IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07-09-2026

CORAM

THE HON'BLE MR JUSTICE SENTHILKUMAR RAMAMOORTHY

WP No. 34361 of 2026
and W.M.P.No.37738 of 2026

M/s.Kappa Chakka Kandhari Foods Private Limited, Represented by Director Shri. Augustine Kurian, No.10 A, Haddows Road,Nungambakkam, Chennai- 600 006

..Petitioner(s)

Vs

The Commissioner of GST and Central Excise (Appeals- I), No.26/1, Mahatma Gandhi Road, Nungambakkam, Chennai- 034.

..Respondent(s)

PRAYER: Writ Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for records pertaining to the issue of the Order-in- Appeal No. 43/2026 (CTA-I) dated 17.07.2026 passed by the Respondent to quash the same since the same being contrary to the provisions of Sec 107(6) of the CGST Act 2017 and direct the Respondent to admit and decide the appeal filed before him on 27.05.2026 without the payment of pre- deposit and thus render justice.

For Petitioner(s): Mr.G Natarajan

For Respondent(s): Mr.A.P.Srinivas, Sr. SC

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ORDER

Challenging the appellate order dated 17.07.2026 rejecting the petitioner's appeal solely on the ground that the petitioner had not pre-deposited 10% of the penalty, the present writ petition has been filed.

2. Referring to detailed order dated 18.12.2025, learned counsel for the petitioner points out that said order imposes liability towards tax, interest and penalty. He submits further that the order records the payment of both tax and interest. Consequently, he contends that the proviso to sub-section (6) of Section 107 is not attracted.

3. Mr.A.P.Srinivas, learned senior standing counsel, accepts notice for the respondent.

4. The detailed order records, in the operative paragraph, as under:

"i. I drop the demand of Rs.51,88,983/- (Rupees Fifty-one lakh Eighty-eight thousand Nine hundred Eighty-three only) out of the total demand of Rs.2,17,22,663/- raised in SCN No.08/2025-26 ADC(HPU) dated 07.05.2025 for the year 2018-19.

ii. I confirm and appropriate the demand of Rs.1,65,33,680/- (Rupees One Crore Sixty Five Lakh Thirty Three Thousand Six Hundred and Eighty only) (Rs.28,74,872 paid for the period 2018-19, Rs.49,57,592/- paid for the period 2019-20 and Rs.87,01,216/- paid for the period 2020-21) under Section 74(9) of CGST/TNGST Act,2017.

iii. I confirm and appropriate the payment of interest amounting to Rs.25,19,134/- (Rupees Twenty Five Lakh Nineteen Thousand One Hundred and Thirty Four only) (Rs.6,31,884/- paid for the period 2018-19, Rs.11,99,614/- paid for the period 2019-20, Rs.6,87,636/- paid for the period 2020-21) under Section 50(1) of CGST/TNGST Act, 2017 as detailed above.

iv. I impose penalty of Rs.1,65,33,680/- (CGST Rs.82,66,840/- SGST Rs.82,66,840/-) [Rupees One Crore Sixty five Lakhs Thirty three thousand Six hundred & Eighty only] in terms of Section 74(9) of CGST/TNGST Act, 2017 r/w Section 122(2)(b) of CGST/TNGST Act, 2017."

5. As can be seen from the above extract, the detailed order confirms liability towards tax, interest and penalty. It also records that tax and interest were paid. Said detailed order is akin to a judgment of a civil Court. Because

only the penalty portion remained unpaid, an order in Form DRC 07 was issued only in respect of penalty. This is akin to a decree.

6. The proviso to sub-section (6) of Section 107 reads as under:

> *"Provided that in case of any order demanding penalty without involving demand of any tax, no appeal shall be filed against such order unless a sum equal to ten percent of the said penalty has been paid by the appellant."*

7. As can be seen from the text of the proviso, said proviso is attracted to cases wherein an order demanding penalty is made without involving any demand of tax. In this case, the order confirmed the demand towards tax, interest and penalty. Hence, the proviso to sub-section (6) of Section 107 is inapplicable to this case. Because the petitioner's appeal was rejected solely on this ground, the appellate order is unsustainable and is hereby set aside. As a consequence, the appeal is restored for adjudication on merits.

8. This writ petition is disposed of on the above terms. There shall be no order as to costs. Consequently, the connected writ miscellaneous petition is closed.

07-09-2026

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

To

The Commissioner of GST and Central Excise
(Appeals- I)
No.26/1, Mahatma Gandhi Road, Nungambakkam,
Chennai- 034.

SENTHILKUMAR RAMAMOORTHY, J.

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