IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.8316 and 8317 of 2015
and
M.P.Nos.1 and 1 of 2015

M/s.Larsen & Toubro Limited,
Chennai Regional Office,
TC1 Building, 2nd Floor,
979, Mount Poonamallee Road,
Manapakkam,
Chennai - 600 089. ... Petitioner in both W.Ps.

vs.

The Deputy Commissioner (CT)-II,
LTU, Marshall Road,
Chennai - 8. ... Respondent in both W.Ps.

Writ Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records of the impugned orders of re-assessment in TNGST 0620015/2002-03 and TNGST 0620015/2003-04 dated 18.02.2015 from the file of the first respondent herein and quash the same.

For Petitioner : Mrs.Aparna Nandakumar
For Respondent : Mr.Manoharan Sundaram
Additional Government Pleader (Taxes)

C O M M O N O R D E R

Heard Mrs.Aparna Nandakumar, learned counsel appearing for the petitioner and Mr.Manoharan Sundaram, learned Additional Government Pleader (Taxes) for the respondent. With the consent of both parties, these writ petitions are taken up for final disposal at the admission stage itself.

2. Petitioner has filed these writ petitions seeking to quash the orders of re-assessment of the respondent in TNGST 0620015/2002-03 and TNGST 0620015/2003-04 dated 18.02.2015.

3. The petitioner is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (Act 2006). The sum and substance of the writ petitions is that when there is a specific direction by the appellate authority, the assessing authority will have to follow the directions given by the appellate authority and in this case, the appellate authority has specifically stated that the assessing officer has got to verify all the transactions related to the disputed freight and unloading charges or pumping charges with reference to the observations made in the appeal and decide the liability accordingly. When such an observation has been made and the appeals filed by the petitioner have been allowed and when the matters have been remanded, the assessing officer viz., the original authority will have to follow the observations/orders made by the appellate authority. If the respondent is aggrieved by the orders of the appellate authority, it is open to them to challenge the same by means of a second appeal but cannot canvass the issue that are decided by the appellate authority before the assessing authority and the assessing authority cannot sit as an appellate authority and decide the issue afresh. Hence, on this ground, this Court accepts the contention of the petitioner.

These Writ Petitions are allowed and the impugned orders are set aside. The matters are remanded to the original authority for fresh consideration and pass orders on merits and in accordance with law, more particularly, in the light of the observation made by the appellate authority. If the respondent is aggrieved by the orders impugned in this writ petition, it is open to them to challenge such orders by means of a second appeal, if it is within time. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

gm Sub Assistant Registrar

To

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

+2cc's to Mrs.Aparna Nandakumar, Advocate, S.R.No.16296
+1cc to the Special Government Pleader(Taxes), S.R.No.16704

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and M.P.Nos.1 and 1 of 2015

RSY(CO)
CA(08/04/2015)