IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.08.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.28658 of 2016

M.Murugesan ...Petitioner

Vs.

The Assistant Commissioner (CT),
Sankari Assessment Circle,
Sankari, Salem District. ...Respondent

PRAYER: Writ Petition filed under Article 226 of Constitution of India praying to issue Writ of certiorari to call for the records on the file of the respondent in TIN.33663223087/2009-10, dated 02.03.2016 and quash the same as being without jurisdiction and authority of law and contrary to the principles of natural justice.

For Petitioner : Mr.R.Senniappan
For Respondent : Mr.S.Kanmani Annamalai, AGP (T)

ORDER

Heard R.Senniappan, learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader, who accepts notice for the respondent and with their consent, the writ petition itself is taken up for disposal.

2. The petitioner is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006. The challenge in this writ petition is to the assessment order for the year 2009-2010.

3. The petitioner's case is that before the previous Assessing Officer, he had appeared and produced the books of accounts after receiving the revision notice dated 29.10.2014. However, the present officer after a period of 18 months from the date of notice has passed the impugned order. Though the petitioner has not given any written objection, the order should be a speaking order. The petitioner's further case is that the earlier orders of assessments and revisions dated 17.05.2011, 14.09.2011, 02.11.2012 and 20.11.2012 were all passed taking into account of the figures mentioned in the books of accounts

and monthly returns. Further, it is pointed out that Rule 8(5)(d) can be invoked only if the petitioner is not able to produce the books of accounts in support of his claim and this is also one more ground to hold that the impugned order is unsustainable.

4. Considering the above said submissions and taking note of the fact that 18 months had lapsed between the revision notice and the final assessment order, this Court is of the view that one more opportunity should be granted to the petitioner to place all the facts and this is more so because the petitioner states that in respect of four earlier orders and revisions, books of accounts were produced.

5. In the light of the above, the writ petition is disposed of by directing the petitioner to treat the impugned assessment order as a show cause notice and submit his objections within a period of 15 days from the date of receipt of a copy of this order. After affording an opportunity of personal hearing to the petitioner, the respondent shall peruse the books of accounts and redo the assessment in accordance with law. No Costs. WMP.No.24731 of 2016 is closed.

rkm

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

The Assistant Commissioner (CT),
Sankari Assessment Circle,
Sankari, Salem District.

+ 1 cc to Mr.R.Senniappan, Advocate Sr 46966

+ 1 cc to The Spl.Govt.Pleader (Taxes), High Court, Mds-104.
Sr 46888

KR/2/9/16 W.P.No.28658 of 2016