



WEB COPY



W.P.No.2026 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.02.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

Writ Petition No.2026 of 2024 and
W.M.P.Nos.2156 & 2158 of 2024

Tvl. Liugong India Pvt. Limited,
Represented by its authorised signatory,
No.56, Ist floor, Rear flat,
Radhakrishnan salai,
Palaniappa Nagar,
Valasaravakkam, Chennai-600 087.

... Petitioner

-VS-

1.State Tax Officer,
Oragadam Assessment Circle.

2.Assistant Commissioner (ST),
Oragadam Assessment Circle.

3.State Tax Officer,
Office of the Deputy Commissioner (ST),
Ambattur Zone, Chennai-35.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records of the 1st respondent's order dated 29.12.2023 in



W.P.No.2026 of 2024

GSTIN/33AABCL3456H1ZP/2017-2018 and quash the same and direct the respondents to refrain from taking any action against the petitioner for determination of liability for the years 2017-2018 under Section 73 of the Central Goods and Services Tax Act/State Goods and Services Tax Act.

For Petitioner : Mr.Adithya Reddy

For Respondents : Mrs.K.Vasanthamala,
Government Advocate (T)

ORDER

The petitioner assails an order dated 29.12.2023 primarily on the ground that a personal hearing was not provided to the petitioner.

2. The petitioner is a construction equipment manufacturer and a registered person under applicable GST laws. Pursuant to an audit of the petitioner's books of accounts under Section 65 of applicable GST laws, a show cause notice dated 29.09.2023 was issued to the petitioner. Such notice was replied to on 24.10.2023 and a personal hearing was requested for. The



W.P.No.2026 of 2024

impugned order came to be issued on 29.12.2023 without providing a personal hearing to the petitioner.

3. Learned counsel for the petitioner submits that the petitioner was gravely prejudiced by the failure to offer a personal hearing. By way of illustration, he refers to the reply to the show cause notice as regards trade payables. He points out that the petitioner stated categorically that none of the payments for supplies were made beyond 180 days from the date of the respective supply. He further submits that the trade payables ageing report was enclosed with such reply. In spite of such reply, with reference to the impugned assessment order, learned counsel pointed out that a finding was recorded that the proposal is confirmed on the ground that the petitioner had not produced any payment details. If the petitioner had been provided a personal hearing, learned counsel submits that a tax demand of about Rs.5.7 crores would not have been confirmed. By also referring to the findings in respect of other defects, such as defect No.9, learned counsel submits that the findings are entirely on the basis that the petitioner did not provide relevant documents or furnish requisite particulars.



W.P.No.2026 of 2024

4. Mrs.K.Vasanthamala, learned Government Advocate, appears on behalf of the respondents. She submits that the impugned assessment order came to be issued because the petitioner did not provide all necessary documents. She also submits that such documents could have been annexed to the petitioner's reply dated 24.10.2023.

5. Section 75(4) of the Tamil Nadu State Goods and Services Tax Act, 2017 mandates that a personal hearing be given either if such hearing is requested for or if an order adverse to the assessee is proposed to be issued. In the case at hand, by reply dated 24.10.2023, the petitioner expressly requested for a personal hearing. Such personal hearing was not granted. As pointed out by learned counsel for the petitioner, several findings were recorded in the impugned assessment order on the ground that the petitioner did not provide supporting documents. As regards defect No.8 pertaining to trade payables, it appears that a demand of about Rs.5.7 crores was confirmed entirely on the basis that the petitioner did not produce payment details although the petitioner had submitted a trade payables ageing report indicating that none of the payments to the petitioner's vendors were made



W.P.No.2026 of 2024

beyond 180 days. In these circumstances, the order impugned herein calls for interference.

6. Therefore, the impugned order dated 29.12.2023 is quashed and the matter is remanded for reconsideration. The assessing officer is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, take into account documents produced by the petitioner and, thereafter, issue a fresh assessment order. This exercise shall be concluded within a maximum period of two months from the date of receipt of a copy of this order.

7. The writ petition is disposed of on the above terms. There will be no order as to costs. Consequently, connected miscellaneous petitions are closed.

19.02.2024

Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No
kj



WEB COPY



W.P.No.2026 of 2024

SENTHILKUMAR RAMAMOORTHY,J.

Kj

To

1.State Tax Officer,
Oragadam Assessment Circle.

2.Assistant Commissioner (ST),
Oragadam Assessment Circle.

3.State Tax Officer,
Office of the Deputy Commissioner (ST),
Ambattur Zone, Chennai-35.

Writ Petition No.2026 of 2024 and
W.M.P.Nos.2156 & 2158 of 2024

19.02.2024