IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.03.2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No.7049 of 2025 and
WMP.Nos.7769, 7770 and 7773 of 2025

M/s.V.P.Cable TV
Rep. by its Proprietor,
Mr.Prakaz
No.164, Amman Koil Street,
Keezhakasakudi Medu Kottucherry,
Karaikal, Puducherry-609609. Petitioner

..Vs..

1. The Superintendent of GST & Central Excise
   Range-1, Division -Karaikal,
   Commissionerate-Puducherry.

2. The Deputy/Assistant Commissioner of GST &
   Central Excise, Karaikal Division,
   Puducherry.

3. The Branch Manager,
   Union Bank of India,
   140 Church Street,
   Karaikal-609602. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of

India praying for issuance of Writ of Certiorarified Mandamus to call for the records of the impugned order in FORM GST DRC-07 dated 21.06.2024 together with its Annexure in Order No.13/2024 [GST] dated 20.06.2024 bearing File No.ADJ/ADJ/GST/69/2024-CGST-Range-I-DIV-KRKL-COMMRTE-PUDUCHERRY of the 1st Respondent and its consequential order of Bank Attachment in FORM GST DRC-13 dated 11.12.2024 bearing F.No.TRC-57-2024-CGST-DIV-KRKL-COMMRTE-PUDUCHERRY of the 2nd respondent issued to the 3rd Respondent and quash the same.

For Petitioner	:	Mr.E.Sathiyaraj
For Respondents	:	Ms.Revathi Manivannan Senior Standing Counsel (R1 and R2)

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ORDER

This writ petition has been filed by the petitioner challenging the order of the respondents dated 21.06.2024 and 20.06.2024 and the consequential order of attachment of the respondent dated 11.12.2024 and to quash the same.

2. The learned counsel for the petitioner would submit that initially the 1st respondent issued show cause notice dated 01.01.2024 to the petitioner. Thereafter, the petitioner appeared before the 1st respondent and sought time to file reply. Subsequently, the respondent passed the impugned assessment order dated 20.06.2024 along with summary order dated 21.06.2024 demanding tax along with interest and penalty for the assessment year 2017-2018. Thereafter, the 2nd respondent passed the attachment order dated 11.12.2024. Challenging the aforesaid orders, the petitioner has filed this writ petition.

3.Further, he would submit that though the petitioner sought time to file reply, the 1st respondent without considering the same passed the impugned assessment order and that apart no opportunity of personal hearing was granted to the petitioner prior to passing of impugned order therefore the same is passed in violation of principles of natural justice and therefore prays to set aside the same.

4. On the other hand, the learned Senior Standing Counsel appearing for R1 and R2 would submit that the 1st respondent issued show cause notice to the petitioner. Since, the petitioner failed to submit its reply impugned order came to be passed.

5. In reply, the learned counsel for the petitioner would fairly submit that the petitioner is now ready and willing to pay 25% of the disputed tax liability made by the respondents in the event of providing an opportunity to them to file their reply along with the required documents to substantiate their claim, for which, the learned Senior Standing Counsel has no serious objection.

6. Heard the learned counsel for the petitioner and the learned Senior Standing Counsel for the respondents 1 and 2 and also perused the materials available on record.

7. In the case on hand, the 1st respondent have issued show cause notice to the petitioner, for which the petitioner sought time to file reply.

But the respondent without considering the same has passed the impugned assessment order.

8. Further, it appears that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Hence, this Court is of the view that the impugned order is passed in violation of principles of natural justice and it is just and necessary to provide an opportunity to the petitioner to establish their case on merits. In such view of the matter, this Court is inclined to set aside the impugned orders dated 20.06.2024 and 21.06.2024 passed by the 1st Respondent. Accordingly, this Court passes the following order:-

> (i) The orders impugned herein are set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay 25% of disputed tax to the respondents concerned within a period of ***four weeks*** from the date of receipt of a copy of this order and the setting aside of the impugned order will take effect from the date of payment of the said amount.

(ii) The petitioner shall file their additional reply/objection along with the required documents, if any, within a period of two weeks thereafter.

(iii) On filing of such reply/objection by the petitioner, the respondent shall consider the same and issue a 14 days clear notice by fixing the date of personal hearing to the petitioner and thereafter, pass appropriate orders on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible.

(iv) Considering the fact that the impugned orders itself has been set aside, this Court is of the opinion that the attachment, made on the bank account of the Petitioner cannot survive any longer and hence, it is to be lifted. As a sequel, the respondents 1 and 2 are directed to instruct the concerned bank viz., 3rd respondent to release the attachment on the bank account of the petitioner, immediately upon the production of proof with regard to the payment of 25% as stated above.

9. With the above directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

03.03.2025

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

1. The Superintendent of GST & Central Excise
   Range-1, Division -Karaikal,
   Commissionerate-Puducherry.

2. The Deputy/Assistant Commissioner of GST &
   Central Excise, Karaikal Division,
   Puducherry.

3. The Branch Manager,
   Union Bank of India,
   140 Church Street,
   Karaikal-609602.

KRISHNAN RAMASAMY.J

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WP No. 7049 of 2025

03.03.2025