IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.04.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.Nos.9610, 9619, 9620 & 9627 of 2024
and
W.M.Ps.10640,10641,10651,10653,10652,10654,10661&10663 of 2024

In all W.P's :

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 in W.P.No.9610 of 2024 : 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 notice for recovery in GSTIN 33AEDPM3111R1ZI dated 01.02.2024 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 W.P.No.4122 of 2022 dated 29.01.2024 and 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).

Prayer in W.P.No.9619 of 2024 : 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 / 2017-18 dated 11.12.2023 and quash the same as it is not in conformity with the principles laid by the decisions of the Honble Madras High Court in the case of *Sakthi Steel Trading Vs. The Assistant Commissioner in W.P.No.4122 of 2022 dated 29.01.2024 and 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).*

Prayer in W.P.No.9620 of 2024 : 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. 33AEDPM3111R1Z1/2017-18 dated 16.12.2023 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 W.P.No.4122 of 2022 dated 29.01.2024 and 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).

Prayer in W.P.No.9627 of 2024 : 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 GSTIN No. 33AEDEM3111R1ZI /2018-19 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 W.P.No.4122 of 2022 dated 29.01.2024 and 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)*.

In all W.P's :

For Petitioner : M/s. Radhika Chandra

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

COMMON ORDER

In these writ petitions, assessment orders pertaining to the assessment periods 2017-18 and 2018-19 are challenged on the ground of breach of principles of natural justice.

2. Upon receipt of show cause notice in October 2023, the petitioner replied on 18.01.2024. The impugned orders were issued thereafter.

3. Learned counsel for the petitioner assails these orders on the ground that there was contravention of sub-section (4) of Section 75 of applicable GST enactments by failing to provide a personal hearing after such reply was issued by the petitioner.

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 documents on record, it is clear that the petitioner responded to the show cause notice. After receipt of such reply, the respondent did not offer a personal hearing to the petitioner. Sub-section (4) of Section 75 of applicable GST enactments prescribes that a personal hearing should be offered either if requested for or if an order adverse to the tax payer is proposed to be issued. Since such statutory

prescription was contravened in this case, the impugned orders call for interference.

6. Therefore, the orders impugned herein are set aside and the matters are remanded for reconsideration by the respondent. The respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue fresh orders within two months from the date of receipt of a copy of this order.

7. In view of the fact that the assessment orders preceding the impugned recovery notice were 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 orders impugned herein but also to the orders which form the subject of pending appellate proceedings. Since pre-deposit was made in accordance with Section 107 of applicable GST enactments, stay of recovery is in force in relation to the appellate proceedings also.

8. W.P.Nos.9610, 9619, 9620 & 9627 of 2024 are disposed of on the above terms without any order as to costs. Consequently, the connected miscellaneous petitions are also closed.

16.04.2024
(1/2)

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

klt

W.P.Nos.9610, 9619, 9620 & 9627 of 2024
and
W.M.P.Nos.10651,10653, 10652,
10654, 10661 & 10663 of 2024

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(1/2)