IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.04.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.9617 of 2024 and W.M.P.Nos.10648 & 10649 of 2024

M/s. Prosign Communications,
(Rep.by its Sole Proprietor, Molly Jaison,
2nd Floor, 2F, 53-A, Logaiah Colony, 5th Cross Street,
Saligramam, Chennai, Tamil Nadu – 600 093. ... Petitioner

Versus

The Deputy State Tax Officer III,
Saligramam Assessment Circle,
No.15 & 16, First Floor, 100 Feet Road,
Malligai Avenue, Kolathur,
Chennai – 600 099. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India pleased to issue a Writ of Certiorari, to call for the records of the respondent in the impugned order Reference No. GSTIN 33AEDPM3111R1Z1/ 2019-20 dated 24.01.2024 and quash the same as it is not in conformity with the principles laid by the decisions of the Honourable Madras High Court in the case of *Sakthi Steel Trading Vs. The Assistant Commissioner in WP No.4122/2022 dated 29.01.2024 JAK Communications Vs. The Deputy Commercial Tax Officer and Ors. (WP No.35453 of 2023 dated 19.12.2023) and Sree Amman Metal Works Vs. State Tax Officer (2023) 154 taxmann.com 496 (Madras)*.

For Petitioner : M/s. Radhika Chandra

For Respondent : Mr. C. Harsha Raj,
Additional Government Pleader.

ORDER

In this writ petition, an assessment order pertaining to assessment period 2019-20 is challenged on the ground of breach of principles of natural justice.

2. Proceedings were initiated against the petitioner by issuing a show cause notice dated 05.10.2023. Such show cause notice was preceded by intimation dated 12.05.2023. The petitioner did not reply to the show cause notice. The order impugned herein was issued in such facts and circumstances.

3. Learned counsel for the petitioner referred to the show cause notice and pointed out that the personal hearing was scheduled even prior to the date by which the petitioner was required to reply to the show cause notice. Therefore, she further submits that the petitioner be provided an opportunity to contest the tax demand on merits. On instructions, she submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

4. Mr. C. Harsha Raj, learned Additional Government Pleader, accepts notice on behalf of the respondents. He pointed out that proceedings were initiated against the petitioner pursuant to an audit and that principles of natural justice were complied with.

5. On perusal of the impugned order, it is evident that the tax proposal was confirmed because the petitioner did not reply to the show cause notice. Therefore, the interest of justice warrants providing the petitioner another opportunity, albeit by putting the petitioner on terms.

6. For reasons aforesaid, the impugned orders dated 24.01.2024 is set aside and the matter is remanded for reconsideration subject to the condition that the petitioner remits 10% of the disputed tax demand as agreed to within four weeks from the date of receipt of a copy of this order. The petitioner is also permitted to submit a reply to the show cause notice within the aforesaid period. Upon receipt of the petitioner's reply to the show cause notice and upon being satisfied that 10% of the disputed tax demand was received, the respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and

thereafter issue a fresh order within two months from the date of receipt of the petitioner's reply.

7. In view of the fact that the assessment order was set aside, the recovery notice does not survive and the same is set aside. It should be noticed that this recovery notice pertains not only to order impugned herein but also to the orders which form the subject of pending appellate proceedings. Since predeposit was made in accordance with Section 107 of applicable GST enactments, a stay of recovery is in force in relation to the appellate proceedings also.

8. W.P.No.9617 of 2024 is disposed of on the above terms without any order as to costs. Consequently, the connected miscellaneous petitions are also closed.

16.04.2024
(2/2)

Index : No
Speaking Order : Yes
Neutral Case Citation: No

klt

To

The Deputy State Tax Officer III,
Saligramam Assessment Circle,
No.15 & 16, First Floor, 100 Feet Road,
Malligai Avenue, Kolathur,
Chennai – 600 099.

SENTHILKUMAR RAMAMOORTHY,J

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