IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.12.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.36772 of 2016 &

W.M.P.No.31612 of 2016

M/s.Balaji Traders,
Rep. by its Proprietor,
Mr.K.Balaji,
Arasur Road, Pudupet. .. Petitioner

Versus

The Deputy Commercial Tax Officer,
Panruti (Rural) .. Respondent

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus to call for the records of the respondent in TIN:33294501217/2014-15, dated 13.05.2016 and the consequential proceedings in TIN:33294501217/2014-15, dated 31.08.2016 quash the same being illegal, arbitrary, unreasonable and being contrary to Section 3(1)(a) read with Rule 7(7) of the Tamil Nadu Value Added Tax Act, 2006 and the Tamil Nadu Value Added Rules, 2007 and further direct the respondent to apply his mind independently by perusing the records including the books of accounts maintained by the petitioner.

For Petitioner : Mr.V.Sundareswaran
For Respondent : Mr.S.Kanmani Annamalai
Additional Government Pleader

O R D E R

Heard Mr.V.Sundareswaran, learned counsel appearing for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader appearing for the respondents.

2. The petitioner, who is a registered dealer on the file of the respondent, under the provisions of the Tamil Nadu Value

Added Tax Act, 2006 (hereinafter referred to as the 'TNVAT Act'), has challenged the order of assessment passed by the respondent for the year 2014-15, dated 31.08.2016.

3. The petitioner's case is that the assessment for all the years since the commencement of business i.e., 2011-12, were completed by accepting returns in Form I-1 by the respondent. While the matter was at that stage, the total income and trading and profit and loss account was finalized vide return, dated 03.10.2015 under the Income Tax Act, 1961 under the trading and profit and loss account filed along with income tax returns, the details of the closing stock and other expenses were disclosed, including the fixed assets viz., the machinery installed in the factory. While so, the respondent issued a notice dated 30.12.2015, based on the web-report proposing to revise the total taxable turnover. The petitioner on receipt of the notice has filed a return in Form I-1 on 10.02.2016, furnished the details of the purchasers of which VAT was paid along with Form I-1 returns, the details of purchasers annexure 1 and details of sales in annexure 2. The petitioner also submitted the copy of the income tax return for the assessment year 2015-16 along with trading and profit and loss account. On receipt of those documents, the respondent rejected the e-return and passed the impugned order.

4. The grievance of the petitioner is that when the revision is proposed to be made based on web report, the respondent would have afforded an opportunity to the petitioner to produce the documents and he could not called for books of accounts. However, it is stated that the e-return ought not to have been rejected, merely because, it was filed after the notice was issued. Thus, the petitioner claims one more opportunity to go before the assessing officer.

5. On a perusal of the impugned order, it is seen that the respondent has rejected the e-return and thereafter proceeded to complete the assessment.

6. In the considered view of this Court, merely because, the petitioner has filed e-return after the notice was served, that by itself will not be a reason to reject the e-return. But on the other hand, the reasonable procedure that could have been adopted was to direct the petitioner to produce the books of accounts and other documents and make a verification and then complete assessment. In the peculiar facts and circumstances of the case, this Court is inclined to grant one more opportunity to the petitioner to go before the assessing officer.

7. Accordingly, the petitioner is directed to treat the impugned proceedings as a show-cause notice and submit their

objections within a period of 15 days from the date of receipt of a copy of this order and on receipt of the objections, the respondent shall afford an opportunity of personal hearing, call for books of accounts and documents, examine the same thoroughly and redo the assessment in accordance with law.

8. With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

r n s

To
The Deputy Commercial Tax Officer,
Panruti (Rural)

+1cc to Mr.V. Sundareswaran, Advocate, S.R.No.71025
+1cc to the Spl.Government Pleader (Taxes), S.R.No.71025

rv(CO)
md(29/12/2016)

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