Levy Of Penalty U/S 122(1)(XVI) For Failure To Keep And Maintain Statutory Books Of Accounts And Records

Case Reference:

Ind-Korosho Exim vs The State Tax Officer-2 - The High Court of Madras - WP No. 21615 of 2026 (Judgement Date – 06th July, 2026)

Brief Facts:

An order dated 22.08.2024 imposing a penalty for non-maintenance of statutory records was challenged through a writ petition. The petitioner contended that once late fees had already been paid u/s 47 of the CGST Act, 2017 for delayed filing of returns, a separate penalty u/s 122(1)(xvi) for non-maintenance of records could not be imposed.

Issue:

Whether a penalty u/s 122(1)(xvi) of the CGST Act, 2017 for failure to maintain statutory records can be levied when the taxpayer has already paid late fees u/s 47 for delayed filing of returns.

Decision:

The Hon'ble Court dismissed the writ petition and upheld the penalty u/s 122(1)(xvi), holding that:

- The law specifically provides for a separate penalty for failure to maintain statutory records, independent of any late fee for delayed filing of returns.
- Section 47 deals exclusively with the levy of late fees for delayed filing of returns u/ss 37, 39, 44, and 45 of the CGST Act.
- Section 122 prescribes penalties for various statutory violations, including the failure to maintain books of account and other prescribed records.

The penalty was imposed because the petitioner failed to maintain mandatory records. Accordingly, the Court held that payment of late fees u/s 47 does not bar the imposition of a separate penalty u/s 122(1)(xvi) for failure to maintain statutory records, as the two provisions address distinct statutory defaults.