BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 03.03.2021
CORAM:
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
W.P.(MD)Nos.3640 & 3641 of 2018
and
W.M.P.(MD)Nos.3761 & 3762 of 2018

M/s.V.V.V. & Sons Edible Oils Ltd.,
Rep. by its Director V.R.Muthu,
443 Main Bazaar,
Virudhunagar ... Petitioner in both W.Ps.

-Vs-

The Commercial Tax Officer-I,
Virudhunagar Assessment Circle,
Virudhunagar. ... Respondent in both W.Ps.

Prayer in W.P.(MD)No.3640 of 2018: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records of the respondent in his proceedings in TIN 33175721640/2015-16, quash the pre-assessment notice, dated 24.01.2018 issued therein.

Prayer in W.P.(MD)No.3641 of 2018: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records of the respondent in his proceedings in CST 504273/2015-16, quash the pre-assessment notice dated 24.01.2018 issued therien.

For Petitioner : Mr.R.L.Ramani
Senior Counsel
for Mr.S.Raja Jeya Chandrapaul
For Respondent : Mr.G.Arjunan
Government Advocate

COMMON ORDER

These two writ petitions have been filed by the petitioner for the assessment year 2015-16. One writ petition is in respect of TNVAT Act, 2006, while the other writ petition is in respect of CST Act, 1956.

2.The petitioner challenges the pre-revision notices issued by the respondent on the ground that the petitioner cannot be faulted, if the purchaser of commodities from the petitioner had not filed proper returns.

3.The petitioner's Senior Counsel would also point out that the impugned notices have been issued without any basis. The impugned notices are rather bald. The petitioner is therefore entitled to move this Court at the notice stage itself.

4.Though the contentions putforth by the petitioner's senior counsel are very persuasive, I am reluctant to grant relief for the simple reason that the petitioner has rushed to this Court at the notice stage itself. It has been held in more than one case by the Hon'ble Supreme Court that only if it can be shown that notice has been issued without jurisdiction or it has been issued for malafide reasons or if it suffers from the vice of pre- determination, the Writ Court will intervene.

5.For this reason, I am not inclined to quash the notices impugned in these writ petitions. However, to safeguard the rights of the petitioner, the following directions are issued:-

(a) the petitioner shall file their objections on or before 08.03.2021. It is enough, if the petitioner establishes the sale of the commodities in question to the other State purchaser.

(b) If the respondent is satisfied that the petitioner has proved his part of the transaction, the fact that the purchaser who is based in neighboring State, has not filed proper returns, cannot be put against the petitioner. Thereafter, the respondent will have to necessarily drop the proceedings. In other words, if the petitioner is able to prove his transaction, then that shall be more than enough.

(c) The respondent shall pass orders on merits and in accordance with law on or before 19.03.2021.

6. These Writ Petitions are disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

rmi

Note :In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

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

+1 cc to Mr.S.RAJA JEYA CHANDRA PAUL ,Advocate, SR No.8544
+1cc to M/s.Special Government Pleader, SR No.8739

W.P.(MD)Nos.3640 & 3641 of 2018
and
W.M.P.(MD)Nos.3761 & 3762 of 2018

KK(04.03.2021) 3P 4C