BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.01.2021

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.20476 of 2013
and
M.P.(MD)No.1 of 2013

M/s.V.V.V. and Sons Edible Oils Limited,
represented by its Director,
443, Bazaar, Virudhunagar : Petitioner

Vs.

The Commercial Tax Officer-I,
Virudhunagar Assessment Circle,
Virudhunagar. : Respondent

PRAYER :- Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, to call for the records of the respondent in his proceedings in CST No.485022/2004-05 and quash the pre-assessment notice dated 04.11.2013 issued therein and further to direct the respondent to pass deemed assessment order for the assessment year CST 2004-05 as contemplated under Section 12-C of the TNGST Act read with Sec.9(2) of the CST Act.

For Petitioner :Mr.S.Raja Jeya Chandra Paul

For Respondent :Mr.J.Padmavathi Devi
Special Government Pleader

ORDER

Heard the learned Counsel on either side.

2.The petitioner is a dealer registered with the respondent. Vide impugned notice, dated 04.11.2013, the petitioner has been called upon to offer his objection within 15 days from the date of receipt of the notice. It was made clear that if the petitioner did not respond, orders will be passed by confirming the proposal. Challenging the same, the present Writ Petition is filed.

3.The learned Counsel for the petitioner draws my attention to the order of this Court, dated 28.11.2010 made in W.P.No.880 of

2010, in the case of ***Manali Petrochemicals Limited vs the Assistant Commissioner (CT), Saidapet Assessment Circle, Chennai***. In the said order passed by this Court, the Circular dated 27.12.2006, issued by the Commissioner of Commercial Taxes has been extracted. From the same, it is seen that assessee must be given 90 days time to offer their objection.

4.When the circular issued by the Commissioner of Commercial Taxes is clearly binding on the respondent herein, the respondent could not have limited the time limit to 15 days. To this extent alone, I interfere with the impugned notice. Accordingly, the impugned order is quashed.

5.This Writ Petition is pending for more than eight years. The petitioner has more than enough time to gather all the particulars. He cannot now say that he should be given 90 days time from today. The petitioner is given four weeks time from the date of receipt of a copy of this order to offer his objection. Thereafter, the respondent shall pass appropriate orders in accordance with law.

6.Accordingly, this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

cmr

To

The Commercial Tax Officer-I,
Virudhunagar Assessment Circle,
Virudhunagar.

+1 CC to SGP (SR-2410[F] dated 29/01/2021)

+1 CC to Mr.S.RAJA JEYA CHANDRA PAUL, Advocate (SR-2287[F] dated 29/01/2021)

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