IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.03.2015

CORAM

THE HONOURABLE MR.JUSTICE M.DURAISWAMY

WP.No.6638 of 2015
and
M.P.No.1 of 2015

Escorts Limited,
Represented by its Authorised Signatory
Mr.R.Manikanda Prabhu,
(Formerly known as Escorts Construction Equipments Limited),
4, Jain Antariksha Buildings, I Floor,
No.7, Ashok Nagar Main Road,
Kodambakkam, Chennai - 600 024. .. Petitioner

Versus

1. The Assistant Commissioner (CT) (FAC)
Kodambakkam Assessment Circle,
No.1, Perarignar Anna Platinum Jubilee Memorial Building Annexe,
4th Floor, Greams Road,
Chennai - 600 006.

2. Commissioner of Commercial Taxes,
Chepauk,
Chennai - 600 005.

3. Government of Tamil Nadu,
Represented by its Secretary,
Commercial Taxes Department,
Fort St.George,
Chennai-600 009. .. Respondents

Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order passed by the 1st respondent in CST 802474/2009-10 dated 30th January 2015, quash the same and consequently direct the 1st respondent to afford the petitioner an opportunity of personal hearing and to allow the petitioner to submit the available “C” Forms and show that the entire CST liability has been paid by way of adjustment against the input tax credit, decide the matter on merits after taking into consideration the submissions of the petitioner.

For Petitioner : Mr.Raghavan Ramabadran

For Respondent : Mr.Manoharan Sundaram
AGP (Tax)

ORDER

Heard Mr.Raghavan Ramabadran, learned counsel for the petitioner and Mr.Manoharan Sundaram, learned Additional Government Pleader (Tax) takes notice for the respondents and with the consent of both the learned counsels, the writ petition is disposed of by this order at the admission stage.

2.The petitioner has filed the writ petition to issue a Writ of Certiorari Mandamus, to call for the records relating to the order passed by the first respondent dated 30.01.2015 and to quash the same and consequently direct the 1st respondent to afford the petitioner an opportunity of personal hearing and to allow the petitioner to submit the available “C”Forms and show that entire CST liability has been paid by way of adjustment against input tax credit and decide the matter on merits after taking into consideration the submissions of the petitioner.

3.It is settled position that under Section 22(4) of Tamil Nadu Value Added Tax Act, 2006 (hereinafter referred to as "the Act"), the dealer should be given a reasonable opportunity of being heard. In the case on hand, the authority has decided the matter without hearing the petitioner. In this ground alone the impugned order is liable to be set aside.

4. Mr.Manoharan Sundaram, learned Additional Government Pleader appearing for the respondents submitted that the provisions of Section 22(4) of the Act is mandatory and therefore the 1st respondent should have followed the provisions.

5. In these circumstances, the impugned order dated 30.01.2015 passed by the 1st respondent is quashed and the matter is remanded to the 1st respondent with a direction to follow the provisions of Section 22(4) of the Act and decide the matter afresh, after giving a reasonable opportunity to the petitioner.

With these observations, the writ petition is allowed. No costs. Consequently, the connected Miscellaneous Petition is closed.

rg/ds

s/d-
Assistant Registrar(R)
Dt:18/3/2015

True Copy

Sub-Assistant Registrar

To

1. The Assistant Commissioner (CT) (FAC)
   Kodambakkam Assessment Circle,
   No.1, Perarignar Anna Platinum Jubilee
   Memorial Building Annexe,
   4th Floor, Greams Road,
   Chennai - 600 006.

2. Commissioner of Commercial Taxes,
   Chepauk,
   Chennai - 600 005.

3. Government of Tamil Nadu,
   Represented by its Secretary,
   Commercial Taxes Department,
   Fort St.George,
   Chennai-600 009.

+ 1 cc to Mr.Lakshmi Kumaran, Advocate SR 13808

+ 1 cc to Spl.Govt.Pleader SR 13793

rk(co)
prk20/3