BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.01.2021

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THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

W.P.(MD)Nos.9855, 9856 and 11728 of 2015
and
M.P.(MD)Nos.1, 1 and 1 of 2015

M/s.Sri Durgai Oil Stores,
represented by its Proprietor
M.Selvaraj : Petitioner in all cases

Vs.

The Commercial Tax Officer,
South Avani Moola Street Circle,
Madurai - 20. : Respondent in all cases

PRAYER in W.P.(MD)No.9855 of 2015:- Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorari to call for the records on the file of the respondent in TIN 33324842010/2011-12, dated 15.04.2015 and quash the same as illegal, invalid and against the principles of natural justice.

PRAYER in W.P.(MD)No.9856 of 2015:- Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorari to call for the records on the file of the respondent in TIN 33324842010/2012-13, dated 12.05.2015 and quash the same as illegal, invalid and against the principles of natural justice.

PRAYER in W.P.(MD)No.11728 of 2015:- Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorari to call for the records on the file of the respondent in TIN 33324842010/2010-11, dated Nill, signed on 09.04.2015 and quash the same as illegal, invalid and against the principles of natural justice.

For Petitioner :Mr.A.Chandrasekaran
For Respondent :Mrs.J.Padmavathi Devi
Special Government Pleader
(In all cases)

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COMMON ORDER

Heard the learned Counsel for the petitioner and the learned Special Government Pleader appearing for the respondent.

2.The petitioner is an assessee registered with the respondent. In respect of the assessment years 2010-11, 2011-12 and 2012-13, the petitioner received pre-revision notices from the respondent. The notices came to be issued, because of a surprise inspection in the petitioner's place of business conducted by the enforcement wing and certain discrepancies were noticed. The petitioner gave a detailed reply vide letter, dated 08.01.2015. Rejecting the petitioner's stand, the impugned orders came to be passed. They are assailed in these Writ Petitions.

3.It is seen from the evidence that the Assessing Officer appears to have been apparently convinced by the stand taken by the petitioner/assessee and therefore, the Assessing Officer has sent a deviation proposal to the Joint Commissioner. But, the Joint Commissioner rejected the deviation proposal. Therefore, the original proposal made in the deviation report came to be fully confirmed.

4.The learned Counsel for the petitioner would argue that the Assessing Officer, who issued the pre-revision notice, must apply his mind independently and decide the issue. He could not be dictated by the Joint Commissioner.

5.I find that the said contention is fully sustainable. It is the respondent, who has been conferred the jurisdiction in such matter. Therefore, the Assessing Officer, exercising his jurisdiction as a quasi judicial authority, could not be dictated by any other authority including the immediate superior officer. In this view of the matter, the impugned orders are quashed and these Writ Petitions are allowed and the matter is remanded back to the file of the respondent. Since there is a change of incumbent, the new incumbent will have to issue independent notice to the petitioner and pass fresh orders. It is open to the respondent to take into account all the relevant materials.

6.Accordingly, these Writ Petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To

The Commercial Tax Officer,
South Avani Moola Street Circle,
Madurai - 20.

+1cc to Mr.A.Chandrasekaran , Advocate Sr.No.387

W.P.(MD)Nos.9855, 9856 and 11728 of 2015
05.01.2021

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