



W.P.Nos.14739, 14746, 14750, 14753 & 14755 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **13.06.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition Nos.14739, 14746, 14750, 14753 & 14755 of 2024
and W.M.P.Nos.15983, 15984, 15986, 15987, 15989, 15990, 15993 to
15996 of 2024

In all WPs.

J-Lin Constructions,
Represented by its Proprietor
David Singh Israel Peter Jebasingh,
No.145/1, Purasaiwalkam High Road,
Chennai-600 010.

... Petitioner

-VS-

The Assistant Commissioner (ST) (FAC),
Ayanavaram Assessment Circle,
F/50, 3rd floor, First Avenue,
Anna Nagar (East),
Chennai-600 102.

... Respondent

Prayer in W.P.No.14739 of 2024: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records relating to the impugned order dated 19.09.2023 for the financial year 2017-2018 in Reference No.ZD330923118401R and the consequential



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rejection order dated 24.04.2024 bearing Reference No.ZD330424182422N passed by the respondent, in so far as prayers 1 to 3 in application for rectification is concerned, and quash the same as arbitrary and illegal.

Prayer in W.P.No.14746 of 2024: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records relating to the impugned order dated 19.09.2023 for the financial year 2018-2019 in Reference No.ZD330923118621L and the consequential rejection order dated 24.04.2024 bearing Reference No.ZD3304241826964 passed by the respondent, in so far as prayers 1 & 2 in application for rectification is concerned, and quash the same as arbitrary and illegal.

Prayer in W.P.No.14750 of 2024: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records relating to the impugned order dated 19.09.2023 for the financial year 2020-2021 in Reference No.ZD330923119065K and the consequential rejection order dated 24.04.2024 bearing Reference No.ZD3304241828358 passed by the respondent, in so far as prayers 1 & 2 in application for rectification is concerned, and quash the same as arbitrary and illegal.



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Prayer in W.P.No.14753 of 2024: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records relating to the impugned order dated 19.09.2023 for the financial year 2019-2020 in Reference No.ZD3309231188374 and the consequential rejection order dated 24.04.2024 bearing Reference No.ZD3304241827590 passed by the respondent, in so far as prayers 1 to 3 in application for rectification is concerned, and quash the same as arbitrary and illegal.

Prayer in W.P.No.14755 of 2024: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records relating to the impugned order dated 19.09.2023 for the financial year 2021-2022 in Reference No.ZD330923119321Q and the consequential rejection orders dated 24.04.2024 bearing Reference Nos.ZD3304241829744 & ZD330424183001Y passed by the respondent, in so far as prayers 1 to 3 in application for rectification is concerned, and quash the same as arbitrary and illegal.

In all WPs.



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For Petitioner : Mr.R.Saravanan

For Respondent : Mr.T.N.C.Kaushik, Addl. Govt. Pleader (T)

COMMON ORDER

In all these writ petitions, orders in original and the subsequent rectification orders are assailed on the ground that the petitioner was not provided a personal hearing.

2. The petitioner is engaged in the business of executing civil work contracts. Pursuant to an inspection of the petitioner's premises, show cause notice dated 07.07.2023 was issued to the petitioner. Such show cause notice was replied to on 07.08.2023 and 28.08.2023. Orders in original were issued on 19.09.2023. The petitioner filed rectification petitions in respect thereof and such rectification petitions were rejected by orders dated 24.04.2024.

3. Learned counsel for the petitioner submits that the petitioner contended in the reply to the show cause notice that the ingredients of Section 74 were not satisfied. He further submits that the said reply was not



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taken into consideration and that no findings were recorded on the petitioner's contentions. In addition, he submits that no personal hearing was granted thereby violating sub-section (4) of Section 75 of applicable GST enactments.

4. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice for the respondent. He points out that a personal hearing was granted when the rectification petitions were disposed of. He also points out that the petitioner did not request for a personal hearing and that the petitioner checked the box for no personal hearing.

5. Under sub-section (4) of Section 75 of applicable GST enactments, a personal hearing is mandatory not only when requested for but when an order adverse to the tax payer is proposed to be issued. In all these cases, the tax proposals were confirmed without the petitioner being provided a personal hearing. On account of the infraction of a mandatory prescription, orders impugned herein cannot be sustained.



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6. Therefore, impugned orders in original dated 19.09.2023 are set aside and these matters are remanded for reconsideration. The respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue fresh orders within three months from the date of receipt of a copy of this order.

7. These writ petitions are disposed of on the above terms without any order as to costs. Consequently, connected miscellaneous petitions are closed.

13.06.2024

Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No
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SENTHILKUMAR RAMAMOORTHY,J

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To

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The Assistant Commissioner (ST) (FAC),
Ayanavaram Assessment Circle,
F/50, 3rd floor, First Avenue,
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