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## Best Judgment Assessment Under Section 62 Cannot Survive Where Returns Have Been Subsequently Filed, Revenue Must Initiate Reassessment

The Hon'ble Madras High Court (Madurai Bench) in the case of *M/s. AMK Athencottasan Muthamizh Kazhagam Man Power Services v. The State Tax Officer [W.P.(MD) No. 14769 of 2026 dated June 04, 2026]* set aside the best judgment assessment order passed under Section 62 of the Central Goods and Services Tax Act, 2017 (“**the CGST Act**”) and held that once the registered taxable person has uploaded the returns subsequent to the issuance of the best judgment assessment order, it is incumbent upon the Revenue to take up the matter for reassessment by taking into account such returns, and accordingly remanded the matter to the file of the Proper Officer with a direction to pass fresh orders in accordance with law.

### Facts:

M/s. AMK Athencottasan Muthamizh Kazhagam Man Power Services (“**the Petitioner**”) is a registered taxable person engaged in providing man power services.

Owing to non-filing of returns within the time stipulated under the CGST Act, the State Tax Officer, Nagercoil-1 Assessment Circle (“**the Respondent**”) proceeded to pass a best judgment assessment order dated May 25, 2023 (“**the Impugned Order**”) under Section 62 of the CGST Act.

Subsequent to the passing of the Impugned Order, the Petitioner uploaded the requisite returns on the common portal. However, the Respondent did not initiate any reassessment proceedings to consider the returns so filed.

Aggrieved, the Petitioner filed the present writ petition under Article 226 of the Constitution of India seeking a writ of certiorari to call for the records of the Impugned Order and to quash the same as being illegal, arbitrary and wholly without jurisdiction.

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The Petitioner placed reliance upon the recent ruling of the *Madras High Court in MANS Nadar and Co. v. The Appellate Deputy Commissioner (ST) (GST) [W.P.(MD) No. 12363 of 2026]* to contend that once the returns are filed by the registered taxable person, the Proper Officer is duty bound to take into account such returns and pass orders accordingly. Per contra, the Government Standing Counsel appearing on behalf of the Revenue submitted that the returns were not filed within the time prescribed under the statute.

## Issue:

Whether the best judgment assessment order passed under Section 62 of the CGST Act can be sustained when the registered taxable person has subsequently uploaded the returns on the common portal, or whether the Revenue is bound to initiate reassessment proceedings by taking such returns into account?

## Held:

The Hon'ble Madras High Court in *W.P.(MD) No. 14769 of 2026* held as under:

- **Observed that**, the Impugned Order had been passed under Section 62 of the CGST Act on the sole ground that the Petitioner had not filed the returns within the time stipulated under the Act.
- **Noted that**, the legal position is now well settled, as reiterated in the ruling rendered in *MANS Nadar and Co. (supra)*, that once the returns are filed by the registered taxable person, the Proper Officer is bound to take into account such returns and proceed to pass orders thereon in accordance with law.
- **Held that**, once the Petitioner had uploaded the returns on the common portal, thereafter it is for the Respondent to take up the issue for reassessment, and as such, the Impugned Order cannot stand.

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- **Directed that**, the Impugned Order dated May 25, 2023 shall stand set aside, and the matter shall stand remanded back to the file of the Respondent for fresh consideration.
- **Further directed that**, the Respondent shall take into account the returns filed by the Petitioner thereafter, deal with the same in accordance with law, and pass final orders.
- Hence, **the matter has been remanded back to the assessing officer for fresh adjudication.**

## Our Comments:

Section 62 of the CGST Act provides the mechanism of best judgment assessment in cases of non-filing of returns. Sub-section (1) thereof empowers the Proper Officer, where a registered person fails to furnish the return under Section 39 or Section 45 even after the service of notice under Section 46, to proceed to assess the tax liability of such person to the best of his judgment, taking into account all the relevant material which is available or which he has gathered, and to issue an assessment order within a period of five years from the date specified under Section 44 for furnishing of the annual return for the financial year to which the tax not paid relates.

Sub-section (2) of Section 62 contains a built-in mechanism for self-correction by the registered taxable person. It provides that where the registered person furnishes a valid return within thirty days (extended to sixty days under the amended provision, with a further extension permissible upon payment of additional late fee) from the date of service of the assessment order issued under sub-section (1), the said assessment order **shall be deemed to have been withdrawn**. However, the liability towards payment of interest under Section 50(1) of the CGST Act and the late fee under Section 47 thereof shall continue to subsist.

The underlying legislative intent of Section 62 is to compel compliance and not to fasten an arbitrary liability on the registered taxable person. The provision is therefore remedial in

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nature, and the deeming withdrawal under sub-section (2) operates automatically upon the filing of a valid return within the prescribed window. Where, however, the return is uploaded beyond the said statutory window, the doctrine of strict construction has been read down by various High Courts on the principle that the substantive right of the taxpayer to be assessed on the basis of actual turnover ought not to be defeated on a purely procedural lapse, particularly where no prejudice is caused to the Revenue.

The present ruling reaffirms the consistent line of judicial thought of the Madras High Court that the best judgment assessment under Section 62 is, by its very nature, *ex parte* and provisional in character, and must yield to the actual returns filed by the registered taxable person. The Court has, in effect, read the principle of *audi alteram partem* into the post-assessment stage by directing the Proper Officer to initiate reassessment proceedings on the strength of the subsequently uploaded returns. This approach is also in harmony with Article 265 of the Constitution of India, which mandates that no tax shall be levied or collected except by authority of law, the underlying premise being that the State can collect only the tax legitimately due and not an inflated amount arrived at on a best judgment basis when the actual liability is otherwise ascertainable from the returns.

## **Pari materia rulings:**

The Hon'ble Madras High Court in ***MANS Nadar and Co. v. The Appellate Deputy Commissioner (ST) (GST) [W.P.(MD) No. 12363 of 2026]***, which has been relied upon by the Petitioner and followed by the Court in the present case, took a similar view that once the returns are uploaded on the common portal by the registered taxable person, the Proper Officer is duty bound to take such returns into consideration before finalising the assessment, and a best judgment assessment cannot be sustained de hors such returns.

The Hon'ble Madras High Court in ***Comfort Shoe Components v. Assistant Commissioner [W.P. No. 25455 of 2023]*** had likewise set aside a best judgment assessment order under Section 62 where the returns were uploaded after the lapse of the thirty day period, holding

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that a hyper-technical view ought not to be taken when the substantive returns are available on record, and the Revenue may always proceed to reassess on the basis of such returns.

Similarly, the Hon'ble Kerala High Court in ***Saji S. v. Commissioner of State GST [2018-VIL-543-KER]*** examined the scope of Section 62 and held that the assessment under Section 62(1) is essentially an interim measure and the registered taxable person is entitled to displace such order by filing the valid return, the legislative scheme of sub-section (2) being one of automatic withdrawal upon compliance.

## **Contrary view:**

It may, however, be noted that the indulgence is not absolute. Where the registered taxable person fails to upload the returns at all, or where the conduct of the taxpayer betrays habitual default, the Courts have declined to interfere with the best judgment assessment. The Hon'ble Madras High Court in ***Tvl. Suguna Cutpiece Center v. Appellate Deputy Commissioner*** (an analogous line on registration revocation) and other coordinate Benches have emphasised that the discretion to set aside a Section 62 order is to be exercised on the equities of each case, and the taxpayer who approaches the Court must demonstrate that the returns have, in fact, been uploaded and the tax along with interest and late fee tendered in accordance with law.

**Key takeaway:** Registered taxable persons against whom best judgment assessment orders have been passed under Section 62 of the CGST Act should, as a first step, upload the pending returns at the earliest along with the tax, applicable interest under Section 50 and late fee under Section 47. Where such returns are uploaded beyond the thirty/sixty day window contemplated under Section 62(2), the deeming withdrawal will not operate automatically; however, the present ruling, read with the line of decisions referred to hereinabove, provides a strong remedial recourse by way of writ jurisdiction to seek setting aside of the best judgment assessment order with a direction upon the Proper Officer to initiate reassessment by taking into account the returns so uploaded. Revenue authorities, on their part, are well advised to

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suo motu undertake reassessment in such fact situations to avoid unnecessary litigation and to give effect to the true legislative intent underlying Section 62 of the CGST Act.

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