IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.05.2017

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
AND
THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.A.No.555 of 2017
and
C.M.P.No.7907 of 2017

M/s.Larsen and Toubro Limited
Chennai Regional Office,
TCI Building, 2nd Floor,
979, Mount Poonamallee Road,
Manapakkam, Chennai 600 089 .. Appellant

Vs.

The Deputy Commissioner(CT)-II,
LTU, Mashall Road,
Chennai 600 008 .. Respondents

Writ Appeal filed under Clause 15 of Letters Patent against the order dated 20.04.2017 in W.P.No.9603 of 2017 passed by the Hon'ble Justice K.Ravichandra Babu.

Prayer in W.P. NO 9603 of 2017:
This Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, call for the records of the impugned assessment order in CST 31722 of 2015-2016 dated 15.03.2017 from the files of the first respondent herein and quash the same.

For Appellant : Mrs.Aparna Nandakumar

For Respondents: Mr.Kanmani Annamalai
Additional Government Pleader (Taxes)

JUDGMENT

(The Judgment of the Court was delivered by N.Kirubakaran,J)

The writ appeal has been filed against the order dated 20.04.2017 passed by the learned Single Judge in W.P.No.9603 of 2017, remanding the matter by setting aside the assessment to the Assessing Officer for re-doing the assessment with the condition to pay 20% of the tax demanded.

2. Heard Mrs.Aparna Nandakumar, learned counsel appearing for the appellant and Mr.Kanmani Annamalai, learned Additional Government Pleader(Taxes) appearing for the respondent.

3. Paragraph 9 of the order dated 20.04.2017 in W.P.No.9603 of 2017, which reads follows:-

> "9. Accordingly, the writ petition is allowed and the impugned order of assessment is set aside and the matter is remitted back to the Assessing Officer for redoing of assessment once again subject to the following terms and conditions.
>
> a) The petitioner shall pay 20% of the tax demand before the Assessing Officer within a period of two weeks from the date of the receipt of a copy of this order.
>
> b) The petitioner shall furnish the balance 'C' forms before the Assessing Officer within a period of two months from the date of receipt of a copy of this order.
>
> c) On receipt of the payment of 20% of the tax demand, the Assessing Officer will reopen the assessment and allow the petitioner to furnish the balance 'C' forms within the time stipulated by this Court as stated supra.
>
> d) On furnishing the balance 'C' forms within the time stipulated supra, the Assessing Officer shall consider the matter once again and pass a fresh order of assessment after giving due opportunity of hearing to the petitioner.
>
> e) Such exercise shall be done by the Assessing Officer within a period of four weeks from the date of completion of furnishing the 'C' forms by the petitioner.

4. From the above extract, it is clear that the Assessment Order has been set aside and the matter was remitted to the Assessment Officer for redoing the assessment on payment of 20% tax demanded as the condition for redoing, which is said to be on the higher side.

5. Taking into consideration the appellant's regular payment of taxes, this Court reduces 20%, as fixed by the learned Single Judge, to 15% of the tax demanded to be paid to the Assessment Officer within a period of two weeks from the date of receipt of a copy of this judgment. The other conditions shall stand confirmed.

6. With the above observations and direction, the Writ Appeal is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar/VO(CS-III)

True Copy

Sub-Assistant Registrar

Copy to

The Deputy Commissioner(CT)-II,
LTU, Mashall Road,
Chennai 600 008

+1 CC to M/s. Aparna Nandakumar, Advocate sr 36676
+1 Cc to Spl. Govt. Pleader(taxes), sr 36682

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