



WEB COPY

WP.Nos.6723, 6779 & 6791 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 08.03.2023

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.Nos.6723, 6779 & 6791 of 2020 and
WMP.Nos.7991, 8072 & 8087 of 2020

M/s.Swatantra Infrastructure Pvt. Ltd.,
Represented by it Authorised Signatory
Padmanaban. S
Having Registered Office at:
Marg Axis, 4/318,
Old Mahabalipuram Road,
Kottivakkam,
Chennai-600 041.

Current Address at:
Sri sai subhodhaya Apartments,
No.57/2B, East Coast Road,
Thiruvanmiyur,
Chennai-600 041.

...Petitioner in WP.No.6723 of 2020

M/s.Sarang Infrastructure Pvt. Ltd.,
Represented by it Authorised Signatory
Nawal Kishore
Having Registered Office at:
Marg Axis, 4/318,
Old Mahabalipuram Road,
Kottivakkam,
Chennai-600 041.

Current Address at:
Sri sai subhodhaya Apartments,
No.57/2B, East Coast Road,
Thiruvanmiyur,
Chennai-600 041.

...Petitioner in WP.No.6779 of 2020



M/s.Akarsh Constructions Pvt. Ltd.,
Represented by it Authorised Signatory
Padmanaban.S

Having Registered Office at:
PanneruKalva Road,
Tiruchanur Bye Pass Rd,
Thukuvakkam Post,
ReniguntaMandal, Tirupati,
Andhra Pradesh-517 520.

Current Address at:
No.15/26, 2nd Main Road,
Kottur Gardens,
Kotturpuram,
Chennai-600 085.

...Petitioner in WP.No.6791 of 2020

Vs

1.The Adjudicating Authority,
Under The Prohibition of Benami Property Transactions Act, 1988,
Room No.26, 4th Floor,
Jeevan Deep Building, Parliament Street,
New Delhi.

2.Deputy Commissioner of Income Tax (Benami Prohibition),
Room No.104, 1st Floor,
Income Tax Investigation Wing Building,
108, M.G.Road, Nungambakkam,
Chennai-600 034.

... Respondents in all WPs

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records on the file of the 1st Respondent in Ref No:R-1038/2018, Ref No:R-1031/2018 and Ref No:R-1042/2018 respectively and quash the impugned order dated 28.08.2019 passed u/s. 24(5) of the Prohibition of Benami Property Transactions Act, 1988 as illegal, arbitrary and without jurisdiction.



(In all WPs)

For Petitioners : Mr.G.Logesh
for Mr.R.Sivaraman

For Respondents : Mrs.M.Sheela
Special Public Prosecutor (IT)

COMMON ORDER

A common order is passed in these matters since the orders impugned are in similar circumstances, under Section 24(5) of the Prohibition of Benami Property Transactions Act, 1988 (in short 'Act') and the trajectory of events in all matters remains one and the same.

2.A batch of writ petitions have been filed which include the present three writ petitions as well, wherein a common legal issue raised relates to the retrospective application of the Act prior to 2016.

3. Section 3(2) of unamended 1988 Act was declared unconstitutional. The provisions of forfeiture under Section 5 prior to amendment was also declared unconstitutional.

4.The Initiating Officer in the instant cases had initiated proceedings invoking the provisions of the Benami Transactions (Prohibition) Amendment Act, 2016. However, the alleged benami transactions are of a period prior to amendment.



5.The Hon'ble Supreme Court in the case of *Union of India v. Ganapati Dealcom (P.) Ltd.* [(2022) SCC Online SC 1064] has held that the application of the Act is only prospective. Pending writ petition, appeals have been filed by the present petitioners before the Appellate Tribunal SAFEMA, New Delhi.

6.Parallely, in the case of other groups concerns, the litigation had travelled till the Hon'ble Supreme Court and vide judgment dated 29.08.2022, the Hon'ble Supreme Court left it open to the petitioners to pursue the appeals before the Tribunal and also place reliance on the judgment in the case of *Ganapati Dealcom* (supra).

7.Pursuant thereto, an order has come to be passed by the Tribunal on 15.12.2022, wherein the present petitioners are arrayed as Appellants 19, 21 and 30, allowing the appeals.

8.With this, nothing further survives in these writ petitions and recording the same, these writ petitions stand disposed in terms of the order of the Tribunal dated 15.12.2022. No costs. Connected miscellaneous petitions are closed.

08.03.2023

Index : Yes/No
Speaking Order
Neutral Citation:Yes/No
vs



To

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Dr.ANITA SUMANTH, J.

VS

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