

**IN THE SUPREME COURT OF THE DEMOCRATIC SOCIALIST REPUBLIC  
OF SRI LANKA**

*In the matter of an Appeal against the judgment of the High Court dated 07/02/2020 under and in terms of section 5(1) of the High Court of Provinces (Special Provisions) Act No. 10 of 1996 read together with section 754 of the Civil Procedure Code.*

**SC/CHC/Appeal No:**  
**17/2020**

John Keells Office Automation (Pvt) Ltd,  
No. 90, Union Place,  
Colombo 02.

**HC (Civil) Case No:**  
241/2013/MR

**PLAINTIFF**

**Vs.**

China Geo Engineering Corporation,  
Building B, No. 92,  
Xiangshan South Road,  
Haidian District,  
Beijing, China.

And having a place of business  
established in Sri Lanka at,  
No. 140/4-1/1,  
W.A. de Silva Mawatha, Colombo 06.

**DEFENDANT**

**AND NOW BETWEEN**

John Keells Office Automation (Pvt) Ltd,  
No. 90, Union Place,  
Colombo 02.

**PLAINTIFF-APPELLANT**

**Vs.**

China Geo Engineering Corporation,  
Building B, No. 92,  
Xiangshan South Road,  
Haidian District,  
Beijing, China.

And having a place of business  
established in Sri Lanka at,  
No. 140/4-1/1,  
W.A. de Silva Mawatha,  
Colombo 06.

**DEFENDANT-RESPONDENT**

**Before**

- : Arjuna Obeyesekere, J.
- : Sampath B. Abayakoon, J.
- : M. Sampath K. B. Wijeratne, J.

**Counsel** : Kanchana Peiris with Anjula Rajapaksha instructed  
by K. Sivaskandarajah for the Plaintiff-Appellant.

: Chandaka Jayasundere, P.C. with Tharindu  
Rajakaruna instructed by Nazla Hadi for the  
Defendant-Respondent.

**Argued on** : 19-11-2025

**Written Submissions** : 19-12-2025 (By the Plaintiff-Appellant)

: 10-12-2025 (By the Defendant-Respondent)

**Decided on** : 08-05-2026

**Sampath B. Abayakoon, J.**

The plaintiff-appellant (hereinafter referred to as the plaintiff) preferred this appeal on being aggrieved of the judgment dated 07-02-2020 pronounced by the Provincial High Court of the Western Province (hereinafter referred to as the Commercial High Court) holden in Colombo, while exercising its civil jurisdiction.

This is a matter where the plaintiff has instituted action before the Commercial High Court claiming the sum mentioned in the plaint dated 13-08-2013 on the basis that it supplied the goods as mentioned to the defendant-respondent company (hereinafter referred to as the defendant), and that the defendant failed to pay for the said goods supplied, which amounted to a total sum of Rs. 8,429,000/-.

In the amended answer, the defendant has denied any responsibility for the claim of the plaintiff. It has been averred that one Manthrini De Silva, who was a former employee of the defendant, had fraudulently used the defendant's letterhead and other office stationery to make purchases from several parties, including the plaintiff company.

It has been the defendant's position that the said Manthrini De Silva had not acted on behalf of the defendant, but had acted fraudulently. It has also been claimed that the defendant never instructed or advised her to make such purchases or the defendant never received any of the goods set out in the plaint. It has been averred further that based on several complaints lodged by the plaintiff company and others who were similarly defrauded by the said Manthrini De Silva, several Magistrate's Court cases are pending against her and others. On the said basis, the defendant has prayed for the dismissal of the plaintiff's action and for other incidental reliefs.

After trial, the learned High Court Judge, pronouncing the impugned judgment, held that the plaintiff has failed to prove its claim on the balance of probability. It appears that the learned High Court Judge has mainly considered whether the defendant company received the goods allegedly sold by the plaintiff company to it. Having been satisfied that the goods had never been delivered to the defendant company, but had been taken over by the driver of the brother of said Manthrini De Silva and had been delivered to some other location, the learned High Court Judge has determined that the defendant company cannot be held liable for the errant actions of one of its employees. It was on the said basis the plaintiff's action has been dismissed.

It has also been determined by the learned trial Judge that whatever the goods that were ordered by the aforesaid Manthrini De Silva, such goods have been ordered in her personal capacity.

### **The Ground of Appeal -**

Although several grounds of appeal have been averred in the petition of appeal, the learned Counsel for the plaintiff informed the Court that he will mainly argue the matter on the basis that the learned Judge of the Commercial High Court had erred in failing to consider vital and important evidence in relation to the plaintiff's case and had failed to provide proper answers to the issues placed before the Court, especially in view of the answers given to plaintiff's issues No. 17 to 21.

Accordingly, this Court heard the submissions of the learned Counsel for the plaintiff and that of the learned President's Counsel who represented the defendant company as to their respective stands in relation to the matters urged before the Court. This Court also had the benefit of considering pre-argument as well as post-argument written submissions tendered by the parties for the purpose of determining this appeal.

### **The Facts -**

The facts under which the plaintiff made the claim against the defendant, as revealed in evidence can be summarized in the following manner.

The plaintiff's witness, Sameeul Aleem, has given his evidence-in-chief by way of an affidavit dated 14-01-2016. Along with his affidavit, he has marked documents from P-01 to P-16 to substantiate his evidence. Accordingly, he has been cross-examined on behalf of the defendant.

His evidence has been to the effect that the plaintiff is a company engaged in the business of trading and sale of electronics, office automation products including laptops/computers, fax and photocopy machines, and other related equipment over a long period of time, and the defendant company was one of its customers from the year 2002 onwards. It has been his position that the defendant company, over a period of about ten years, purchased various items from the plaintiff as shown in the statement of accounts marked P-01. He has contended that it was one Manthrini De Silva employed by the defendant company, who transacted with the plaintiff at all relevant times in relation to the purchase of goods, and it was on that business relationship, the items mentioned in the plaint were supplied to the defendant company where it failed to pay for the said purchases.

It appears that the main focus in the line of cross-examination of the witness had been to establish that the goods have been supplied by the plaintiff, not to the defendant company, but to a third party who has no connection to it.

I find that the evidence has established that the sum claimed by the plaintiff company against the defendant relates to the goods supplied on invoices prepared on 22-02-2013 and 04-03-2013. The document marked P-01, which has not been disputed by the defendant at the trial, shows that the said two transactions had been the last two transactions between the plaintiff and the defendant. It has also been established that the goods in relation to the invoices had been taken over by one Upali Arunasiri, the driver of vehicle No. KN-7221. The evidence of the plaintiff's witness reveals that subsequently, the plaintiff came to know that the said person was the driver of the brother of earlier mentioned Manthrini De Silva, and the goods taken over have been delivered to some other location and not to the defendant company. It is clear that the plaintiff has come to know this only as a result of a police inquiry conducted based on a complaint lodged against the said Manthrini de Silva.

This establishes without doubt that the goods delivered by the plaintiff company to the defendant have never reached the defendant. It is clear that it was on the said basis the defendant company has denied responsibility of paying for the goods, claiming that it was a personal action by Manthrini De Silva by using company material fraudulently.

Under cross-examination, it had been the position of the witness for the plaintiff company that it was with the said Manthrini De Silva, the plaintiff's company carried out transactions in relation to the supply of goods to the defendant for over 10 years, where no issue had arisen in relation to the transactions between the parties. It has been his evidence that at all times, the plaintiff supplied goods to the defendant on the orders placed by the said Manthrini De Silva on behalf of the defendant, and they only came to know after receiving the letter marked P-14 that the defendant company would no longer take responsibility for the actions of Manthrini De Silva.

The document P-14 is a notice dated 03-04-2013 sent by the General Manager of the defendant company to the plaintiff, which I find relevant to reproduce for the better understanding of this judgment.

The notice reads as follows,

**Notice**

**This is to inform you that China Geo – Engineering Corporation (Sri Lanka) will not be responsible for any transactions entered to by Ms. Manthrini Ruvindrika De Silva (NIC No. 728601795V), with effect from 03-04-2013. Ms. Manthrini Ruvindrika De Silva has no authority to enter into any transactions on behalf of China Geo - Engineering Corporation (Sri Lanka).**

**Thank You,**

**Yours Faithfully,**

**Mr. Liu Laifu**

**General Manager.**

It has been the position of the witness that the Magistrate's Court action has been initiated by the Criminal Investigation Department and he is aware that the said Manthrini De Silva and the earlier mentioned Arunasiri are suspects before the Magistrate's Court.

Explaining the procedure the plaintiff company followed in relation to the issuing of goods to the defendant, it was his position that over the 10-year period the plaintiff company had transactions with the defendant the plaintiff company delivered goods to the defendant company on some occasions and on other occasions, the defendant company used to collect goods from their warehouses.

It was his position that the mode of delivery of goods took place based on the advice received from the defendant company, and on these two particular occasions, the advice of the defendant company was to hand over the goods to the person named, which was not an unusual practice. It has been

established that on each of these two occasions, the vehicle No. KN-7221 has been used to collect the goods from the plaintiff. The witness has admitted that they came to know subsequently that the said vehicle belongs to the brother of Manthrini Silva.

When it was the turn of the defendant to establish its stand that it bears no responsibility for the goods alleged to have been sold and delivered by the plaintiff company, the defendant has called two witnesses on its behalf. The Registrar of the Magistrate's Court of Wattala has been called to establish that several cases are pending against the earlier mentioned Manthrini De Silva and others, which was not a disputed fact.

The main witness called by the defendant company to establish its stand had been the General Manager of the company, who was also the author of the earlier reproduced letter marked P-14.

In his evidence, it has been admitted that his company used to purchase goods from the plaintiff company and had claimed that his company has settled the bills for whatever the legitimate purchases made by the company. He has testified that his company has never asked for long-term credit periods as stated in the disputed purchase orders, but has settled bills promptly. It has been his position that the goods in respect of which the plaintiff company claims that payment was not made by the defendant were never delivered to the company, and accordingly, no payments were made.

Further, it has been his position that the purchase orders under which the plaintiff has claimed that the deliveries were made were purchase orders not placed by the defendant company.

He has claimed that although the earlier mentioned Manthrini De Silva was an employee of the company, she did not hold the position of chief administrative manager, and she was only the Office Manager, where she had no authority to place purchase orders. It has been his position that the person who is alleged to have received the goods from the plaintiff company on the alleged purchase orders was also not an employee of the company.

While under cross-examination, it has been his position that the company has a separate division called the Finance Division to deal with procurement matters. To the question that it was the said Manthrini De Silva who transacted with the plaintiff company even previously as to the purchases made from it, the position of the witness does not appear to be clear other than stating that she had no authority on procurement matters.

Explaining the letter marked P-14, he has testified that it was only when the plaintiff company claimed money on the invoices for the goods which were never received by the company he came to know about the alleged transactions which resulted in the letter, informing the stand of the defendant company to the plaintiff in writing.

Under further cross-examination, he has stated that Manthrini De Silva only had the authority to obtain any initial quotations with regard to purchases and not to place purchase orders based on such quotations. He has claimed that the purchase orders sent by Manthrini De Silva are fraudulent documents for which the defendant company bears no responsibility and also for the goods said to have been delivered based on such documents.

Answering questions based on the documents marked P-13(a), (b), (c), (d), which are purchase orders relating to the earlier transactions between the plaintiff and the defendant where the payment had been settled, the witness has claimed that those documents too are fraudulent documents. To the suggestion that he is denying the said documents because, if admitted, the said documents will establish that it was Manthrini De Silva who did transactions with the plaintiff on behalf of the defendant company, it has been his position that he was telling the truth according to his conscience.

**Consideration of the Ground of Appeal and the Relevant Facts in that Regard -**

The dispute between the parties being a civil dispute as to whether it is the defendant company who should be held responsible for the goods alleged to have been delivered to it by the plaintiff and for the due payment for the goods,

or whether the plaintiff should bear the loss suffered due to the fraudulent actions of one of its employees, there cannot be any argument that this is a matter that should to be adjudicated based on the evidence, analyzing them on the balance of probability.

It is well settled law that in deciding a matter of this nature, a trial Judge has to consider the evidence placed before the Court as a whole and come to a finding supported by evidence, having considered the circumstances unique to each such case. A trial Judge also has to be mindful of the relevant law upon which he should be guided when considering the facts relating to each such case.

**Saleem Marsoof., J.** held in the case of **Sopinona Vs. Pitipanaarachchi and Two Others [2010]1 SRI L.R. 87, at page 89;**

*“The Judge must evaluate and consider the totality of the evidence, giving a short summary of the evidence of the parties and witnesses and stating the reasons for his preference to accept the evidence of one party as opposed to that of the other.”*

**Held further at page 97;**

*“In that process it would essential for the trial Judge to consider the evidence led on points of contest and answer all of them, stating as to why they are accepted or rejected.”*

In the case of **Warnakula Vs. Ramani Jayawardena (1990) 1 SriL.R. 206 at 206**, it was stated that;

*“The evidence germane to each issue must be reviewed or examined. The judge must evaluate and consider the totality of the evidence. Giving a short summary of the evidence of the parties and witnesses and stating that he prefers to accept the evidence of one party without giving reasons are insufficient.”*

In **Dona Lucihamy et al Vs. Ciciliyahamy et al (1957) 59 N.L.R. 214 at 216**, it was observed that;

*“Bare answers to issues or points of contest—whatever may be the name given to them—are insufficient unless all matters which arise for decision under each head are examined.”*

In my view, the question before this Court now is whether the determination by the learned Judge of the Commercial High Court that the defendant cannot be held responsible for the goods never delivered to it can be justified in relation to the evidence placed before the trial Court, and whether the learned trial Judge has given justifiable reasons for his conclusions.

As I have summarized before, most of the relevant facts in relation to this dispute between the relevant parties are not disputed facts or facts which were well established before the trial Court.

1. The fact that the plaintiff company and the defendant company have engaged in commercial transactions obtaining goods and services relevant to the plaintiff’s line of business for over a 10-year period was not a disputed fact.
2. The fact that the plaintiff company has received payment for the goods alleged to have been supplied previously, except for the last two transactions was also not a disputed fact.
3. It has been established that the plaintiff company accepted disputed purchase orders placed with it by one Manthrini De Silva, who was an employee of the plaintiff company, and delivered the goods on the advice of the said Manthrini De Silva to a person named by her.
4. It has been established that the said goods had never reached the defendant company, but have been delivered to an establishment belonging to the brother of said Manthrini De Silva.
5. The fact that the goods relevant to these transactions had been delivered to one Upali Arunasiri by the plaintiff company, and he was the driver of the said Manthrini De Silva’s brother and the vehicle used was the vehicle owned by the said brother.

6. The fact that the defendant company wrote the letter marked P-14 where the company informed the plaintiff company that they will no longer be responsible for any transactions entered by Manthrini De Silva with effect from 03-04-2013.
7. The fact that based on complaints made by several parties to the Criminal Investigation Department in relation to the transactions entered by the said Manthrini De Silva, several criminal cases are pending against her and several others.

I find that the learned Judge of the Commercial High Court, after briefly summarizing the case of the plaintiff and that of the defendant in the impugned judgment, has proceeded to consider the facts under dispute as determined by him as relevant to arrive at a conclusion in relation to the case.

The said four disputed facts as determined by the learned High Court Judge are as follows;

1. Has the plaintiff supplied 85 Toshiba notebook computers and 38 notebook computers to the defendant?
2. Has the defendant received the said notebook computers from the plaintiff?
3. If the defendant has received the aforesaid notebook computers from the plaintiff, what is the outstanding value to be payable to the plaintiff?
4. If the dispute raised by the defendant that the said computers were not requested by the defendant and/or received by the defendant, should the case against the defendant be dismissed?

Having considered the 1<sup>st</sup> and the 2<sup>nd</sup> disputed facts as determined earlier, it has been the conclusion of the learned Judge of the Commercial High Court that although the plaintiff company has offered to supply Toshiba notebook computers by the letter marked P-02 to the defendant company, the said offer has not been accepted by any of the directors or any other relevant person from the defendant company. It has been determined that subsequently, the plaintiff has in fact supplied the said computers based on the invoices marked

as P-04(a) to P-04(b) and P-05(a) to P-05(c), but the goods had been handed over to a person who is not an employee of the defendant company.

It has been further determined that the position of the General Manager of the defendant company, that they never ordered or received such computers and one of the former employees of the defendant company named Manthrini De Silva has acted fraudulently, where she has used defendant's letterheads to obtain the said computers in her personal capacity was correct. It has been concluded that the plaintiff was well aware at the time of filing of this plaint that the defendant company was not involved in said transactions as a result of the investigations carried out by the Criminal Investigation Department.

It was on the said basis that the learned trial Judge has determined that the plaintiff has failed to prove that the relevant computers were ordered by the defendant or received, and it was Manthrini De Silva and not the defendant company who should bear the responsibility for the transactions.

The earlier cited line of authority clearly defines that a trial Judge must consider the evidence in its totality and should evaluate evidence of both sides to a dispute in coming to a determination as to the dispute. However, when I go through the impugned judgment of the learned Judge of the Commercial High Court, I find that the focus had been to find whether the goods supplied by the plaintiff company have reached the defendant company. It is on that basis the learned trial Judge has decided that the plaintiff had failed to prove that it supplied Toshiba notebook computers to the defendant, and accordingly, the plaintiff's claim should fail.

It is my view that the way the evidence has been analyzed does not reflect that the learned trial Judge has considered the entire picture in its correct perspective, which is important to come to a conclusion in a matter of this nature.

In his determination as to the two disputed facts as considered by the learned High Court Judge, it has been determined that the earlier mentioned Manthrini De Silva has acted fraudulently and had ordered the computers in

her personal capacity. Based on the established fact that the said computers, though handed over by the plaintiff company to the person nominated by Manthrini De Silva, have never reached the defendant, it has been determined that the defendant cannot be held liable for goods never received by it.

However, in my view, this was not the manner in which the evidence should have been looked at if it were to be considered in its totality.

The defendant company and the plaintiff company have engaged in commercial transactions for about 10 years by utilizing the plaintiff company's line of business in order to purchase various electronic items including computers and maintenance. The evidence of the plaintiff has been to the effect that it was the mentioned Manthrini De Silva who maintained contact with it in purchasing goods and placing other orders. To support that contention, the plaintiff has produced some of the previous purchase orders and delivery notes marked P-13(a) to P-13(h), where it appears that the mentioned previous orders have also been made by the earlier mentioned Manthrini De Silva citing her designation as the Manager-Administration and Human Resources.

The said purchase orders had been on the defendant company's letterhead with the seal of the defendant company stamped on it. The statement of accounts marked P-01 shows that all the previous transactions including the purchase orders produced as P-13(a), (b), (c) have been honoured. When the plaintiff's witness produced these documents to establish earlier transactions, the witness has not been cross-examined on the basis that the purchase orders mentioned in P-13 are also fraudulent orders, nor any position has been taken that the payments made to the earlier purchases were not by the defendant company.

As I have stated earlier, the evidence of the Manager of the defendant company also does not provide clear answers to determine the evidence on such a basis.

Although the defendant's evidence has been to the effect that the earlier mentioned Manthrini De Silva was only an Office Manager and not the

Manager – Administration and Human Resources as reflected in the purchase orders, and that she had no authority to place purchase orders other than to call for quotations, I find the established facts speak otherwise. If it was the stand of the defendant company that they have a separate department for procurement purposes and only the said department can place purchase orders and receive goods, that fact could have been established by the defendant by bringing in evidence. I find that since the defendant company has been dealing with the plaintiff for a period of 10 years, clear documentary evidence as to the earlier transactions should be available with the defendant as to how they transacted with each other. If such evidence was forthcoming, a serious doubt as to the evidence of the plaintiff, which maintained the position that it was with Manthrini De Silva they transacted at all times on behalf of the defendant company, could have been created. The defendant company could have easily established that the designation of Manthrini De Silva was not the Manager – Administration and Human Resource, but just an Office Manager, and she had no authority to engage in placing purchase orders rather than making an oral statement.

Another factor that should have been considered was the working relationship the plaintiff company had with the defendant. In relation to the purchase orders placed and the mode of delivery, it should be of common knowledge that when two companies establish a strong working relationship for over 10 years as in the present instance, a supplier normally would proceed based on the trust developed between the parties during the period. According to the evidence, it is clear that the defendant company has always settled the bills promptly, which suggests a strong business relationship.

The evidence of the plaintiff was to the effect that they give credit facility of one month for business transactions with their clients as a matter of practice. The evidence of the defendant had been to the effect that they had never asked for credit facilities, but always settled the bills promptly. However, when a client who has a strong relationship with a seller asks for credit facilities, it is normal for a seller to grant it under normal circumstances. Therefore, I do not find a reason for the plaintiff to suspect Manthrini De Silva when she asked

for credit facilities for the last two transactions, which have been granted by the plaintiff company.

For the reasons as considered above, I find that the plaintiff's evidence that it was always the mentioned Manthrini De Silva who acted in her designated official capacity in placing purchase orders with them is more probable than the evidence of the defendant company to the contrary. The evidence of the plaintiff has been to the effect that due to the business relationship that existed, when the defendant company informs them of the person who is coming to receive the goods from them, they had no reason to suspect such a request as it has been the previous practice as well on certain occasions. It appears to me that it was on such an assumption that the plaintiff company has delivered the goods relevant to the mentioned transactions to one Upali Arunasiri based on the instructions given by Manthrini De Silva, believing that it is she who is acting on behalf of the defendant as of previous practice.

It is abundantly clear that the defendant company has come to know about these fraudulent practices by one of its employees using company cover only after the plaintiff company and several other suppliers complained to the defendant about non-payment for the goods supplied. It appears that this has prompted the sending of the earlier reproduced letter marked P-14 by the defendant which states that they will not be liable for transactions entered by Manthrini De Silva with effect from 03-04-2013.

This also shows that although the defendant has claimed that she had no authority to place purchase orders, it is she who has transacted with other suppliers as well on behalf of the defendant company. There was no evidence before the trial Court to suggest that the purchase orders placed on behalf of the defendant company with the other companies were not by Manthrini De Silva, but by a separate procurement section or official of the defendant company, which should have greatly strengthened the defendant's stand that it should bear no responsibility for the fraudulent actions of Manthrini De Silva.

I find that if considered from its correct perspective, the degree of probability as to whose version should be accepted on a balance of probability was very much in favour of the plaintiff in this action. I am of the view that the plaintiff was the innocent party in this whole saga, and it should not have been held accountable for the fraudulent actions of an employee who held a managerial rank in the defendant company.

Therefore, I find that it is the defendant company who should be held liable to settle the amounts due to the plaintiff which have emanated as a result of the transactions under which the plaintiff sought relief from the trial Court.

Accordingly, I answer the ground of appeal in favour of the plaintiff holding that the learned High Court Judge has failed to evaluate the evidence in a proper manner and has failed to answer the issues giving proper reasoning for his conclusions.

Hence, I hold that the judgment dated 07-02-2020 cannot be allowed to stand and should be set aside. Accordingly, I set aside the judgment and hold that the plaintiff is entitled to reliefs as prayed for in the plaint dated 13-08-2013. The learned Judge of the Commercial High Court is directed to enter judgment in favour of the plaintiff in accordance with this judgment.

Having considered the relevant facts and the circumstances, I order no costs.

The appeal is allowed.

**Judge of the Supreme Court**

**Arjuna Obeyesekere, J.**

I agree.

**Judge of the Supreme Court**

**M. Sampath K. B. Wijeratne, J.**

I agree.

**Judge of the Supreme Court**