IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.03.2015

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

WP.Nos.6901 to 6903 of 2015
and
M.P.Nos.1,1 and 1 of 2015

Escorts Limited,
(Formerly known as Escorts Construction Equipments Limited),
4, Jain Antariksha Buildings, I Floor,
No.7, Ashok Nagar Main Road,
Kodambakkam, Chennai - 600 024. .. Petitioner in all W.Ps.

Versus

1. The Assistant Commissioner (CT)
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.

4. Commercial Tax Officer, Enforcement
No.174, J.N.Road
Tiruvallur 602 003. ..Respondents in all W.Ps.

Writ petitions 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 802474/2010-11, CST 802474/2011-12 and CST 802474/2012-13 dated 30th January 2015; to quash the same and consequently to 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 in all W.Ps.	:	Mr.Raghavan Ramabadran and Mr.Varun Chabbu
For Respondent in all W.Ps.	:	Mr.Cibi Vishnu AGP (Tax)

COMMON ORDER

Heard Mr.Raghavan Ramabadran, learned counsel for the petitioner and Mr.Cibi Vishnu, learned Additional Government Pleader (Tax) takes notice for the respondents and with the consent of both the learned counsel, the writ petitions are disposed of by this common order at the admission stage itself.

2.The petitioner has filed the above writ petitions for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the first respondent dated 30.01.2015 in CST 802474/2010-11, CST 802474/2011-12 and CST 802474/2012-13 respectively 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.Cibi Vishnu, learned Additional Government Pleader (Taxes) 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. It is also brought to the notice of this Court that, this

Court under similar circumstances for the assessment year 2009-2010 in respect of the very same petitioner, has quashed the impugned order in W.P.No.6638 of 2015 vide order dated 10.03.2015.

6. In these circumstances, the impugned orders dated 30.01.2015 passed by the 1st respondent in CST 802474/2010-11, CST 802474/2011-12 and CST 802474/2012-13 respectively are quashed and the matter is remanded back 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 of hearing the petitioner.

7. With these observations, the writ petitions are allowed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

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

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

3. The Secretary to
   Government of Tamil Nadu,
   Commercial Taxes Department,
   Fort St.George,
   Chennai-600 009.

4. Commercial Tax Officer, Enforcement
No.174, J.N.Road
Tiruvallur 602 003.

3 cc to Mr. Lakshmi Kumaran,Advocate, SR.No.14066
1 cc to Spl.Government Pleader,Sr.No14087

sr(co)
pmk.25.3.2015