IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.06.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.15280 of 2025
& W.M.P.Nos.17257, 17266, 17270 & 17275 of 2025

P. Godwin Prasanna
Proprietor of M/s. Jay Joh Communication,
Represented by his power agent Mr. V. Pandiyan No. 47/A, Thapal Munisamy Street, Vaniyambadi Main Road, Peddur, Alangayam,Vaniyambadi, Tirupattur, Tamil Nadu 635 701

... Petitioner

Vs.

1.The Union Of India
Represented By The Secretary,
Department Of Revenue,
Ministry Of Finance,
No.137, North Block,
New Delhi - 110 001.

2.The Goods and Services Tax Council
Represented by its Secretary,
GST Council Secretariat
5th Floor Tower II
Jeevan Bharti Building Janpath Road,
Connaught palace, New Delhi 110001.

3.The Central Board of Indirect Taxes and Customs,
Represented by its Director,
North Block, New Delhi 110001

4.The State of Tamil Nadu
Represented by its Secretary to Government
Commercial Taxes and Registration Department Secretariat,
Fort St. George, Chennai 600009

5.The Assistant Commissioner of GST and Central Excise
Vellore Division, Central Revenue Buildings,
Officers Line,
Vellore 632 001

6.The Branch Manager, Bank of Baroda
Alangayam Branch Tirupattur Dist. 635701

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records pertaining to the impugned DRC07 order dated 13.04.2024 bearing Ref.No.ZD330424101230B, passed by the 5th respondent and quash the same.

For Petitioner	:	Ms.T.V.Muthu Abirami
For Respondent	:	Mr.A.P.Srinivas, Sr.St counsel for RR1, 2, 3 & 5 Ms.P.Selvi, GA for R4

ORDER

This writ petition has been filed challenging the impugned order dated 13.04.2024 passed by the 5th respondent.

2. Mr.A.P.Srinivas, learned Senior Standing counsel takes notice on behalf of the respondents 1, 2, 3 & 5 and Ms.P.Selvi,learned Government Advocate, takes notice on behalf of the 4th respondent. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that in this case, all notices/communications were sent by the 5th respondent to the previous address of the petitioner and the same had returned with an endorsement “Addressee Left”. Hence, being unaware of the said communications, the petitioner failed to file their reply within the time. Under these circumstances, the impugned order came to be passed by the respondent without providing any opportunity of personal hearing to the petitioner. Therefore, this petition has been filed.

4. Further, he would submit that the petitioner is willing to pay a sum of Rs.50,000/- to the respondent. Hence, he requests this Court to

grant an opportunity to the petitioner to present their case before the respondent by setting aside the impugned order.

5. On the other hand, the learned Senior Standing counsel and the learned Government Advocate appearing for the respondents would had fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Therefore, he requested this Court to remit the matter back to the 5th respondent, subject to the payment of a sum of Rs.50,000/- as agreed by the petitioner.

6. Heard the learned counsel for the petitioner and the learned Senior Standing counsel and the learned Government Advocate for the respondents and also perused the materials available on record.

7. In the case on hand, it is evident that the show cause notice was sent to previous address of the petitioner and the same was returned with an endorsement "Addressee Left". According to the petitioner, he

was not aware of the issuance of the said show cause notice. In such circumstances, this Court is of the view that the impugned assessment order came to be passed without affording any opportunity of personal hearing to the petitioner, confirming the proposals contained in the show cause notice. Hence, this Court is of the view that the impugned order was 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.

8. Further, it was submitted by the learned counsel for the petitioner that the petitioner is willing to pay a sum of Rs.50,000/- to the respondent. In such view of the matter, this Court is inclined to set aside the impugned order dated 13.04.2024 passed by the 5th respondent. Accordingly, this Court passes the following order:-

> (i) The impugned order dated 13.04.2024 is set aside and the matter is remanded to the 5th respondent for fresh consideration on condition that the petitioner shall pay a sum of Rs.50,000/- to the 5th respondent within a period of four weeks from the date of receipt

of a copy of this order. 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 reply/objection along with the required documents, if any, within a period of three weeks from the date of payment of amount as stated above.

(iii) On filing of such reply/objection by the petitioner, the 5th 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 order 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 6th respondent is directed to instruct the concerned Bank to release the attachment, and de-freeze the bank account of the petitioner, immediately upon the production of proof with regard to the payment made by the petitioner as stated above.

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

02.06.2025

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

To

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