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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 22.03.2021
CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)Nos.11328 to 11335 of 2017
and
W.M.P.(MD)Nos.8703 to 8710 of 2017

IN WP(MD) NO.11328 to 11331 of 2017:-
M/s.V.V.V and Sons Edible Oils, Limited,
Rep. by its Director, 443, Bazaar, Virudhunagar.
.. Petitioner

IN WP(MD) NO.11332 to 11335 of 2017:-
M/s.V.R.Muthu & Bros.,
Rep. by its Partner, 443, Bazaar, Virudhunagar.
.. Petitioner

IN WP(MD) NO.11328 TO 11335 OF 2017

The Commercial Tax Officer-1, (FAC)
Virudhunagar. .. Respondent in all the petitions

Prayer in IN WP(MD) NO.11328 to 11331 of 2017:-
Writ Petition is 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/Assessment Year 2012-2013, 2013-2014, 2014-2015 and 2015-2016 respectively quash the proceedings dt.15.05.2017 issued therein.

Prayer in IN WP(MD) NO.11332 to 11335 of 2017:-
Writ Petition is 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 33645720460/Assessment Year 2012-2013, 2013-2014, 2014-2015 and 2015-2016 respectively quash the proceedings dt.15.05.2017 issued therein.

For Petitioner : Mr.N.L.Ramani
Senior Counsel
for Mr.S.Raja Jeya Chandra Paul

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

ORDER

Heard the learned senior counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondent. The assessing officer also appeared before the Court through video conferencing and assisted the Court.

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2.These eight writ petitions have been filed by the petitioner in respect of different assessment years. The respondent by the impugned summons had called upon the petitioner to appear before him with the documents mentioned in the summons. The learned Senior Counsel would point out that the summon is for causing appearance of the person and production of the documents for detailed scrutiny. The learned Senior Counsel draws my attention to Section 22(3) of TNVAT Act, 2006, r/w Rule 10(11) of TNVAT Rules, 2007. Both of them read as under:-

*22.**Deemed assessment and procedure to be followed by assessing authority.***

(3) Notwithstanding anything contained in sub-section (2), not exceeding twenty per cent of the total number of such assessments shall be selected by the Commissioner in such manner as may be prescribed for the purpose of detailed scrutiny regarding the correctness of the returns submitted by the dealer and, in such cases, revision of assessment shall be made wherever necessary.

10(11). The method of selection by the Commissioner referred to in sub-section (3) of Section 22 shall be based on suitable stratified random sampling method and such selection shall not exceed twenty per cent of the cases assessed under sub-section (2) of section 22 and intimate the details of such selection to the assessing authority for detailed scrutiny of accounts. Such list shall be exhibited on the notice board of the assessment circles and also in the website of the department. The assessing authority shall call for the accounts of those assessees for detailed scrutiny and pass appropriate orders.

3.His core contention is that it is only the Commissioner of Commercial Tax who could have called upon the petitioner to produce the documents in question for detailed scrutiny and that the respondent herein is not possessed of the jurisdiction to do so. There can be no exception to his contention. In fact, the same is virtually conceded by the respondent. But then, the respondent would state that it was the Commissioner of Commercial Tax who had chosen the petitioner's assessment for random scrutiny and that pursuant to his proceedings dated 21.04.2017, the impugned summons came to be issued. However, in the impugned summons, there is no reference to the Commissioner's proceedings.

4.In any event, in view of the interim stay granted by this court, the summons have become virtually infructuous. Therefore, these Writ Petitions are disposed of by directing the respondent to issue a fresh summon in this regard. When the respondent issues summons, the respondent will take care to make a clear

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reference to the proceedings of the Commissioner of Commercial Tax referred to in the counter. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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-1 (FAC)
Virudhunagar.

+1 CC to Mr.S.RAJA JEYA CHANDRA PAUL, Advocate SR.No. 13023

W.P.(MD)Nos.11328 to 11335 of 2017
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