03** dated 07.08.2026	
					CGST	**SGST**
April, 2023	28.06.2023	07.08.2026	675.00	675.00	1,550.00	1,550.00
Total			675.00	675.00	1,550.00	1,550.00

6. Section 62(2) of the GST Act stipulates that any order passed under Section 62, would be deemed to have been withdrawn once necessary returns are filed within the period stipulated under the said provision. In the event of delay, late fee is required to be paid by the registered person who seeks to file the said returns.

7. In the present case, petitioner is said to have paid the necessary late fee. In such circumstances, it would have to be deemed that the orders, detailed above, passed under Section 62 of the GST Act are deemed to have been withdrawn.

8. Further, similar issue has fallen for consideration before the Hon'ble High Court of Madras (Madurai Bench) in Writ Petition (MD) No.18740 of 2024 and after considering the same, the High Court of Madras had held that in view of the amendment to Section 62(2) of the Act, it would be appropriate to

condone the delay in filing GSTR 3-B returns and consequently the Assessment Order would have to be deemed to be withdrawn.

9. Further, this Court following the judgment rendered by Hon'ble High Court of Madras, allowed W.P.No.20705 of 2025 filed by M/s. Brothers Engineering and Errectors Limited Vs. State of Andhra Pradesh. In such circumstances, the benefit under Section 62(2) of the Act has to be extended to the petitioner as well.

10. Accordingly, Writ Petition is allowed. Assessment Order under challenge passed under Section 62 of the Act is deemed to have been withdrawn and no steps for recovery can be initiated or continued for recovery of the taxes and dues raised under the said order of assessment. No costs. Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE NINALA JAYASURYA

JUSTICE T.C.D.SEKHAR

Date:14.08.2026
Ksj