APHC010387882026

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

FRIDAY, THE 31st DAY OF JULY 2026

PRESENT

THE HONOURABLE SRI JUSTICE NINALA JAYASURYA

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

WRIT PETITION NO: 21273/2026

Between:

1. K SANDEEP NAIDU, WORKS CONTRACTOR, A SOLE PROPRIETORSHIP CONCERN, HAVING ITS REGISTERED PREMISES AT D. NO. 25/688/D, TTD ROAD, NEAR TTD KALYANA MANDAPAM, SRINIVAS NAGAR, NANDYAL - 518501, KURNOOL DISTRICT, ANDHRA PRADESH, REPRESENTED BY ITS SOLE PROPRIETOR SRI KOMMINENI SANDEEP NAIDU

...PETITIONER

AND

1. THE ASSISTANT COMMISSIONER ST, CIRCLE-LL, NANDYAL, MSR COMPLEX, NEAR RTC BUS STAND, NANDYAL - 518 501, KURNOOL DISTRICT, ANDHRA PRADESH.
2. THE STATE OF ANDHRA PRADESH, REPRESENTED BY ITS PRINCIPAL SECRETARY, REVENUE (CT) DEPARTMENT, VELAGAPUDI, AMARAVATI - 522238.
3. THE BANK OF BARODA NANDYAL BRANCH, NANDYAL, KURNOOL DISTRICT - 518501. REPRESENTED BY ITS BRANCH MANAGER

...RESPONDENT(S):

Counsel for the Petitioner:

1. SHAIK MD UMAR ABDULLAH

Counsel for the Respondent(S):

1. GP FOR COMMERCIAL TAX

THE HONOURABLE SRI JUSTICE NINALA JAYASURYA

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

<u>Writ Petition No:21273 of 2026</u>

The Court made the following Order:

Heard Mr. P.V.Sai Rajesh, learned arguing counsel for the petitioner. Also heard Mr. S.A.V.Sai Kumar, learned Assistant Government Pleader for Commercial Tax representing respondent Nos.1 and 2.

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

3. The petitioner was served with order of assessment for the tax period 2020-21. The Assessment Order had been passed under Section 73(9) of the GST Act on the ground that the petitioner had not been filing its returns.

4. Petitioner has approached this Court with the contention that the respondents are seeking to recover the amount demanded under the said order of assessment despite the fact that the petitioner had filed its returns, in Form GSTR 3B for the relevant period along with late fee. It is contended that no tax or interest was payable as the returns related to exempted turnovers.

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

Month	Date of impugned Demand Order	Date of filing of Form GSTR 3B	CGST late fee u/s 62(2)	SGST Late fees u/s. 62(2)
October-2020	20.11.2020	22.01.2021	310.00	310.00
January-2021	20.02.2021	18.03.2021	0.00	0.00
			310.00	310.00

6. Section 62(2) of the GST Act stipulates that any order passed under Section 62, would be deemed to have been withdrawn once necessary returns are filed within the period stipulated under the said provision. In the event of

delay, late fee is required to be paid by the registered person who seeks to file the said returns.

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

8. Further, similar issue has fallen for consideration before the Hon'ble High Court of Madras (Madurai Bench) in Writ Petition (MD) No.18740 of 2024 and after considering the same, the High Court of Madras had held that in view of the amendment to Section 62(2) of the Act, it would be appropriate to condone the delay in filing GSTR 3-B returns and consequently the Assessment Order would have to be deemed to be withdrawn.

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

10. Accordingly, Writ Petition is allowed. Assessment Order under challenge passed under Section 73(9) of the Act is deemed to have been withdrawn and no steps for recovery can be initiated or continued for recovery of the taxes and dues raised under the said order of assessment. In view of withdrawal of above assessment proceedings, all the attachments shall also stand withdrawn. No costs. Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE NINALA JAYASURYA

JUSTICE T.C.D.SEKHAR

Date:31.07.2026
Ksj