IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2015

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.2796 of 2015
And
M.P.No.1 of 2015

M/s. Larsen & Toubro Limited [Petitioner]
Corporate Indirect Taxes Dept.
Chennai Regional Office
Old No.7 New No.41
Jayanth Tech Park Mount Poonamallee Road
Nandambakkam Chennai-89.

Vs

1 The Deputy Commissioner(CT)-II
LTU Marshall Road Chennai-8.

2 The Deputy Commissioner (CT)
Zone VIII Chennai (Central) Division
Office of the Deputy Commissioner (CT)
Greams Road Chennai-6.

[Respondents]

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records of the impugned assessment order in CST 31722/2012-13 dated 31.12.2014 on the file of the first respondent herein quash the same.

For Petitioner : Ms.Aparna Nandakumar
For Respondents : Mr.V.Haribabu, GA(T)

O R D E R

The petitioner has come forward with this writ petition challenging the order of the 1st respondent dated 31.12.2014.

2. Heard the learned counsel for the petitioner and the learned Government Advocate (Taxes) for the respondent.

3. The learned counsel for the petitioner submitted that pursuant to the notice issued by the 1st respondent dated 21.11.2014, a reply was submitted by the petitioner on 24.11.2014, wherein it is stated that they have completed 16 assessments for 11

years in a span of 3 years and and they are in the job of completing the remanded back cases for five years and hence they will be completing 21 assessments in total and that since their pending suit forms are mostly with Government clients/PSU such as TNDB, NLC etc. and they have to get necessary forms from them,   three months' time may be given to them from the date of completion of such assessment and they may also be accorded an opportunity of being heard personally. However, the 1st respondent has passed a detailed order dated 31.12.2014, stating that the petitioner has been granted 18 months' time and they have not utilized that opportunity to collect the declarations and certificates and hence he has got no other option except to finalise the assessment on the basis of the available declarations and certificates.

4. The learned counsel for the petitioner further submitted that they have been complying with the redemptions and the net carried forward amount of Rs.19 crores and odd represents the balance of Tax Deduction Certificates, claimed during the year 2013-14 and she further submitted that there is no default on the part of the petitioner and if an opportunity is given to them, they would be able to convince the authority.

5. The learned counsel for the petitioner further submitted that the petitioner has also agreed to pay 10% of the amount as determined in the impugned order and if three weeks' time is given, they would co.operate to enable the assessing officer to complete the proceedings afresh.

6. The Tamil Nadu Value Added Tax, 2006 (hereinafter referred to as 2006 Act) enables the petitioner to prefer an appeal within 30 days from the date of receipt of the order of the Assessing Officer. The impugned order is dated 31.12.2014. Even though the learned counsel for the respondent has stated that the writ petition has been filed after the period of limitation prescribed under 2006 Act, the appellate authority is empowered to condone the delay of 30 days after the expiry of the original 30 days and it is for the appellate authority to decide on merits to condone the delay beyond the original period of 30 days and thereafter hear the appeal.

7. Taking note of the facts and circumstances of the case, which being an exceptional one, I direct the respondent to accept 10% of the amount as determined in the impugned order, which the petitioner has agreed to pay the same, which can be adjusted from the refund and and give one more opportunity to the petitioner to putforth their objections and thereafter to pass appropriate orders on merits and in accordance with law.

8. The petitioner is directed to appear on 03.03.2015 before the authority, on which date, he is entitled to make his verbal and written submissions, if any. In case the petitioner fails to avail

this opportunity on 03.03.2015, the authority is empowered to pass orders afresh on merits and in accordance with law based on the available records. In case such an order is passed, after providing an opportunity to the petitioner, the petitioner undertakes that they will approach the appellate authority, challenging that order. The said submission of the learned counsel for the petitioner is recorded.

This writ petition is disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1 The Deputy Commissioner(CT)-II
LTU Marshall Road Chennai-8.

2 The Deputy Commissioner (CT)
Zone VIII Chennai (Central) Division
Office of the Deputy Commissioner (CT)
Greams Road Chennai-6.

1 cc to Ms.Aparna Nandakumar ,Advocate, SR.No.6400

W.P.No.2796 of 2015

nm(co)
pmk.23.2.2015