IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE:29.06.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.38500 of 2003

Tvl. Sree Balaji Traders,
Thadicombu Road, Kallipatti (P.O)
Dindigul - 624 001. .. Petitioner

Vs.

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

Prayer:Petition filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari calling for the records on the file of the respondent in CST 130238/95-96 dated 18.11.2003 and quash the same as barred by limitation under Section 16(1) of the Tamil Nadu General Sales Tax Act, 1959, read with Section 9(2) of the Central Sales Tax Act, 1956.

For Petitioner : Mr.A.Chandrasekaran
For Respondent : Mr.Manokaran Sundaram, AGP

ORDER

Heard Mr.A.Chandrasekaran, learned counsel for the petitioner and Mr.Manokaran Sundaram, learned Additional Government Pleader appearing for the respondent and with their consent, the writ petition is taken up for final disposal.

2.The petitioner is a dealer in Cotton registered on the file of the respondent under the erstwhile Tamil Nadu General Sales Tax Act, 1959 and Central Sales Tax Act, 1956. In this writ petition, the petitioner challenges the revised assessment order dated 18.11.2003 on the ground it is barred by limitation. However, for the pre-revision notice dated 04.09.2003, the petitioner did not file any objections and allowed the officer to complete the assessment and thereafter, he has approached this Court by way of this writ petition.

3.The contention raised by the petitioner is that for the year 1995-1996 the period of limitation for revising the assessment expired on 31.03.2001 and the amendment to Section 16 (1) came into effect only from 01.07.2002 and therefore, the subsequent amendment cannot be applied to revise the petitioner's assessment for the year 1995-1996.

4.The learned Government Advocate appearing for the respondent submitted that the order of assessment was passed on 03.06.1997, it was served on the petitioner on 10.06.1997 and thereafter, on remand, it was revised on 20.09.1998 and the impugned revision is within the five years period stipulated under the Act.

5.In my view, this Court need not adjudicate this issue, at this juncture, since there is certain discrepancies and disputes with regard to the date on which assessment order was passed, date of service, date on which when remand order was passed etc. Therefore, the best course open to this Court would be to remand back the matter for the respondent for fresh consideration. However, for that reason, this Court is not inclined to quash the impugned proceedings, but however, would direct the petitioner to treat the impugned proceedings as a show cause notice and submit their objections within a period of four weeks from the date of receipt of a copy of this order and on receipt of such objections, the respondent shall afford an opportunity of personal hearing to the petitioner and proceed to complete the assessment in accordance with law.

6.With the above observations, the Writ Petition is disposed of. No costs.
sgl

s/d-
Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

To

The Deputy Commercial Tax Officer (Rural),
Dindigul.

+ 1 cc to Mr.R.Radhakrishnan, Advocate SR 36980

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