IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-07-2026

CORAM

THE HON'BLE MR JUSTICE SENTHILKUMAR RAMAMOORTHY

WP Nos. 21378, 6259, 1311, 1317, 1320, 6199, 6230, 6246, 9766, 16441, 11327, 22085, 22087, 6028, 23886, 26393, 26587, 22688, 12838 & 7928 of 2026 & 11409, 38105, 38101, 38025, 44261, 44253, 44260 & 44263 of 2025 &

WMP Nos.23147, 23148, 6724, 6725, 1482, 1485, 1492, 1493, 1494, 1497, 6717, 6721, 6690, 6696, 6706, 6707, 10540, 10541, 17644, 17645, 12342, 12344, 23969, 23970, 23971, 23972, 6543, 6545, 6546, 25931, 25932, 28853, 29088, 29089, 24609, 24610, 14045, 14046, 8601 & 8603 of 2026 & 12419, 42564, 42568, 42456, 42164, 49377, 49381, 49366, 49370, 49374, 49376, 49378 & 49380 of 2025

In W.P.No.21378 of 2026

Incompressible Fluid Control System
(Rep. by its Proprietor,
Thirunavukarasu Gopinath)
B-5, 3rd Main Road, A.G.S Colony, Kottivakkam,
Chennai, Tamil Nadu, 600 041. .. Petitioner

vs

The Assistant Commissioner
Thiruvanmiyur South III,
Chennai South, Tamil Nadu. ..Respondent

WP Nos.6259, 6246, 1311, 1317 & 1320 of 2026

In W.P.Nos.6259 & 6246 of 2026

Tvl. Classic Services,
Represented by its proprietor Mr.Thandapani Tamilamuthan,
No.158, GST Road, Guduvancheri,
Kancheepuram 603 202. ..Petitioner

In WP.Nos.1311, 1317 & 1320 of 2026
Tvl.Goodwill Services,
Represented by its Managing Partner Mr.T.Tamilamuthan,
21-Flat NoC-1, II Floor, Viswanathapuram,
Guduvancheri, Kancheepuram, Tamil Nadu-603 202. ..Petitioner

vs

In WP Nos.6259, 6246, 1311, 1317 & 1320 of 2026
1.The Assistant Commissioner (ST),
Maraimalai Nagar Assessment Circle,
Station No.4/109, 2nd Floor,
Bangalore Chennai Highway Varadharajapuram,
Poonamallee, Chennai 600 123.

2.The Deputy Commissioner (ST),
Chengalpattu Zone,
No.26, Abhirami Complex,
Kanchipuram High Road,
Thimmavaram,
Chengalpattu 603 101. ..Respondents

In W.P.Nos.6199 & 6230 of 2026
Tvl. Classic Services
Represented by its proprietor Mr.Thandapani Tamilamuthan,
No.158, GST Road, Guduvancheri,
Kancheepuram 603 202. ..Petitioner(s)

vs

In W.P.Nos.6199 & 6230 of 2026
1. The Assistant Commissioner (ST),
Maraimalai Nagar Assessment Circle,
Station No.4/109, Second Floor,

Bangalore-Chennai Highway Varadharajapuram,
Poonamallee, Chennai-600 123.

2. The State Tax Officer,
Maraimalai Nagar Assessment Circle,
Station No.4/109, Second Floor,
Bangalore-Chennai Highway Varadharajapuram,
Poonamallee, Chennai-600 123.

3.The Deputy Commissioner (ST),
Chengalpattu Zone,
No.26, Abhirami Complex,
Kanchipuram High Road,
Thimmavaram,
Chengalpattu603101. ..Respondent(s)

<u>In W.P.No.11409 of 2025</u>
M/s. Sri Renuka Impex
Represented by its Proprietor R.Rajendran
GSTIN 33ABTPR4996A1Z7
124/3, Keethi Illam,
Avinashi Road, Annur,
Coimbatore 641653 ..Petitioner

vs

The Deputy Commercial Tax Officer,
Avinash Assessment Circle,
Avinashi, Coimbatore. .. Respondent

<u>In W.P.No.38105 & 38101 of 2025</u>
Tvl SKM Industries
Represented by its Proprietor Mr Sudhakar Rajagopal,
5/741-9, Balaji Nagar, Chinna Elasagiri Sipcot Post,
Hosur, Krishnagiri, Tamil Nadu – 635126. .. Petitioner

vs

The State Tax Officer,

Hosur (North)-1, Assessment Circle,
Commercial Tax Department,
2nd Floor, Seethe Ram Nagar Meadu,
Hosur-635 109. .. Respondent

In W.P.No.9766 of 2026

M.Menaka, No.2, Thiru Vi Ka 1st Street,
Villivakkam, Chennai - 600 049. .. Petitioner

vs

1. The State Tax Officer,
Villivakkam Assessment Circle,
No.1, Greams Road, PAPJM Annex Building,
2nd Floor, Room No.207, Chennai-600 006.

2. The Assistant Commissioner (ST),
Villivakkam Assessment Circle,
No.15 & 16, 100 Feet Road,Malligai Avenue,
Chennai-600 099. ..Respondents

In W.P.No.16441 of 2026

M/s.KGK Industries,
(Represented by its Managing Partner Mr.R.Krishnamurthy),
No.80A, Sidco Industrial Estate, SIDCO,
Coimbatore-641 021. ..Petitioner

vs

Deputy Commercial Tax Officer,
Kuniyamuthur-I,
Coimbatore. ..Respondent

In W.P.No.Nos.22085 & 22087 of 2026

Tvl. Constient Global Solutions Private Limited
GSTIN 33AAECC9752G1ZM
Represented by its Director,
No 16, Ganapathy Rao Nagar, Kolathur,
Chennai 600 099 . ..Petitioner

vs

Assistant commissioner (ST) (FAC)
Villivakkam Assessment Circle,
No.1, PAPJM Annex Building 2nd Floor,
Greams Road,
Chennai 600 006. ..Respondent

<u>In W.P.No.6028 of 2026</u>
Mr R.Venkataramanan
Sole Proprietor of Siddha Blocks
No.3 NA Daka Nagar,
Chettipunniyam, Kancheepuram,
Tamil Nadu 603204. ..Petitioner

vs

The State Tax Officer
Chengalpattu Assessment circle,
Chengalpattu ..Respondent

<u>In W.P.No.23886 of 2026</u>
M/s. Greenland Associates
No. 13-B, M.K.Reddy Street,
West Tambaram, Chennai 45
Rep. by its Partner,
Nathan
Ganapathy ..Petitioner

vs

The State Tax Officer
Tambaram Assessment Circle,
Room No. 107 A, 1st Floor No. 46
Mylapore Taluk Office Building,
Pasumpon Muthuramalingam Salai,
Greenways Road,

RA Puram,
Chennai -600 028. ..Respondent

In W.P.No.26393 of 2026
ABC Ceramic Services
GSTIN No.33ABAFA4205C1ZE,
Represented by its Partner, G.Arivazhagan,
S.No. 516/1, Plot No. 10, Perumal Nagar,
Korattur, Chennai-600 099. ..Petitioner

vs

The Assistant Commissioner ST,
Surapattu Assessment Circle,
Integrated Commercial Taxes Office Complex,
Room No.201, Elephant Gate Bridge Road,
Vepery, Chennai-3. ..Respondent

In W.P.No.26587 of 2026
Tvl.Ovviya Construction
Rep. by its Partner P.R.Pandian,
No. 20, Periya Pagabdai Village Post,
Mariamman Koil Street,
Cuddalore,
Tamil Nadu 607 112. ..Petitioner

vs

Deputy Commercial Tax Officer,
Panruti,
Cuddalore. ..Respondent

In W.P.No.22688 of 2026
Sharmila Sundar
Proprietrix,

M/s. Lakshitha Enterprises,
1st Floor, 9/1, Mandapam Road 3rd Street,
Kilpauk, Chennai 600 010. ..Petitioner

vs

1.The Deputy Commercial Tax Officer
Kilpauk Assessment circle,
No.1, Greams Road, 3rd Floor,
PAPJM Annex Building, Chennai-600 006.

2. The Appellate Deputy Commissioner (ST)
No.1, Greams Road,
Chennai 600 006.

3. Deputy State Tax Officer
Kilpauk Assessment Circle,
No.1, Greams Road,
Chennai 600 006. ..Respondents

In W.P.No.12838 of 2026
Tvl R K Enterprises,
Rep by its Accountant,
Ms.Kalaivani Suresh,
Having its place of business at
No.7/2, Thiruveethi Amman Koil Street,
Mannurpet, Chennai,
Tamil Nadu-600 050.
(GSTIN-33AJNPJ3746J1ZZ)
..Petitioner

vs

The State Tax Officer (ST),
Padi Assessment Circle,
No.4/109,Room No.10, 1st Floor,
Integrated Commercial Taxes Building,
Nazarathpet, Poonamalle, Chennai-600 123. ..Respondent

In W.P.Nos.44261 & 44253 of 2025
TVL Chenni Spun Pipes
Represented by its Proprietor,
Mrs. Annasamy Parameswari,
21/A- 8, Pasupathipuram,
Karur,
Tamil Nadu-639 001. ..Petitioner

vs

1.Assistant Commissioner (ST)
Karur-1 Circle, Karur, Tamil Nadu.

2.The State Tax Officer
Karur-1, Karur,Tamil Nadu ..Respondents

W.P.Nos.44260 & 44263 of 2025
M/s.Keen Erectors
Rep. by its Partner V.Bhaskaran No.52/204,
V O C Nagar, Thangamapuripattinam,
Salem, Mettur Dam-636 402 ..Petitioner

vs

The Assistant Commissioner
Mettur, Salem-II, Salem. ..Respondent

In W.P.No.7928 of 2026
Tvl Senthil Security Solutions
Represented by its Partner
Senthilraja Kandasamy
No 2, Station Road, Tambaram Sanitorium,
Chennai 47, Tamil Nadu. ..Petitioner

vs

Assistant Commissioner (ST)
Chrompet Assessment Circle,
Chennai. ..Respondent

PRAYER in W.P.No.21378 of 2026: Writ petition is filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus calling for the records on the files of the Respondent herein in FORM GST SPL - 07 with Reference No:ZD330925358649P dated 26.09.2025 and quash the same while directing the Respondent herein to re-dispose the application in FORM GST SPL - 02 dated 17.09.2025 filed by the Petitioners.

PRAYER in W.P.No.6259 of 2026: Writ petition is filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus quashing the detailed SPL-07 under Reference No.ZD3311252689629 dated 15.11.2025, as being violative of Section 128A and the circulars issued thereunder and direct the 1st Respondent to issue SPL - 05 approving the waiver application field by the Petitioner.

PRAYER in W.P.No.1311 of 2026: Writ petition is filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus quashing the detailed SPL-07 under Reference No. ZD331125349555E dated 20.11.2025, as being violative of Section 128A and the circulars issued thereunder and direct the Respondent to issue SPL-05 approving the waiver application filed by the Petitioner.

PRAYER in W.P.No.1317 of 2026: Writ petition is filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus quashing the detailed SPL-07 under Reference

No.ZD331125349691G dated 20.11.2025, as being violative of Section 128A and the circulars issued thereunder and direct the Respondents to issue SPL- 05 approving the waiver application field by the petitioner.

PRAYER in W.P.No.1320 of 2026: Writ petition is filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus quashing the detailed SPL-07 under Reference No.ZD3311253499952 dated 20.11.2025, as being violative of Section 128A and the circulars issued thereunder and direct the Respondents to issue SPL- 05 approving the waiver application field by the petitioner.

PRAYER in W.P.No.6246 of 2026: Writ petition is filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus quashing the detailed SPL-07 under Reference No.ZD331125113317W dated 07.11.2025, as being violative of Section 128A and the circulars issued thereunder and direct the Respondents to issue SPL- 05 approving the waiver application field by the petitioner.

PRAYER in W.P.No.6199 of 2026: Writ petition is filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus quashing the detailed SPL-07 under Reference No.ZD331125091485E dated 07.11.2025, as being violative of Section 128A and the circulars issued thereunder and direct the Respondents to issue SPL- 05 approving the waiver application field by the petitioner.

PRAYER in W.P.No.6230 of 2026: Writ petition is filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus quashing the impugned order in SPL-07 under Reference No.ZD331125263935B dated 14.11.2025, as being violative of Section 128A and the circulars issued thereunder and direct the Respondents to issue SPL- 05 approving the waiver application field by the petitioner.

PRAYER in W.P.No.11409 of 2025: Writ petition is filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus quashing the impugned order in SPL-07 under Reference No.ZD330925083773Y dated 08.09.2025, as being violative of Section 128A and the circulars issued thereunder and direct the Respondents to issue SPL- 05 approving the waiver application field by the petitioner.

PRAYER in W.P.No.38105 of 2025: Writ petition is filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus calling for the records and quashing the impugned order in SPL-07 under Reference No.ZD330223082213X along with summary order vide Reference No.ZD330825044769W dated 05.08.2025, as being violative of Section 128A and the circulars issued thereunder and direct the Respondents to issue SPL- 05 approving the waiver application field by the petitioner.

PRAYER in W.P.No.38101 of 2025: Writ petition is filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus calling for the records and quashing the impugned order in SPL-07 under Reference No.ZD330223082157N along with summary order vide Reference No.ZD330825044939V dated 05.08.2025, as being violative of Section 128A and the circulars issued thereunder and direct the Respondents to issue SPL- 05 approving the waiver application field by the petitioner.

PRAYER in W.P.No.9766 of 2026: Writ petition is filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorari calling for the records of the first respondent in his proceedings in GSTIN - 33AJBPM9391C1ZA, quash the order dated 22.09.2025 passed therein.

PRAYER in W.P.No.16441 of 2026: Writ petition is filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus calling for the records in the Impugned Order in form GST SPL 07 vide Order Ref No. ZD330126204582U, dated 29.01.2026 along with its accompanying detailed order and quash the same, and direct the respondent to consider the application made by the petitioner in form SPL 02 dated 24.12.2025.

PRAYER in W.P.No.11327 of 2026: Writ petition is filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorari calling for the records relating to the impugned order bearing reference number ZD3311231128644Q dated 21-11-2023 passed by the Respondent and quash the same as the same being arbitrary, passed in violation of the principles of natural justice, and thus render justice.

PRAYER in W.P.No.38025 of 2025: Writ petition is filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus directing the 1st respondent to consider the petitioner's application filed in Form GST SPL-02 dated 01.08.2025 for waiver of penalty and interest.

PRAYER in W.P.No.22085 of 2026: Writ petition is filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus calling for the records of Respondent Impugned Order GSTIN33AAECC9752GIZM/2018-2019 Dated 11.5.2026 along with SPL 07reference No. ZD330526081195C dated 11.5.2026 order for Rejection of application submitted under section 128A of CGST Act, 2017 and quash the same and consequently direct the Respondent to extend the benefit of waiver of interest and penalty under Section 128A of the CGST Act, 2017.

PRAYER in W.P.No.22087 of 2026: Writ petition is filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus calling for the records of Respondent Impugned Order GSTIN 33AAECC9752GIZM/2017-2018 Dated 11.5.2026 for the year 2017-2018 along with SPL 07 reference No.ZD330526081147D dated 11.5.2026 order for Rejection of application submitted under section 128 A of CGST Act, 2017 and quash the same and consequently direct the Respondent to extend the benefit of waiver of interest and penalty under Section 128A of the CGST Act, 2017.

PRAYER in W.P.No.6028 of 2026: Writ petition is filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorari calling for the records leading to the issuance of void order bearing reference no. GSTIN ZD331125070775E /2019-20 dated 05.11.2025 and consequential Assessment Order vide reference No. 33AGMPR9865J1ZJ /2019-20 dated 05.11.2025, passed by the Respondent herein and quash the same.

PRAYER in W.P.No.23886 of 2026: Writ petition is filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorari calling for the records of the Respondent leading to issuance of Impugned Order dated 17.12.2025 vide GSTIN 33AAJFG3949F1ZE/ 2019-20 and quash the same.

PRAYER in W.P.No.26393 of 2026: Writ petition is filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus calling for the records of the respondents demand order made in Reference No.ZD330925447297Y dated 30.09.2025 and quash the same and consequently direct the respondent to reconsider the petitioner waiver application in FORM GST SPL-02 dated 28.03.2025 made against the demand order in Reference No.ZD331223149792G dated 20.12.2023 and waive the interest and penalty.

PRAYER in W.P.No.26587 of 2026: Writ petition is filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorari calling for the records relating to the Respondent order in Form GST SPL 07 dated 31.10.2025 bearing reference no. ZD331025369145L, quash the same.

PRAYER in W.P.No.22688 of 2026: Writ petition is filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus calling for the records, relating to the Order in Reference No. ZD330126069253M dated 10.01.2026 passed by the first respondent, and quashing the same and consequently direct the respondents to grant the benefit of waiver under Section 128A.

PRAYER in W.P.No.12838 of 2026: Writ petition is filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus calling for the records relating to the Impugned Order in Form GST SPL-07 bearing Reference No.ZD331025029689A dated 06.10.2025 for the FY 2019-2020 passed by the Respondent herein, in respect of the Petitioner bearing GSTIN No.33AJNPJ3746J1ZZ, and quash the same, and further declare that the Petitioner is entitled to the benefit under Section 128A of the TNGST/CGST Act, 2017, and consequently direct the Respondent to grant waiver of interest and penalty.

PRAYER in W.P.No.44261 of 2025: Writ petition is filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus to call for the records on the files of the 1st Respondent herein in Form GST SPL-07, bearing Reference No. ZD3307251727932 dated 17.07.2025 and order passed in GSTIN 33CEFPP7642C2ZL/2018-19 dated 17.07.2025 and quash the same as being violative of Section 128A and the circulars issued thereunder and consequently direct the 1st Respondent to issue SPL - 05 approving the waiver application filed by the Petitioner.

PRAYER in W.P.No.44253 of 2025: Writ petition is filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus to call for the records on the files of the 2nd Respondent herein in FORM VOID ORDER bearing Reference No. ZD331025283953B dated 27.10.2025 and quash the same as being violative of Section 128A and the circulars issued thereunder and consequently direct the 2nd Respondent to issue SPL - 05 approving the waiver application filed by the Petitioner.

PRAYER in W.P.No.44260 of 2025: Writ petition is filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorari to call for the records of the respondent in his proceeding in Reference No. ZD3310251005070/2018-19 and quash the proceeding dated 11.10.2025 passed therein.

PRAYER in W.P.No.44263 of 2025: Writ petition is filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorari to call for the records of the respondent in his proceeding in Reference No.ZD3310251004840/2019-20 and quash the proceeding dated 11.10.2025 passed therein.

PRAYER in W.P.No.7928 of 2026: Writ petition is filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus calling for the records pursuant to the impugned void order of the respondent herein dated 17.12.2025 vide Ref No.ZD3312252739852 and quash the same and consequentially direct the respondent to issue SPL07 to the petitioner for denial of the petitioner’s application under sec. 128A of the TNGST ACT to enable the petitioner to prefer an appeal against the order.

For Petitioner in	
WP No.21378 of 2026	: Ms.S.Vishnupriya
WP Nos.6259, 1311, 1317, 1320, 6246, 6199 & 6230 of 2026 & 11409, 38105 & 38101 of 2025	: Mr.G.Natarajan Ms.N.Asmitha
WP No.9766 of 2026	: Mr.P.V.Sudakar
WP No.16441 of 2026	: Mr.K.G.Jayasuriya

WP No.11327 of 2026	: Mr.R.Sathishkumar
WP No.38025 of 2025	: Mr.A.Chandrasekaran
WP Nos.22085&22087 of 2026	: Mr.Bala Chandar P R
WP No.6028 of 2026	: Ms.Sri Harini S P
WP No.23886 of 2026	: Mr.S.Sathyanarayanan
WP No.26393 of 2026	: M.P.Suresh Babu
WP No.26587 of 2026	: Mr.Adithya Reddy
WP No.22688 of 2026	: Mr.P.Raja
WP No.12838 of 2026	: Mr.U.Sabari Kumar & Ms.L.Jyothy
WP Nos.44261 & 44253 of 2026	: Mr.A.N.R.Jayaprathap
WP Nos.44260 & 44263 of 2025	: Mr.B.Raveendran
WP No.7928 of 2026	: M/s.Lakshmi Gopinathan
For Respondents in all WPs	:Ms.Amirta Poonkodi Dinakaran, Govt. Advocate (Taxes) Mr.R.Sethu Prabakaran Govt.Advocate (Taxes)

COMMON ORDER

Each writ petitioner had applied under an amnesty scheme that finds expression in Section 128A of applicable GST enactments (the Amnesty Scheme). These applications were either rejected or approved and later nullified by a void order. In some cases orders were not passed within the time limits specified in Rule 164 of the applicable GST rules. Therefore, these petitions were lodged challenging denial of benefits under the Amnesty Scheme.

Counsel and their contentions

2. On behalf of the respective petitioner, arguments on the law were advanced by Mr. Natarajan, Mr.Sathyanarayanan, Ms.Sri Harini, Ms.Vishnu Priya and Mr.Chandrasekar. The other counsel adopted their arguments on the law and briefly explained the facts of individual cases.

3. The contentions advanced on behalf of the petitioners may be consolidated and summarized as under:

(i) Section 128A was inserted in the statute upon recognising the difficulties faced by taxpayers in the initial years of implementation of these laws. In support of this contention, the Minutes of the GST Council Meetings pertaining to the Amnesty Scheme were relied upon.

(ii) The answer to the query at Serial No.4 of paragraph 4 of Circular No.238/32/2024-GST dated 15.10.2024 of the Central Board of Indirect Taxes and Customs (CBIC) (Circular No.238) is contrary to Section 128A insofar as it excludes cases falling within the scope of sub-section (12) of

Section 75 from the ambit and scope of Section 128A.

(iii) Rule 164 prescribes time limits for issuance of notice in Form GST SPL-03 and for issuance of an order of rejection in Form GST SPL-07. If an order is not passed within the time limits specified in sub-rule (13), the application shall be deemed to be approved and the proceeding shall be deemed to be concluded.

(iv) Orders issued in Form GST SPL-05 become void only in cases where sub-rule (16) or sub-rule (17) applies. Sub-rules (16) and (17) of Rule 164 do not enable the proper officer to issue a void order after accepting the application and issuing an order in Form GST SPL-05. However, in some cases, orders declaring Form GST SPL-05 orders issued earlier void have been issued("void orders"), even though sub-rule (16) or sub-rule (17) has no relevance or applicability.

(v) Sub-rule (6) of Rule 164 does not mandate the filing of an application for waiver within a period of three months from the notified date. This follows from the use of the permissive word "may" in said sub-rule. Consequently, an application filed within a reasonable time after the stipulated date is liable to be considered subject to fulfilment of other requirements.

4. The following judgments and authorities were referred to and relied on in support of the above contentions:

(a). Sarwan Singh (Shri) and Anr. v. Shri Kasturi Lal (1977) 1 SCC 750;

(b). State of Bihar and others versus Bihar Rajya M.S.E.S.K.K Mahasangh and Others (2005) 9 SCC 129 (State of Bihar);

(c). Maruti Udyog Ltd v. Ram Lal and others (2005) 2 SCC 638;

(d). Commissioner of Central Excise, New Delhi v. Hari Chand Shri Gopal and others (2011) 1 SCC 236;

(e). M/s. Sun Tamil Nadu Security Management Services Private Limited v. The Commissioner of GST and Central Excise 2025 (9) TMI 1142 - Madras High Court;

(f). Order of this Court in Ms Happy Unicorn Creative Communications v. The Superintendent of GST and Central Excise Range - III (W.P. Nos.14839 & 14841 of 2026) dated 16.04.2026;

(g). M/s. Akshaya Borewells v. Assistant Commissioner of Central Tax and Central Excise, Hosapete 2026(5) TMI 859 - Karnataka High Court (Akshaya Borewells)

(h). M/s. Sri Laxmi Borewell Agencies v. Assistant Commissioner of Central Tax, Hosapete, 2026 (5) TMI 122 - Karnataka High Court (Sri Lakshmi Borewell); and

(i). Minutes of the 53rd and 54th Meetings of the GST Council

5. In response to these contentions, oral submissions were made by Ms.Amirta Poonkodi Dinakaran, learned Government Counsel, and Mr.Sethu Prabakaran, learned Government Counsel. Written submissions were also filed by the respondents. Their contentions may be summarized as under:

(i) In construing Sections 73 and 128A, the scheme of the statute should be taken into consideration. The charging provision is contained in Section 9. Outward supply is reported in GSTR-1 under Section 37 read with Rule 59 and taxes are paid by filing Form GSTR 3B as per Section 39 read with Rule 61.

(ii) Section 73(1) uses the expression “person chargeable with tax”. An identical expression finds place in Section 74. Neither Section 73 nor Section 74 uses the expression “amount payable by a person” because tax liability is required to be first determined in cases falling within the scope thereof, whereas, said expression finds place in sub-section(1) of Section 79 which deals with recovery of determined or admitted liability.

(iii) Section 75(12) pertains to amounts payable as self-assessed tax. Said provision opens with a *non obstante* clause and is intended to override anything inconsistent therewith in Sections 73 or 74 or 74A.

(iv) Section 75 (12) was introduced to enable the Tax Department to directly resort to recovery measures under Section 79 in case of non-payment of self-assessed tax. The Explanation to sub-section (12) of Section 75 was introduced after taking note of the fact that a higher value was being reported in the GSTR-1 return, whereas a lower amount was being reflected in the corresponding GSTR- 3B return resulting in short payment of admitted taxes.

(v) Section 80, which deals with an application for payment of taxes in installments, expressly excludes self-assessed liability. This indicates that self-assessed liabilities and liabilities determined by adjudication are dealt with separately in the statute.

(vi) If Section 128A is interpreted by bearing in mind the overall scheme of the statute, there is an implied exclusion of cases falling within the purview of sub-section (12) of Section 75. Circular No.238 merely clarifies this position.

(vii) Both Sections 73 and 128A qualify as machinery provisions of the tax statute. Strict construction is not warranted while construing machinery provisions as opposed to charging provisions.

(viii) Both Sections 75(12) and Section 128A open with a *non* *obstante* clause. Therefore, both these provisions are required to be construed harmoniously and given effect to. Hence, Section 128A should be understood as excluding cases falling within the purview of Section 75(12).

(ix) Because orders were issued in Form GST SPL-05 under sub-rule (10) of Rule 164 without authority or jurisdiction, said orders were rectified under Section 161 of applicable GST enactments by issuing void orders.

6. In support of these contentions, the following judgments were relied upon:

(a). Dominion of India (Now The Union of India) and Anr. v. Shrinbai A. Irani and Anr. (1954) 2 SCC 1;

(b). Av. R.A. Veerappa Chettiar v. The Commissioner of Income Tax, Madras (1959) 35 ITR 322;

(c). Commissioner of Income Tax, Bombay City v. M K Kirtikar (1959) 36 ITR 360;

(d). Chandrakant Krishnarao Pradhan and Another v. Shri Jasjit Singh, The Collector of Customs, Bombay and Ors. 1961 SCC OnLine SC 107;

(e). Sarwan Singh (Shri) and Anr. v. Shri Kasturi Lal (1977) 1 SCC 750;

(f). Associated Cement Company Limited v. Commercial Tax Officer, Kota and Others (1981) 4 SCC 578 (Associated Cement);

(g). JK Synthetics Ltd. v. Commercial Tax Officer (1994) 4 SCC 276 (JK Synthetics);

(h).Bharti Telecom Ltd. v. The Commissioner of Customs MANU/SC/0768/2001 (Bharti Telecom);

(i). State of Bihar and others v. Bihar Rajya M.S.E.S.K.K Mahasangh and Others (2005) 9 SCC 129;

(j). Amrit Banaspati Co. Ltd. and Anr. v. State of Punjab and Anr. (1992) 2 SCC 411 (Amrit Banaspati);

(k). Commissioner of Income Tax v. Vasavip Ratap Chand (2002) 255 ITR 517;

(l). GE India Technology Centre Pvt. Ltd. v. Commissioner of Income Tax and Anr. (2010) 10 SCC 29;

(m). Tvl. Victus Dyeings v. Assistant Commissioner (ST), Rural Assessment Circle, Tirupur 2019 SCC Online Mad 39951; and

(n). M/s. Yashi Constructions v. Union of India & others 2022 (3) TMI 110 - SC Order

Discussion, analysis and conclusions

7. The interpretation of Section 128A is the central issue in these cases. The genesis of said provision is traceable to proceedings of the GST Council. Relevant extracts from the 53rd GST Council Meeting are set out below:

> *"Agenda Item 3(vii): Insertion of Section 128A in CGST Act, to provide for conditional waiver of interest or penalty or both relating to demands raised under Section 73. for FY 2017-18 to FY 2019-20.*
>
> *4.91 The Pr. Commissioner, GST Policy Wing stated that a large number of representations have been received seeking relief from interest and penalties, considering the challenges faced by taxpayers during the initial years of implementation of GST and to encourage compliance and support businesses to move forward.*
>
> *4.92 He stated that Law Committee deliberated on this issue and recommended providing a waiver of interest and penalty to the demand notices issued under Section 73 of the CGST Act, 2017, for FY 2017-18, FY 2018-19 and FY 2019-20, i.e. cases not involving fraud or wilful misstatement or suppression of facts, subject to the condition that the said*

taxpayer pays the full amount of tax demanded upto a date as may be notified on the recommendations of the Council. Law Committee also recommended that such waiver may not be extended in respect of cases involving charges of fraud or wilful misstatement or suppression of facts to evade tax, i.e. where demand notices have been issued under section 74 of CGST Act and also in cases involving demands of erroneous refund.

4.93 Law Committee also recommended that in case, where demand notice has been issued under section 74 of CGST Act, but during the appellate or court proceedings, it is concluded that charges of fraud or wilful misstatement or suppression of facts to evade tax are not established against the noticee, and the tax is required to be determined by proper officer under section 73 of CGST Act as per section 75(2) of CGST Act, the benefit of such waiver of interest and penalty may be made available in such cases as well. He further stated that the Law Committee has also recommended that in cases where interest and penalty have already been paid in respect of any demand/ proceedings for the said financial years, no refund shall be admissible for the same. To implement the said recommendations for waiver of interest and penalty, the Law Committee recommended insertion of Section 128A in the CGST Act as detailed in the agenda note."

8. This resulted in the insertion of Section 128A in the statute with effect from 01.11.2024. Section 128A reads as under:

*"**128A. Waiver of interest or penalty or both relating to demands raised under section 73, for certain tax periods***

1) Notwithstanding anything to the contrary contained in this Act, where any amount of tax is payable by a person chargeable with tax in accordance with,—

(a) a notice issued under sub-section (1) of section 73 or a statement issued under sub-section (3) of section 73, and where no order under sub-section (9) of section 73 has been issued; or

(b) an order passed under sub-section (9) of section 73, and where no order under sub-section (11) of section 107 or sub-section (1) of section 108 has been passed; or

*(c) an order passed under sub-section (11) of section 107 or sub-section (1) of section 108, and where no order under sub-section (1) of section 113 has been passed, pertaining to the period from 1st July, 2017 to 31st March, 2020, or a part thereof, and the **said person pays the full amount of tax payable as per the notice or statement or the order referred to in clause (a), clause (b) or clause (c), as the case may be, on or before the date, as may be notified by the Government on the recommendations of the Council, no interest under section 50 and penalty under this Act, shall be***

payable and all the proceedings in respect of the said notice or order or statement, as the case may be, shall be deemed to be concluded, subject to such conditions as may be prescribed*:*

Provided that where a notice has been issued under sub-section (1) of section 74, and an order is passed or required to be passed by the proper officer in pursuance of the direction of the Appellate Authority or Appellate Tribunal or a court in accordance with the provisions of sub-section (2) of section 75, the said notice or order shall be considered to be a notice or order, as the case may be, referred to in clause (a) or clause (b) of this sub-section:

Provided further that the conclusion of the proceedings under this sub-section*, in cases where an application is filed under sub-section (3) of section 107 or under sub-section (3) of section 112 or an appeal is filed by an officer of central tax under sub-section (1) of section 117 or under sub-section (1) of section 118 or where any proceedings are initiated under sub-section (1) of section 108, against an order referred to in clause (b) or clause (c) or against the directions of the Appellate Authority or the Appellate Tribunal or the court referred to in the first proviso,* ***shall be subject to the condition that the said person pays the additional amount of tax payable, if any, in accordance with the order of the Appellate Authority or the Appellate Tribunal or the court or***

the Revisional Authority, as the case may be, within three months from the date of the said order*:*

Provided also that where such interest and penalty has already been paid, no refund of the same shall be available.

(2) ***Nothing contained in sub-section (1) shall be applicable in respect of any amount payable by the person on account of erroneous refund.***

(3) Nothing contained in sub-section (1) shall be applicable in respect of cases where an appeal or writ petition filed by the said person is pending before Appellate Authority or Appellate Tribunal or a court, as the case may be, and has not been withdrawn by the said person on or before the date notified under sub-section (1).

(4) Notwithstanding anything contained in this Act, where any amount specified under sub-section (1) has been paid and the proceedings are deemed to be concluded under the said sub-section, no appeal under sub-section (1) of section 107 or sub-section (1) of section 112 shall lie against an order referred to in clause (b) or clause (c) of sub-section (1), as the case may be."

(emphasis added)

9. As is evident on examining sub-section (1) thereof, the initial trigger for lodging an application under this provision is the initiation of

action under Section 73. The inference that follows is that this provision cannot be invoked unless the revenue resorts to and initiates proceedings against a taxable person under Section 73 of applicable GST enactments. Clause (a) of sub-section (1) enables the filing of a waiver application after the issuance of notice under sub-section (1) of Section 73 or the issuance of a statement under sub-section (3) thereof provided an order has not been issued under sub-section (9) of section 73. Clause (b) is attracted in cases wherein an order has been issued under sub-section (9) of Section 73, but no appellate order has been issued either under sub-section (11) of Section 107 or sub-section (1) of Section 108. Clause (c) is attracted in cases wherein an order has been issued by the appellate authority either under sub-section (11) of Section 107 or sub-section (1) of Section 108, but no order has been passed by the appellate tribunal under sub-section (1) of Section 113.

10. If a case were to fall within any of these clauses, it becomes possible for the taxable person to lodge an application subject to satisfaction of the following conditions:

(a) the tax payable should relate to the period running from 01.07.2017 to 31.03.2020 or a part thereof;

(b) the taxable person should pay the full amount of tax as per the notice, statement or order, as the case may be, referred to in the above three clauses;

(c) the payment is required to be made on or before the date notified by the Government on the recommendation of the GST Council;

(d) no appeal or writ petition should be pending as on the notified date before the appellate authority or appellate tribunal or court in respect of the subject matter of the waiver application;

(e) the application for waiver should not relate to a proceeding in respect of erroneous refund; and

(f) any other condition prescribed in this regard.

11. Subject to satisfaction of these conditions, no interest under Section 50 or penalty under the statute would be payable by the taxable person concerned. While enacting the provision, Parliament was also conscious of the fact that a proceeding may have been initiated under Section 74 of applicable GST enactments and the appellate authority or appellate tribunal or court, as the case may be, may conclude that the proceeding ought to be conducted under Section 73 and not under

Section 74. If a proceeding under Section 74 were to be interfered with on that ground, Parliament thought fit to enable the filing of an application under Section 128A in that situation also. The first proviso to sub-section (1) of Section 128A fulfils this role.

12. By Notification No.21/2024-Central Tax dated 08.10.2024, which was issued by the CBIC pursuant to powers conferred by sub-section (1) of Section 128A, the due date for payment of the full amount of tax was fixed as 31.03.2025 in cases falling within clauses (a) to (c) of the above mentioned provision and at 6 months from the issuance of the order redetermining tax under Section 73 in cases falling under the first proviso to Section 128A.

13. The second proviso to Section 128A deals with additional amounts being directed to be paid in appellate proceedings initiated by the revenue. The payment thereof within 3 months from the date of the order is an additional condition under Section 128A. I will return to this provision while discussing void orders.

14. In order to implement this provision, Rule 164 was framed. Said Rule is set out below:

*"164. **Procedure and conditions for closure of proceedings under section 128A in respect of demands issued under section 73.**--*

(1) Any person who is eligible for waiver of interest, or penalty, or both in respect of a notice or a statement mentioned in clause (a) of sub-section (1) of section 128A, may file an application electronically in FORM GST SPL-01 on the common portal, providing the details of the said notice or the statement, as the case may be, along with the details of the payments made in FORM GST DRC-03 towards the tax demanded.

(2) Any person who is eligible for waiver of interest, or penalty, or both, in respect of orders mentioned in clauses (b) and (c) of sub-section (1) of section 128A, may file an application electronically in FORM GST SPL 02 on the common portal, providing the details of the said order, along with the details of the payments made towards the tax demanded:

PROVIDED that the payment towards such tax demanded shall be made only by crediting the amount in the electronic liability register against the debit entry created by the said order:

PROVIDED FURTHER that if the payment towards such tax demanded has been made through FORM GST DRC-03, an application in FORM GST DRC-03A, as prescribed in sub-rule (2B) of rule 142, shall be filed by the said person for credit of the said amount in the Electronic Liability Register against the debit entry created for the said demand, before filing the application in FORM GST SPL 02.

(3) Where the notice or statement or order mentioned in sub-section (1) of section 128A includes demand of tax, partially on account of erroneous refund and partially for other reasons, an application under sub- rule (1) or sub-rule (2) may be filed only after payment of the full amount of tax demanded in the said notice or statement or order, on or before the date notified under the said sub-section.

(4) Where the notice or statement or order mentioned in sub-section (1) of section 128A includes demand of tax, partially for the period mentioned in the said sub-section and partially for the period other than that mentioned in the said sub-section, an application under sub-rule (1) or sub-rule (2) may be filed only after payment of the full amount of tax related to period mentioned in the said sub-section and demanded in the said notice or statement or order, on or before the date notified under the said sub-section.

Explanation: - No refund shall be available for any tax, interest, and penalty, which has already been discharged for *the entire period, prior to the commencement of the Central Goods and Services Tax (Second Amendment) Rules, 2025, in cases where a notice or statement or order mentioned in sub-section (1) of section 128A, includes a demand of tax, partially for the period mentioned in the said sub-section and partially for a period other than mentioned in the said sub-section].*

(5) The amount payable under sub-rule (1) or sub-rule (2) shall be the amount that remains payable, after deducting the amount not payable in accordance with sub-section (5) or sub-section (6) of section 16, from the amount payable in terms of the notice or statement or order under section 73, as the case may be.

(6) ***Any person who wishes to file an application under sub-rule (1) or sub-rule (2), may do so within a period of three months from the date notified under sub-section (1) of section 128A****:*

PROVIDED that where an application in ***FORM GST SPL-02 is to be filed in cases referred to in the first proviso to sub-section (1) of section 128A, the time limit for filing the said application shall be six months from the date of communication of the order of the proper officer redetermining such tax under section 73.***

(7) The application under sub-rule (1) or sub-rule (2) shall be accompanied by documents evidencing withdrawal of appeal or writ petition, if any, filed before any Appellate

Authority, or Tribunal or Court, as the case may be, to establish that the applicant is eligible for the waiver of interest or penalty or both, in terms of section 128A:

PROVIDED that where the applicant has filed an application for withdrawal of an appeal or writ petition filed before the Appellate Authority or Appellate Tribunal or a court, as the case may be, but the order for withdrawal has not been issued by the concerned authority till the date of filing of the application under sub-rule (1) or sub-rule (2), the applicant shall upload the copy of such application or document filed for withdrawal of the said appeal or writ petition along with the application under sub-rule (1) or sub-rule (2), and shall upload the copy of the order for withdrawal of the said appeal or writ petition on the common portal, within one month of the issuance of the said order for withdrawal by the concerned authority:

PROVIDED FURTHER that where the notice or statement or order mentioned in sub-section(1) of section 128A of the Act includes demand of tax, partially for the period mentioned in the said sub-section and partially for the period other than that mentioned in the said sub-section, the applicant instead of withdrawing the appeal, shall intimate the appellate authority or Appellate Tribunal that he does not wish to pursue the appeal for the period mentioned in the said sub-section and the relevant authority shall, after taking note of the *said request, pass such order for the period other than that mentioned in the said sub-section, as he thinks just and proper.*

Explanation: For the removal of doubt, it is clarified that the appeal application shall be deemed to have been withdrawn to the extent of the said intimation for the period from the 1st July, 2017 to the 31st March, 2020 or part thereof, for the purpose of sub-clause (3) of section 128A.]

*(8) Where the proper officer is of the view that the application made in **FORM GST SPL-01 or FORM GST SPL-02** is liable to be rejected as not being eligible for waiver of interest, or penalty, or both, as per section 128A, he shall issue a notice on the common portal to the applicant in **FORM GST SPL-03** within three months from the date of receipt of the said application and shall also give the applicant an opportunity of being heard.*

*(9) On receiving the notice under sub-rule (8), the applicant may file a reply to the said notice on the common portal in **FORM GST SPL-04**, within a period of one month from the date of receipt of the said notice.*

(10) If the proper officer is satisfied that the applicant is eligible for waiver of interest and penalty as per section 128A, he shall issue an order in FORM GST SPL-05 on the common portal accepting the said application and concluding the proceedings under section 128A.

*(11) In cases where the order in F**ORM GST SPL-05** is issued by the proper officer under sub-rule (10).-*

(a) in respect of an application filed in FORM GST SPL-01 pertaining to a notice or statement referred to in clause (a) of sub-section (1) of section 128A, the summary of order in FORM GST DRC-07 as per sub-rule (5) of rule 142 shall not be required to be issued by the proper officer, in respect of the said notice or statement;

*(b) in respect of an application filed in **FORM GST SPL-02** pertaining to an order referred to in clause (b) or clause (c) of sub-section (1) of section 128A, the liability created in the part II of Electronic Liability Register, shall be modified accordingly.*

*(12) If the proper officer is not satisfied with the reply of the applicant, the proper officer shall issue an order in **FORM GST SPL-07** rejecting the said application.*

(13) (a) In cases where notice in FORM GST SPL-03 has not been issued, the proper officer shall issue the order under sub-rule (10) within a period of three months from the date of receipt of the application in FORM GST SPL-01 or FORM GST SPL-02, as the case may be.

(b) In cases where notice in FORM GST SPL-03 has

been issued, the proper officer shall issue the order in sub-rule (10) or sub-rule (12) within a period of three months from the date of receipt of reply of the applicant in FORM GST SPL-04, or within a period of four months from the date of issuance of notice in FORM GST SPL-03 where no reply is received from the applicant.

Explanation.-For the purposes of this sub-rule, in cases referred to in the proviso to sub-rule (7), the time period from the date of filing of the application under sub-rule (1) or sub-rule (2) till the date of submission of the order for withdrawal of the appeal or the writ, as the case may be, shall not be included while calculating the time period under clause (a) or clause (b) of this sub-rule.

(14) If no order is issued by the proper officer within the time limit specified in sub-rule (13), then the application in FORM GST SPL-01 or FORM GST SPL-02, as the case may be, shall be deemed to be approved and the proceedings shall be deemed to be concluded.

(15) (a) In cases where no appeal is filed against the order in ***FORM GST SPL-07*** *within the time period specified in sub-section (1) of section 107, the original appeal, if any, filed by the applicant against the order mentioned in clause (b) or clause (c) of sub-section (1) of section 128A, and withdrawn for filing the application in* ***FORM GST SPL-02*** *in accordance with*

sub-section (3) of section 128A, shall be restored.

(b) In cases where an appeal is filed against the order in ***FORM GST SPL-07*** *for rejection of application for waiver of interest, or penalty, or both, if–*

(i) the appellate authority has held that the proper officer has wrongly rejected the application for waiver of interest, or penalty, or both, in ***FORM GST SPL-07****, the said appellate authority shall pass an order in* ***FORM GST SPL-06*** *on the common portal accepting the said application and concluding the proceedings under section 128A; or*

(ii) the appellate authority has held that the proper officer has rightly rejected the application for waiver of interest, or penalty, or both, in ***FORM GST SPL-07****, the original appeal, if any, filed by the applicant against the order mentioned in clause (b) or clause (c) of sub-section (1) of section 128A, and withdrawn for filing the application in* ***FORM GST SPL-02*** *in accordance with sub-section (3) of section 128A, shall be restored, subject to condition that the applicant files an undertaking electronically on the portal in* ***FORM GST SPL-08,*** *within a period of three months from the date of issuance of the order by the appellate authority in*

FORM GST APL-04, that he has neither filed nor intends to file any appeal against the said order of the Appellate Authority.

(16) In cases where the taxpayer is required to pay an additional amount of tax liability as per the second proviso to sub-section (1) of section 128A, and such additional payment is not made within the time limit specified in the said proviso, the waiver of interest, or penalty, or both, under the said section as per the order issued in FORM GST SPL-05 or FORM GST SPL-06, if any, shall become void.

(17) In cases where the taxpayer is required to pay any amount of interest, or penalty, or both, in respect of any demand pertaining to erroneous refund or on account of demand pertaining to the period other than the period mentioned in sub-section (1) of section 128A, and the details of such amount have been mentioned in FORM GST SPL-05 or FORM GST SPL-06, the applicant shall pay the said amount of interest, or penalty, or both, within a period of three months from the date of issuance of the order in FORM GST SPL-05 or FORM GST SPL-06, as the case may be, and where the said amount is not paid within the said time period, the waiver of interest, or penalty, or both, under section 128A as per the order issued in FORM GST SPL-05 or FORM GST SPL-06, shall become void.

Explanation.-For the purposes of this rule, the proper officer for issuance of order under this rule,-

(a) in cases where the application for waiver of interest, or penalty, or both is made with respect to a notice or statement mentioned in clause (a) of sub-section (1) of section 128A, shall be the proper officer for issuance of order as per section 73; and

(b) in cases where the application for waiver of interest, or penalty, or both, is made with respect to an order mentioned in clause (b) or clause (c) of sub-section (1) of section 128A, shall be the proper officer referred to in section 79 of the Act.]"

(emphasis added)

15. Sub-rule (6) is particularly significant inasmuch as it fixes the deadline for filing a waiver application at 3 months from the notified date in cases falling within the scope of clauses (a) to (c) of Section 128A and at 6 months from the date of the order redetermining tax in cases falling within the scope of the first proviso to Section 128A. Sub-rule (13) fixes a time limit of 3 months for passing an approval order on an application for waiver where no show cause notice was issued in relation thereto and a time limit of 3 months from the date of receipt of a reply for issuance of an approval or

rejection order where a reply was received, and a time limit of 4 months from the date of issuance of the show cause notice where a reply was not received. Sub-rule (14) prescribes the consequence of deemed approval and conclusion of proceedings if an order of approval or rejection, as the case may be, is not issued within the time limit specified in sub-rule (13). This, however, would operate subject to the applicant fulfilling the substantive requirements of Section 128A and not otherwise.

16. Sub-rules (16) and (17) deal with orders that become void. These sub-rules apply to orders issued in Form GST SPL-05 and Form GST SPL-06. The prescription in sub-rule (16) is with regard to the failure to discharge tax liability as per the second proviso to sub-section (1) of Section 128A in spite of such additional amount being mentioned in orders in Form GST SPL-05 or Form GST SPL-06. Sub-rule (17) applies to cases wherein interest or penalty or both relating to an erroneous refund or a demand relating to a period other than 01.07.2017 to 31.03.2020 is payable and said additional amount is mentioned in orders in Form GST SPL-05 or Form GST SPL-06. In cases wherein such additional payment is not made within the prescribed time limit, these sub-rules stipulate that the waiver of interest

or penalty or both in the order in Form GST SPL-05 or Form GST SPL-06 shall become void. The language used in the sub-rules indicate that no order is required under these sub-rules and that upon fulfilment of the requirements of the sub-rules, the waiver order becomes void by operation of law.

17. I have drawn attention to the second proviso to Section 128A read with sub-rule (16) of Rule 164 and to sub-rule (17) of Rule 164 primarily because void orders were issued in some of the cases after issuing an order in Form GST SPL-05. Except in the situations specified in sub-rules (16) and (17), neither the statute nor the rule enables the issuance of a void order.

Is there an implied exclusion of self-assessed tax in Section 128A?

18. The principal contention on behalf of the revenue is that Section 128A, by necessary implication, excludes cases falling within the scope of Section 75(12). In order to determine this issue, it is necessary to turn to Section 75(12). Said provision reads as under:

> *"Notwithstanding anything contained in section 73 or section 74 or section 74A, where any amount of self-*

assessed tax in accordance with a return furnished under section 39 remains unpaid, either wholly or partly, or any amount of interest payable on such tax remains unpaid, the same shall be recovered under the provisions of section 79.

Explanation : For purposes of this sub-section, the expression "self-assessed tax" shall include the tax payable in respect of details of outward supplies furnished under section 37, but not included in the return furnished under section 39."

It is pertinent to point out that sub-section (12) was part of the statute from inception, whereas the Explanation thereto was inserted by the Finance Act, 2021 through Notification No.39/2021-Central Tax, dated 21.12.2021, with effect from 01.01.2022. In view thereof, it is contended on behalf of the respective petitioner that the Explanation is not applicable in relation to proceedings pertaining to the period running from 01.07.2017 to 31.03.2020. For reasons that will become clear later, it is unnecessary for purposes of adjudication to deal with this aspect.

Interpreting the *non obstante* phrase in Section 75(12)

19. Placing reliance on the *non obstante* clause in sub-section (12), Ms. Amirta contended that said *non obstante* clause has the effect of

ensuring that Section 128A is rendered inapplicable in cases falling within the scope of Section 75(12). While several judgments relating to the interpretation of such clauses were cited on both sides of the bar, keeping in mind that both Sections 75(12) and 128A open with *non obstante* clauses, it is sufficient to quote the following paragraph from *State of Bihar*:

> *"46. When two or more laws or provisions operate in the same field and each contains a non obstante clause stating that its provision will override those of any other provisions of law, stimulating and intricate problems of interpretation arise. In resolving such problems of interpretation, no strict principles can be applied except to refer to the object and purpose of each of the two provisions, containing a non obstante clause, require a harmonious interpretation of the two seemingly conflicting provisions in the same Act. In this difficult exercise, there are involved proper considerations of giving effect to the object and purpose of two provisions and the language employed in each."*

20. Keeping in mind the above principles, I examine Section 75(12). The *non obstante* clause provides that it will operate "notwithstanding anything contained in Section 73 or Section 74 or Section 74A". Thus, from

the plain language, it is clear that it is intended to override anything inconsistent thereto in any of the three enumerated Sections. Hence, it becomes necessary to read this provision along with the enumerated provisions.

21. Because these matters relate only to Section 73, I turn to Section 73. For present purposes, it is sufficient to set out sub-sections (1), (2), (3) & (9) of Section 73 which read as under:

> *"73. (1)* ***Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised for any reason****, other than the reason of fraud or any wilful-misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty leviable under the provisions of this Act or the rules made thereunder.*

(2) The proper officer shall issue the notice under sub-section (1) at least three months prior to the time limit specified in sub-section (10) for issuance of order.

(3) Where a notice has been issued for any period under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for such periods other than those covered under sub-section (1), on the person chargeable with tax.

....

9) The proper officer shall, after considering the representation, if any, made by a person chargeable with tax, determine the amount of tax, interest and a penalty equivalent to ten per cent. of tax or ten thousand rupees, whichever is higher, due from such person and issue an order."

(emphasis added)

22. From the text of sub-section (1), it follows that this provision may be invoked to determine tax, interest and penalty (albeit in the manner prescribed therein) under the following circumstances:

(i) where tax has not been paid;

(ii) where tax has been short paid;

(iii) where tax was erroneously refunded; and

(iv) where ITC has been wrongly availed or utilised for any reason.

23. By a qualifying phrase, cases involving fraud, wilful misstatement and suppression of facts to evade tax are taken out of the purview of Section 73 and dealt with separately in Section 74. From the above enumeration, it follows that all cases where tax is either not paid or short paid fall within the scope of Section 73(1). This would include cases where self-assessed tax is not paid or short paid. Section 75(12) should be examined by bearing in mind this interplay between the two provisions. A useful way to undertake this exercise is to pose the question: what would be the consequence if Section 75(12) did not find place in the statute? It is conceivable that the revenue may nonetheless resort to Section 79 by contending that self-assessed tax is payable by the taxable person to the Government, and does not need to be determined under Section 73 or 74 or 74A. In such situation, in view of the wide scope of Sections 73, 74 and 74A, it would be open to the taxable person to contend that recovery measures cannot be initiated until determination is completed under one of the above provisions. Hence,

sub-section (12) of Section 75 was included in the statute and a *non obstante* clause was placed at the beginning so as to make it clear that revenue could, in such cases, resort to Section 79 without going through the determination process in cases wherein self-assessed tax is not paid. This is the limited role and function performed by the *non obstante* clause in sub-section (12) of Section 75.

24. In spite of Section 75(12) being pressed into service, the possibility of the taxable person contending that determination is necessary because there is no self-assessed liability, as per Section 75(12), or because the Explanation is inapplicable cannot be ruled out. This, however, is a distinct matter that may fall for adjudication in an appropriate case, but need not be decided for present purposes.

25. Contending that Section 128A is a machinery provision not warranting strict construction, Ms. Amirta relied on paragraphs 9 and 16 of *JK Synthetics* and paragraph 27 of *Associated Cement.* Reliance on these judgments does not advance the cause of the revenue. In *JK Synthetics,* a five judge bench of the Supreme Court concluded that interest liability under

Section 11B of the Rajasthan Sales Tax Act, 1954 will not accrue from the date of filing the self-assessed return by endorsing the minority view in *Associated Cement.* In passing, the Court observed that machinery provisions should be construed so as to effectuate the object and purpose of the statute. Merely because Section 128A is not a charging provision, it does not follow that an implied exclusion of self-assessed tax should be read into said provision. Any such implied exclusion should be warranted by text, as understood in context.

26. As discussed earlier, Section 128A was inserted in the statute long after Section 75(12) found place therein. The provision opens with a *non obstante* clause that is wider than that in Section 75(12) and reads as "notwithstanding anything to the contrary contained in this Act". If Parliament intended to exclude self-assessed tax from the purview of Section 128A, Parliament would not have inserted the above *non obstante* phrase. Instead, Parliament could easily have made it subject to Section 75(12) or included a qualifying phrase such as "other than cases falling within the scope of Section 75(12)" or "other than cases relating to non-payment of self-assessed tax". Indeed, it should be recognised that such an exclusion

finds place in Section 80 of applicable GST enactments wherein the phrase "other than the amount due as per the liability self-assessed in any return" is used. Pertinently, even in the GST Council Meeting that recommended the insertion of Section 128A, there was no discussion on the exclusion of unpaid self-assessed tax from the purview of Section 128A. There was discussion, however, on the exclusion of erroneous refund and this finds statutory expression in sub-section (2) of Section 128A. Considering these aspects and especially taking note of the width of the *non obstante* clause in Section 128A [in comparison with that in Section 75(12)], in the absence of a carve-out of the kind mentioned above, an implied exclusion of self-assessed tax liabilities cannot be read into Section 128A. The text read in context does not support such construction.

27. Another contention, in this regard, by the revenue was that interpreting Section 128A, as including self-assessed tax, denudes Section 75(12) of value and purpose. This contention is liable to be rejected as untenable. If there are payables in respect of self-assessed tax falling within the scope of Section 75(12), it is open to the revenue to invoke Section 79 without determining liability under Section 73. If this course of action were

to be adopted, an application under Section 128A would not lie because the initiation of proceedings under Section 73 is a *sine qua non* for a waiver application under Section 128A. The reason is not far to seek.

28. The policy underlying Section 128A is to extend the benefit of waiver of interest and penalty to a taxable person against whom determination proceedings are pending in relation to the period running from 01.07.2017 to 31.03.2020 (i.e. the initial years of GST laws implementation) provided such proceedings did not arise as a result of bad faith or *mala fide* conduct by the taxable person. The taxable person is incentivized by the waiver; the tax department by reducing the case load and thereby enabling redeployment of resources; and the Central and State Government concerned by the collection of taxes without awaiting determination-related original or appellate proceedings and recovery proceedings.

29. The revenue relied on Circular No.238 to contend that non-payment of self-assessed tax falls outside the scope of Section 128A. In particular, reliance was placed on the following clarification therein:

S.No.	Issue	Clarification
4	Whether the benefit provided under Section 128A will be applicable in cases, where the tax due has already been paid and the notice or demand orders under Section 73 only pertains to interest and/or penalty involved?	Where the tax due has already been paid and the notice or demand orders under Section 73 only pertains to interest and/or penalty involved, the same shall be considered for availing the benefit of section 128A. However, the benefit of waiver of interest and penalty shall not be applicable in the cases where the interest has been demanded on account of delayed filing of returns, or delayed reporting of any supply in the return, as such interest is related to demand of interest on self-assessed liability and does not pertain to any demand of tax dues and is directly recoverable under sub-section (12) of section 75.

It is unnecessary to cite authority for the proposition that a circular issued by the CBIC cannot curtail the scope and ambit of the statute. Therefore, the reliance on Circular No.238 for the rejection of waiver applications is misconceived.

Belated waiver applications

30. In some of the cases, the application for waiver was not filed within the prescribed time limit. A contention was raised that said time limit is directory and not mandatory. Sub-rule (6) of Rule 164 was pressed into service in support of this contention. Said sub-rule (6) reads as under

> *"(6) **Any person who wishes to file an application under sub-rule (1) or sub-rule (2), may do so within a period of three months from the date notified under sub-section (1) of section 128A:***
>
> ***Provided that where an application in FORM GST SPL-02 is to be filed in cases referred to in the first proviso to sub-section (1) of section 128A, the time limit for filing the said application shall be six months from the date of communication of the order of the proper officer redetermining such tax under section 73.**"* (emphasis added)

31. By focussing single mindedly on the word "may" in sub-rule (6), it was contended that the time limit of three months from the date notified under sub-section (1) of Section 128A is merely directory. The judgments of the Karnataka High Court in *Sri Lakshmi Borewell* and *Akshaya Borewells* were cited by Ms. Vishnupriya to bolster this contention. The fallacy in said contention is the fixation on one word in a sub-rule. It is needless to say that

any statutory prescription should be read as a whole. Sub-rule (6) opens with the following phrase: "Any person who wishes to file an application under sub-rule (1) or sub-rule (2)". This phrase underscores that the taxable person has the option of filing or not filing an application for waiver. In other words, it is no more than an enabling rule. If the taxable person were to opt to file such application, the time limit prescribed in the sub-rule becomes applicable. For the above reason, I am unable to endorse the view expressed in *Sri Lakshmi Borewell* and *Akshaya Borewells.* Nonetheless, it remains to be considered whether the stipulated time period is mandatory and this cannot be determined definitively without looking at the immediate context. It is instructive to first look at the proviso.

32. The proviso applies to cases wherein a determination is made under sub-section (2) of Section 75 that the proceedings should be conducted under Section 73 and not under Section 74. In those cases, the proviso fixes a time limit of six months from the date of communication of the order of the proper officer re-determining tax under Section 73. The proviso uses the mandatory word "shall". If the proviso were to be construed, therefore, as mandatory, it would be anomalous that a mandatory time limit is prescribed only in cases where there is re-determination

pursuant to an order under Section 75(2) but not otherwise. The other sub-rules in Rule 164, therefore, warrant consideration before drawing definitive conclusions in this regard.

33. After specifying time limits for filing an application in Form GST SPL-01 or Form GST SPL- 02, as the case may be, sub-rule (8) of Rule 164 prescribes that a show cause notice should be issued by the proper officer if he is of the view that the application is liable to be rejected. Such notice is required to be issued within three months from the date of receipt of the application for waiver. Sub-rule (9) prescribes a one month time limit for the applicant to respond to such show cause notice. As briefly discussed earlier, sub-rule (13)(a) prescribes an outer time limit within which an order should be issued under sub-rule (10) in cases wherein a show cause notice is not issued. Such time limit is three months from the date of receipt of the application. Clause (b) of sub-rule (13) prescribes the time limit for issuance of the order under sub-rule (10) or sub-rule (12), if a show cause notice were to be issued. The prescribed time limit in those cases is four months from the date of issuance of the show cause notice. Sub-rule (14) is particularly significant and prescribes that the application for waiver shall be deemed to be approved and proceedings relating thereto concluded if the proper officer

fails to pass the order within the time limit specified in sub-rule (13). As briefly stated earlier, properly construed, this benefit would only accrue to an applicant for waiver satisfying the substantive conditions stipulated in Section 128A. Any other construction would allow the sub-rule, which is a part of subordinate legislation, to override a provision in the parent statute.

34. Upon a holistic consideration of Rule 164, it appears that the process of consideration and disposal of waiver applications is time bound. More importantly, the drastic consequence of deemed approval and conclusion of proceedings is prescribed if an order of approval or rejection is not passed within the prescribed period. Therefore, I conclude that the time limits specified in Rule 164, including that specified in sub-rule (6), are liable to be construed as mandatory and not directory.

35. Without prejudice to the contention that sub-rule (6) of Rule 164 is directory and not mandatory, it was also contended by Ms. Vishnupriya, learned counsel for the petitioner in W.P.No.21378 of 2026, that there was substantial compliance with the requirements of the Amnesty Scheme. By relying on the judgment of the Hon'ble Supreme Court in *Hari Chand Shri Gopal,* it was submitted that the doctrine of substantial compliance applies in relation to exemption clauses in tax statutes notwithstanding the general

rule that such clauses should be subject to strict construction. This contention warrants careful consideration. Learned counsel also referred to the judgment of the Hon'ble Supreme Court in *Yashi Constructions* to contend that the Amnesty Scheme under Section 128A is distinguishable from the amnesty scheme considered by the Hon'ble Supreme Court therein (Sabka Vishwas Legacy Dispute Resolution Scheme, 2019) inasmuch as payment precedes lodging of an application under the Amnesty Scheme under consideration in these cases.

36. In order to decide whether there is substantial compliance, it becomes necessary to examine whether such non-compliance relates to the substance or essence of the prescription in the waiver scheme. At paragraphs 33 and 34 of the judgment in *Hari Chand Shri Gopal*, the Hon'ble Supreme Court instructed as under:

> *"**33**. A fiscal statute generally seeks to preserve the need to comply strictly with regulatory requirements that are important, especially when a party seeks the benefits of an exemption clause that are important. Substantial compliance with an enactment is insisted, where mandatory and directory requirements are lumped together, for in such a case, if mandatory requirements are complied with, it will be proper to say that the enactment has been substantially*

complied with notwithstanding the non- compliance of directory requirements. In cases where substantial compliance has been found, there has been actual compliance with the statute, albeit procedurally faulty. The doctrine of substantial compliance seeks to preserve the need to comply strictly with the conditions or requirements that are important to invoke a tax or duty exemption and to forgive non-compliance for either unimportant and tangential requirements or requirements that are so confusingly or incorrectly written that an earnest effort at compliance should be accepted.

34*. The test for determining the applicability of the substantial compliance doctrine has been the subject of a myriad of cases and quite often, the critical question to be examined is whether the requirements relate to the "substance" or "essence" of the statute, if so, strict adherence to those requirements is a precondition to give effect to that doctrine. On the other hand, if the requirements are procedural or directory in that they are not of the "essence" of the thing to be done but are given with a view to the orderly conduct of business, they may be fulfilled by substantial, if not strict compliance. In other words, a mere attempted compliance may not be sufficient, but actual compliance with those factors which are considered as essential."*

37. As discussed earlier, Rule 164 prescribes time limits for all activities dealt with therein beginning with the filing of an application for waiver. It is pertinent to notice that all these time limits either run from or are closely linked to the date of filing of the application. The rule also provides for deemed approval in case an order is not issued within the time limits specified in sub-rule (13) of Rule 164. These are clear indications that the time limit for filing an application forms part of the substance of the scheme. Substantial compliance may, in this context, be illustrated as follows: if the taxable person were to comply with all requirements of Section 128A read with Rule 164 except for filing the application for waiver in the form of a letter instead of filing it in Form GST SPL 01 or SPL 02, as the case may be, there would be a strong case to hold that there is substantial compliance. Another illustration: a taxable person, who satisfies all the requirements, endeavours to file the application on the last date but is unable to do so on account of a technical glitch and succeeds on the following date. Subject to providing proof of the above, this could qualify as substantial compliance.

38. The conclusions that follow from the above discussion and analysis of the relevant provisions may be summarised as under:

(i) The initiation of proceedings under Section 73 of applicable GST enactments is a *sine qua non* for filing an application for waiver.

(ii) If recovery measures were to be initiated under Section 79 of applicable GST enactments, without invoking Section 73, by relying on Section 75(12), the taxable person cannot file an application under Section 128A. On the other hand, once the revenue decides to determine liability under Section 73, whether in relation to self-assessed tax or otherwise, it is open to the taxable person to file an application under Section 128A.

(iii) Once an order accepting the waiver application is issued in Form GST SPL 05, unless the matter falls within the scope of sub-rule (16) or (17) of Rule 164, it is not open to the GST authorities to issue an order declaring that the earlier approval order is void by reference to Section 161 or otherwise.

(iv) If the order is not issued within the time limit prescribed in sub-rule (13), there shall be deemed approval of the application and conclusion of proceedings in terms of sub-rule (14), provided the substantive conditions stipulated in Section 128A are complied with.

(v) The implied exclusion of cases relating to self-assessed tax cannot be read into Section 128A. The meaning, as gleaned from the text and context, does not warrant such implied exclusion.

(vi) The scope and ambit of Section 128A cannot be curtailed by the issuance of Circular No.238.

(vii) The time limits prescribed in Rule 164 are mandatory.

Adjudication of individual cases

39. The individual cases forming part of this batch are required to be decided in light of the above principles. These cases fall into distinct categories. The first category, which is the largest, consists of cases wherein the taxable person concerned otherwise fulfilled all the requirements of Section 128A and Rule 164, but the waiver application was rejected on the ground that such application pertained to self-assessed tax arising out of belated filing of GSTR 3B returns. As will be noticeable, the reason for rejection is couched in some cases as ineligibility for waiver of interest. This is merely another way of framing rejection of waiver applications in relation to self-assessed tax. In some of these cases, the rejection orders were issued beyond the time limit prescribed in sub-rule (13). All these rejections are untenable and liable to be set aside for reasons discussed earlier. The particulars of these cases are set out below in a table:

W.P. No.	Petitioner	Respondent/ 1st Respondent	Date of Application (Form GST SPL 02)	Date of SCN (Form GST SPL 03)	Reply (Form GST SPL 04)	Date of Rejection (Form GST SPL 07) (Impugned order)	Reason for rejection stated in Form GST SPL 07
11409 of 2026	M/s. Sri Renuka Impex	The Deputy Commercial Tax Officer	31.03.2025	19.06.2025	Not filed	08.09.2025	Per Para 4 of Circular No. 238/32/2024-GST, Section 128A waiver does not extend to interest on delayed return filing or delayed reporting of supplies, as this relates to self-assessed liability recoverable under Section 75(12) of the CGST Act.
1311, 1317 & 1320 of 2026	Tvl. Goodwill Services	The Assistant Commissioner (ST)	Unclear (However, it is deducible from the date of SCN that the application was made within time.)	02.06.2025	Not filed	20.11.2025	The interest amount pertaining to the belated filing of GSTR-3B returns is not eligible for waiver under the scheme.
44260 & 44263 of 2025	M/s. Keen Erectors	The Assistant Commissioner	Unclear (However, it is deducible from the date of SCN that the application was made within time.)	14.05.2025	Not filed	11.10.2025	Interest levied for belated filing of GSTR 3B return cannot be waived
6199 of 2026	Tvl. Classic Services	The Assistant Commissioner (ST)	30.06.2025	12.09.2025	Not filed	07.11.2025	The waiver is sought for interest only. Hence, not eligible.
6246 of 2026			02.06.2025	06.06.2025		07.11.2025	
6259 of 2026			28.03.2025	02.06.2025		15.11.2025	The interest amount pertaining to the belated filing of GSTR-3B returns is not eligible for waiver under the scheme.
6230 of 2026	Tvl. Classic Services	State Tax Officer	11.03.2025	06.06.2025	Not filed	14.11.2025	Interest levied for belated payment of tax cannot be waived as per circular Circular No. 238/32/2024-GST.

W.P. No.	Petitioner	Respondent/ 1st Respondent	Date of Application (Form GST SPL 02)	Date of SCN (Form GST SPL 03)	Reply (Form GST SPL 04)	Date of Rejection (Form GST SPL 07) (Impugned order)	Reason for rejection stated in Form GST SPL 07
44261 of 2026	Tvl. Chenni Spun Pipes	Assistant Commissioner (ST)	07.03.2025	02.06.2025	25.06.2025	17.07.2025	Interest levied for belated filing of GSTR 3B return cannot be waived
12838 of 2025	Tvl.R.K.ENTERPRISES	The State Tax Officer (ST)	02.04.2025	13.05.2025	Not filed	06.10.2025	As the demand pertains to self-assessed tax under section 75(12) the taxpayer is not eligible for waiver of interest/ penalty u/s 128A
38101 & 38105 of 2025	Tvl. SKM Industries	The State Tax Officer	05.03.2025	05.06.2025	20.06.2025	05.08.2025	Interest levied for belated filing of GSTR 3B return and belated payment of tax cannot be waived
26587 of 2026	Oviya Construction	Deputy Commercial Tax Officer	24.06.2025	13.09.2025	Not filed	31.10.2025	As per Circular No. 238/32/2024-GST dated 15.10.2024, the benefit of waiver of interest and penalty shall not be applicable in the cases where the interest has been demanded on account of delayed filing of returns, or delayed reporting of any supply in the return, as such interest is related to demand of interest on self-assessed liability and does not pertain to any demand of tax dues and is directly recoverable u/s 75(12)
26393 of 2026	ABC Ceramic Services	The Assistant Commissioner	28.03.2025	04.09.2025	Not filed	30.09.2025	Ineligible for the waiver as the waiver was sought for a defect pertaining to GSTR -1 vs GSTR -3B

40. A second category, which is closely related to the first category, consists of cases wherein the waiver applications were initially allowed by issuing an order in Form GST SPL – 05. Subsequently, an order declaring the earlier order to be void was issued. These orders are also invalid for reasons discussed earlier and are liable to be set aside. The particulars of these cases are set out below:

W.P. No.	Petitioner	Respondent/ 1st Respondent	Date of Application(Form GST SPL 02)	Date of SCN (Form GST SPL 03)	Reply (Form GST SPL 04)	Form GST SPL 05	Void Order (Impugned order)	Reason for rejection state in Void Order
44253 of 2026	Tvl. Chenni Spun Pipes	Assistant Commissioner (ST)	07.03.2025	06.05.2025	08.05.2025	13.05.2025	27.10.2025	Waiver shall not b applicable in the case where interest has bee demanded on account o delayed filing of return reporting
7928 of 2026	Tvl. Senthil Security Solutions	Assistant Commissioner (ST)	12.06.2025	27.06.2025	28.06.2025	11.07.2025	17.12.2025	Ineligible for the waiver a per Circular 238/32/202 as the waiver was sough for a defect pertaining t GSTR - 7 Vs GSTR - 3B
23886 of 2026	Greenland Associates	State Tax Officer	31.03.2025	30.07.2025	04.09.2025	30.09.2025	17.12.2025	The taxpayer not eligib for waiver as per seria number 4 of Circular N 238/32/2024-GST date 15.10.2024
6028 of 2026	R.Venkatara manan	State Tax Officer	28.06.2025	-	-	01.11.2025	05.11.2025	Waiver order wa generated due to technical glitch in the GS portal.

41. A third category consists of cases where the application for waiver was filed belatedly or the payment was made belatedly. Since both these requirements are essential, these rejections are in order and no interference is warranted. The particulars of said cases are set out below:

Cases where the application for waiver was filed belatedly

W.P No.	Petitioner	Respondent/ 1st Respondent	Date of Application(Form GST SPL 02)	Date of Rejection (Form GST SPL 07) (Impugned Order)
9766 of 2026	Menaka	State Tax Officer	23.07.2025	23.09.2025
21378 of 2026	Incompressible Fluid Control System	The Assistant Commissioner	17.09.2025	26.09.2025
16441 of 2026	M/s KGK Industries	Deputy Commercial Tax Officer	24.12.2025	29.01.2026
22085 & 22087 of 2026	Tvl. Constient Global Solutions Private Limited	Assistant Commissioner (ST) (FAC)	15.04.2026	11.05.2026

Belated Payment

W.P No.	Petitioner	Respondent/ 1st Respondent	Date of Application(Form GST SPL 02)	Date of SCN (Form GST SPL 03)	Reply (Form GST SPL 04)	Date of Rejection (Form GST SPL 07)	Reason for Rejection (stated in order dated 10.01.2026)
22688 of 2026	Sharmila Sundar	Deputy Commercial Tax Officer	29.06.2025	02.07.2025	09.07.2025	10.01.2026	i)The payment was actually made only o 30.06.2025. ii)The taxpayer has not withdrawn th appeal within the due date of payment. (The appeal was not withdrawn and th final order was passed in the appeal o 23.06.2025, modifying the original order)

42. In W.P.No.11327 of 2026, the petitioner asserts that he was unaware of the order under Section 73 until the attachment order was issued. This is a case wherein no application for waiver has been filed as on date. In W.P.No.38025 of 2025, after filing a waiver application belatedly on 01.08.2025, the petitioner has requested for a Mandamus to direct the consideration thereof. Based on conclusions drawn earlier, these writ petitions are liable to be dismissed.

43. In conclusion, these writ petitions are disposed of on the following terms:

(a) W.P.Nos. 11409 of 2026, 1311 of 2026, 1317 of 2026, 1320 of 2026, 44260 of 2026, 44263 of 2025, 6199 of 2026, 6246 of 2026, 6259 of 2026, 6230 of 2026, 44261 of 2026, 12838 of 2025, 38101 of 2025, 38105 of 2025, 26587 of 2026, 26393 of 2026, 44253 of 2026, 7928 of 2026, 23886 of 2026 & 6028 of 2026 are allowed by setting aside the respective order of rejection of the waiver application or the void order, as the case may be, and holding that the respective petitioner is entitled to a waiver in terms of Section 128A. Where applicable, any consequential orders issued pursuant to orders declaring the approval order in Form GST SPL - 05 to be void are set aside.

(b) W.P. Nos. 9766 of 2026, 21378 of 2026, 16441 of 2026, 22085 of 2026, 22087 of 2026 and 22688 of 2026 are dismissed.

(c) W.P. No.38025 of 2025 is dismissed.

(d) W.P.No.11327 of 2026 is also dismissed.

(e) Consequently, connected miscellaneous petitions are closed. No costs.

28.07.2026

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

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To

1. The Assistant Commissioner
Thiruvanmiyur South III,
Chennai South, Tamil Nadu.

2. The Assistant Commissioner (ST),
Maraimalai Nagar Assessment Circle,
Station No.4/109, 2^{nd} Floor,
Bangalore Chennai Highway Varadharajapuram,
Poonamallee, Chennai 600 123.

3.The Deputy Commissioner (ST),
Chengalpattu Zone,
No.26, Abhirami Complex,
Kanchipuram High Road,
Thimmavaram,
Chengalpattu 603 101.

4. The Assistant Commissioner (ST),
Maraimalai Nagar Assessment Circle,
Station No.4/109, Second Floor,
Bangalore-Chennai Highway Varadharajapuram,
Poonamallee, Chennai-600 123.

5.The State Tax Officer,
Maraimalai Nagar Assessment Circle,
Station No.4/109, Second Floor,
Bangalore-Chennai Highway Varadharajapuram,
Poonamallee, Chennai-600 123.

6.The Deputy Commissioner (ST),
Chengalpattu Zone,No.26, Abhirami Complex,
Kanchipuram High Road,
Thimmavaram, Chengalpattu603101.

7.The Deputy Commercial Tax Officer,
Avinash Assessment Circle,
Avinashi, Coimbatore.

8.The State Tax Officer,
Hosur (North)-1, Assessment Circle,
Commercial Tax Department, 2^{nd} Floor,
Seethe Ram Nagar Meadu,
Hosur-635 109.

9. The State Tax Officer,
Villivakkam Assessment Circle, No.1,
Greams Road, PAPJM Annex Building,
2^{nd} Floor, Room No.207, Chennai-600 006.

10. The Assistant Commissioner (ST),
Villivakkam Assessment Circle,
No.15 & 16, 100 Feet Road,Malligai Avenue,
Chennai-600 099.

11.Deputy Commercial Tax Officer,
Kuniyamuthur-I,
Coimbatore.

12.Assistant commissioner (ST) (FAC)
Villivakkam Assessment Circle,
No.1, PAPJM Annex Building 2nd Floor,
Greams Road, Chennai 600 006.

13.The State Tax Officer
Chengalpattu Assessment circle,
Chengalpattu.

14.The State Tax Officer
Tambaram Assessment Circle,
Room No. 107 A, 1st Floor No. 46
Mylapore Taluk Office Building,

Pasumpon Muthuramalingam Salai,
Greenways Road, RA Puram,
Chennai -600 028.

15.The Assistant Commissioner ST,
Surapattu Assessment Circle,
Integrated Commercial Taxes Office Complex,
Room No.201, Elephant Gate Bridge Road,
Vepery, Chennai-3.

16.Deputy Commercial Tax Officer,Panruti,
Cuddalore.

17.The Deputy Commercial Tax Officer
Kilpauk Assessment circle,
No.1, Greams Road, 3rd Floor,
PAPJM Annex Building, Chennai-600 006.

18. The Appellate Deputy Commissioner (ST)
No.1, Greams Road,
Chennai 600 006.

19. Deputy State Tax Officer
Kilpauk Assessment Circle,
No.1, Greams Road,
Chennai 600 006.

20.The State Tax Officer (ST),
Padi Assessment Circle,
No.4/109,Room No.10, 1st Floor,
Integrated Commercial Taxes Building,
Nazarathpet, Poonamalle, Chennai-600 123.

21.Assistant Commissioner (ST)
Karur-1 Circle, Karur, Tamil Nadu.

22.The State Tax Officer
Karur-1, Karur,Tamil Nadu

23.The Assistant Commissioner
Mettur, Salem-II, Salem.

24.Assistant Commissioner (ST)
Chrompet Assessment Circle,
Chennai

SENTHILKUMAR RAMAMOORTHY J.

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WP Nos. 21378, 6259, 1311, 1317, 1320, 6199, 6230, 6246, 9766, 16441, 11327, 22085, 22087, 6028, 23886, 26393, 26587, 22688, 12838 & 7928 of 2026 & 11409, 38105, 38101, 38025, 44261, 44253, 44260 & 44263 of 2025 &
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28.07.2026