IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 17.12.2018

CORAM
THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.32614 of 2018
and
W.M.P.No.37816 of 2018

Ms. Escort Limited
(Formerly known as M/s. Escorts Construction Equipment Limited,)
represented by its Authorised signatory,
Mr.D.K.Sharma
No.4, I Floor, Jain Antariksha Building,
No.7, Ashok Nagar Main Road,
Kodambakkam,
Chennai, T.N-24 ... Petitioner

vs.

The State Tax Officer,
Ashok Nagar Assessment Circle,
5th Floor, C.T.Buildings Annexe,
No.1, Greams Road,
Chennai,T.N.-06 ..Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the order passed by the respondent dated 15.10.2018 in TIN 33241403307/2012-13 and quash the same and consequently direct the respondent to denovo adjudicate on merits after affording the petitioner an opportunity of effective personal hearing and taking into consideration the submissions of the petitioner.

For Petitioner : Mr.P.Purushotham

For Respondents: Mr.V.Haribabu,
Additional Govt.Pleader(T)

O R D E R

The present writ petition is filed challenging the order of assessment dated 15.10.2018 in respect of assessment year 2012-13.

2. When the matter was taken up for admission on 07.12.2018, this Court found that some manipulation was made with regard to the date of passing of the impugned order and thus, this Court

directed the Assessing Officer to appear before this Court today and explain by way of an affidavit as to the actual state of affairs with regard to the dates and events. Accordingly, the Assessing Officer, is personally present today and filed an affidavit dated 14.12.2018 stating that due to heavy burden of work, certain errors have occurred in typing the dates of notice, personal hearing, order of assessment, without there being any purpose of manipulation. The Officer has also tendered his unconditional apology for all the errors that have occurred in the assessment proceedings. He further sought for an opportunity to redo the entire assessment proceedings properly in accordance with law.

3. It is seen that a notice of proposal dated 03.09.2018 was issued on the petitioner, for which, they filed a reply on 25.09.2018, with a request for providing personal hearing. It is seen that the petitioner has also filed an additional reply on 01.11.2018. A notice dated 27.09.2018 was issued by the Assessing Officer to the petitioner asking the petitioner to appear for personal hearing on 05.10.2018. However, the said notice itself was received by the petitioner only on 03.11.2018. Perusal of the records would show that the said notice itself was posted on 02.11.2018. Therefore, it is evident that issuing a notice on 02.11.2018 and calling upon the petitioner to appear for personal hearing on 05.10.2018 is absolutely meaningless, apart from the fact that it is an outcome of total non-application of mind. Therefore, it is apparent that the entire proceedings which culminated in passing the impugned order has resulted as an outcome of non-application of mind. Further, the impugned order was signed by the Assessing Officer on 15.10.2018 wherein in the date column at the bottom of the order, it is referred as "11-2018". Therefore it is evident that the order was made ready only in the month of November, 2018. However, the Assessing Officer has signed the same on 15.10.2018. All these facts would show that something is wrong with the Assessing officer in indicating the dates and events of the entire proceedings commencing from the issuance of the notice to the date of passing of the impugned order. However, since the Assessing Officer has tendered unconditional apology before this Court for the error so occurred, which according to him, is unintentional, this Court is inclined to give an opportunity to the said Officer to rectify such mistake by commencing the proceedings from issuing a notice for personal hearing.

4. Accordingly, the Writ Petition is allowed and the impugned order is set aside and the matter is remitted back to the Assessing Officer to redo the assessment after hearing the petitioner in person and thereafter, to pass orders of assessment on merits and in accordance with law, as this Court is not expressing any view on the merits of the assessment. The whole exercise shall be done by the Assessing Officer within a

period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vsi

To

The State Tax Officer,
Ashok Nagar Assessment Circle,
5th Floor, C.T.Buildings Annexe,
No.1, Greams Road,
Chennai,T.N.-06

+1cc to the Government Pleader (Taxes), S.R.No.88027

W.P.No.32614 of 2018

VGI(CO)

rrs 02/01/2019