IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.01.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.12552 of 2006 & WPMP No.14133 of 2006

Sri Veera Traders,
rep. by its Proprietor,
No.63-1, Duraisamy Main Road,
Pallapatty, Salem-9. ...Petitioner

Vs.

The Deputy Commercial Tax Officer,
Leigh Bazaar Assessment Circle, Salem. ...Respondent

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records of the respondent in his proceedings in TNGST Asst. No.2621249/03-04, quash the order of assessment dated 09.11.2005 made therein and further direct the respondent to redo the assessment in accordance with law.

For Petitioner : Mr.S.Raveekumar
For Respondent : Mrs.G.Dhanamadhri,
Government Advocate

O R D E R

Heard Mr.S.Raveekumar, learned counsel for the petitioner and Mrs.G.Dhana Madhri, learned Government Advocate for the respondent.

2.The petitioner is aggrieved by the assessment order passed by the respondent under the provisions of the Tamil Nadu General Sales Tax Act, 1959, for the assessment year 2003-04. Though the petitioner submitted their objections to the revision notice and produced books of accounts and documents, the respondent rejected the same on the ground that the petitioner did not produce it at the time of inspection conducted by the Enforcement Wing. This observation is incorrect and erroneous. Apart from that one more reason assigned in the impugned order is on the ground that the petitioner has not filed monthly returns within the due date. However, there was no such proposal made in the revision notice dated 26.10.2015.

3.The only issue in the instant case pertains to the purchase omission and the consequential equal time for probable omission. If the records were available with the dealer and produced before the assessing officer, he is required to peruse the same and take a decision in the matter. In fact, the Day book, ledger, purchase and sale bills, closing stock inventory were produced by the petitioner before the respondent and accepted in the assessment order in Column No.7. Therefore, the manner in which the assessment order was passed is against law and contrary to facts.

4.For the above reason, this writ petition is allowed, the impugned order is set aside and the matter is remanded to the respondent for fresh consideration, who shall peruse the Day book, ledger, purchase and sale bills, closing stock inventory and other records produced by the petitioner and re-do the assessment in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

abr
To
The Deputy Commercial Tax Officer,
Leigh Bazaar Assessment Circle, Salem.

+ 1 cc to Mr.S. Raveekumar, Advocate Sr.4061
+ 1 cc to the Special Government Pleader Sr.3904

W.P.No.12552 of 2006

KK(CO)
EU(16/02/2018)