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APHC010322532026



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

[3543]

FRIDAY, THE 3rd DAY OF JULY 2026

PRESENT

THE HONOURABLE SRI JUSTICE NINALA JAYASURYA

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

WRIT PETITION NO: 17618/2026

Between:

1.SIVA ELECTRICALS, REPRESENTED BY SHRI. MEKALA SUDHAKAR, 50-348-L-17 A3, ARRORA NAGAR, B CAMP, KURNOOL, ANDHRA PRADESH - 518 002.

...PETITIONER

AND

1.THE ASSISTANT COMMISSIONER STATE TAX, KURNOOL - III CIRCLE, KURNOOL DIVISION, SY. NO. 7/B, NEAR INDUS SCHOOL, PANDIPADU (V), FIRST FLOOR, KURNOOL, ANDHRA PRADESH - 518 002.

2.THE STATE OF ANDHRA PRADESH, REPRESENTED BY ITS PRINCIPAL SECRETARY, REVENUE DEPARTMENT (COMMERCIAL TAX), A.P. SECRETARIAT VELEGAPUDI - 522 238.

3.UNION OF INDIA, DEPARTMENT OF REVENUE, REPRESENTED BY ITS SECRETARY (REVENUE), NORTH BLOCK, NEW DELHI - 110 001.

...RESPONDENT(S):

Counsel for the Petitioner:

- 1.ANIL KUMAR BEZAWADA

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:17618 of 2026

The Court made the following Order: (per NJS,J)

Heard learned counsel for the petitioner, who appeared through online.
Also heard Mr. R Kalyan Chakravarthy, learned Government Pleader for Commercial Tax, representing respondent Nos.1 and 2.

2. The present writ petition is filed seeking to quash the proceedings of respondent No.1 dated 17.04.2023 and demand of Rs.12,61,060/- towards GST along with interest on various grounds.

3. The petitioner, a Proprietary concern, registered under the A.P.G.S.T Act, 2017 *vide* GSTIN:37DCWPS0612F2ZA could not file GSTR-3B return for January, 2023 within the statutory time limit specified under Section 39. Under the said circumstances, respondent No.1 passed Assessment Order dated 17.04.2023 in question under Section 62 of CGST Act, 2017. Petitioner filed GSTR-1 Statement on 11.05.2023 and also filed GSTR-3B return on 29.05.2023 by paying the entire tax along with applicable late fees.

4. Learned counsel for the petitioner *inter alia* submits that Section 62(2) of CGST, 2017 which provides for filing of return within thirty (30) days from the date of service of Assessment Order was amended *vide* Notification No.28/2023 – Central Tax dated 31.07.2023 with effect from 01.10.2023 whereby the time limit of thirty days was increased to sixty days. He submits

that as the petitioner filed GSTR-3B return of January, 2023 within sixty days from the date of issuance of Assessment Order in question by paying the interest and late fee, the writ petition deserves to be allowed in terms of the orders of this Court in **Brothers Engineering and Erectors Ltd. Vs. State of Andhra Pradesh** reported in (2025) 34 Centax 39 (A.P.), etc. He also places reliance on the latest decision of this Court dated 26.11.2026 in W.P No.31323 of 2025 & etc., and seeks to allow the writ petition.

5. On the other hand, learned Government Pleader for Commercial Tax while refuting the said submissions contends that as the petitioner has not filed the return within the extended time as contemplated under Section 62(2) of CGST Act, it is not entitled for the relief sought for.

6. This Court has considered the submissions made and perused the material on record.

7. Admittedly, petitioner failed to submit the return for January, 2023 within thirty days from the date of Assessment Order. However, subsequently it not only paid the tax liability but also paid late fee for the delay in payment of tax. It is also not disputed that while filing return for the month of January, 2023, interest was paid.

8. In similar circumstances, a Division Bench of this Court in **Brothers Engineering and Erectors Ltd. Vs. State of Andhra Pradesh**, following earlier judgments of the Hon'ble High Court of Madras in **Helmet House vs. Deputy State tax Officer-1, Madurai** reported in (2024) 23 Centax 57 (Mad.)

held that the orders of assessment would be deemed to have been withdrawn, once returns had been filed within the prescribed time or beyond prescribed time along with payment of late fee.

9. In the present case, the said decision would apply.

10. Accordingly, this Writ Petition is allowed declaring that the Assessment Order dated 17.04.2023 passed under Section 62 of CGST Act is deemed to have been withdrawn and no steps for recovery can be initiated or continued for recovery of the tax and dues raised under the aforesaid order of assessment. No costs. Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE NINALA JAYASURYA

JUSTICE T.C.D.SEKHAR

Date:03.07.2026
Ksj

Whether the order is:

Speaking Yes/No / Reasoned Yes/No

Reportable Yes/No / Non-Reportable Yes/No