



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

FRIDAY, THE 14th DAY OF AUGUST 2026

PRESENT

THE HONOURABLE SRI JUSTICE NINALA JAYASURYA

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

WRIT PETITION NO: 23181 OF 2026

Between:

1. M/s. Sri Vijaya Traders, GSTID-37AEIPV5234R1ZK Rep. by its Proprietor,
Smt.V. Vijayalakshmi D.No.4-3, Bosu Bomma Centre Ratnam Cloth Store
Jangareddigudem-534447 West Godavari District, Andhra Pradesh

...Petitioner

AND

1. The Assistant Commissioner State Taxes, Jangareddigudem circle Eluru
Division, Jangareddigudem-534447 West Godavari District, A.P.

2. The State of Andhra Pradesh, Re. by its Principal Secretary, Revenue CT-
II Department, Secretariat, Velagapudi-522503 Amaravathi, Guntur Dist.,
Andhra Pradesh

3. The Union of India, Rep. by its Secretary (Finance) Ministry of Finance,
North Block, New Delhi 110001

...Respondents

Petition under Article 226 of the Constitution of India praying that in the
circumstances stated in the affidavit filed therewith, the High Court may be
pleased to issue an appropriate Writ Order or Direction more particularly in the
nature of Mandamus declaring the action of the 1st Respondent in not
withdrawing the impugned orders in Form ASMT-13, dated 10.10.2025 for the

month March 2025, under the AP Goods and Service Tax Act, 2017 even though the Petitioner had filed the returns in Form GSTR-3B for the said months after paying applicable taxes, late fees and interest, as illegal, arbitrary, in violation of principles of natural justice, contrary to Section 62(2) of the GST Act read with Rule 100(1) of the Goods and Service Tax Rules, 2017 and set aside the same,

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Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased grant stay of all further proceedings pursuant to the impugned GST orders in ASMT-13, dated 10.10.2025 for the month March 2025, passed by the 1st Respondent under Section 62 of the Act as in contravention of Section 62(2) of the Act, pending disposal of the Writ Petition, as otherwise the Petitioner will be put to severe loss and hardship

Counsel for the Petitioner: SRINIVASA RAO KUDUPUDI

Counsel for the Respondents: GP FOR COMMERCIAL TAX Counsel for the Respondents:

The Court made the following order:

THE HONOURABLE SRI JUSTICE NINALA JAYASURYA

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

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ORDER: *(per Hon'ble Sri Justice Ninala Jayasurya)*

The petitioner is registered dealer under GST Act vide GSTIN No.37AEIPV5234R1ZK on the rolls of State Tax Authorities. The petitioner did not file GSTR-3B returns for the period March, 2025. The 1st respondent issued notice dated 27.04.2025 under Section 46 of GST Act and despite the same, the petitioner did not turn up. In those circumstances, the 1st respondent has passed assessment order dated 10.10.2025 by exercising power under Section 62 of the said Act.

2. It is the case of the petitioner that he filed GSTR-3B returns on 16.06.2026 by remitting late fee and interest. The counsel for the petitioner would further submit that despite filing returns along with late fee and interest, the respondent authorities are insisting to pay the tax demanded through order passed under Section 62 of the Act. He would further submit that once the return is filed, the order passed under Section 62 would be deemed to have been withdrawn as per Section 62 upon payment of necessary late fee and interest. He would further submit that, in view of the fact that the return has been already filed, the respondent authorities cannot insist to pay the tax demanded under the impugned assessment order dated 10.10.2025.

3. Mr.S.A.V. Sai Kumar, learned Assistant Government Pleader for Commercial Tax, on instructions, would submit that the petitioner has filed returns for the tax period under dispute along with late fee and interest. He would further submit that appropriate orders be passed in the instant writ petition.

4. As per Section 62 of GST Act the Proper Officer may proceed to assess the tax liability of the registered person to the best of his judgment taking into account all the relevant material, which is available or which he has gathered and issue an assessment order, within a period of five (05) years from the date specified under Section 44 for furnishing of annual return for the financial year to which the tax not paid relates too.

5. Further as per Section 62(2), if the registered person furnishes valid return within sixty (60) days of service of assessment order under sub section (1), the said assessment order shall be deemed to have been withdrawn, but the liability for payment of interest under sub section (1) of section 50 or for payment of late fee under section 47 shall continue.

6. In the case on hand, subsequent to the passing of assessment order under Section 62, the petitioner had filed return for the period under dispute with late fees.

7. Further, similar issue has fallen for consideration before the Hon'ble High Court of Madras (Madurai Bench) in W.P.(MD) No.18740 of 2024 and after considering the same, the High Court of Madras had held that in view of

the amendment to Section 62(2) of the Act, it would be appropriate to condone the delay in filing GSTR 3-B returns and consequently the Assessment Order would have to be deemed to be withdrawn.

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

9. For the foregoing reasons, the assessment order dated 10.10.2025 passed by the 1st respondent for the tax period March, 2025 is deemed to have been withdrawn and the same is set aside. All the consequent proceedings pursuant to the assessment order dated 10.10.2025 shall also stand revoked.

10. Accordingly, the writ petition is allowed. There shall be no order as to costs. Miscellaneous petitions, if any, shall stand closed.

NINALA JAYASURYA, J

T.C.D.SEKHAR, J

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**THE HONOURABLE SRI JUSTICE NINALA JAYASURYA
AND
THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR**

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Dt. 14.08.2026

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