BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **09.01.2025**

CORAM:

THE HONOURABLE MR.JUSTICE **K.KUMARESH BABU**

W.P.(MD) Nos.13767 to 13769 of 2022
and
W.M.P.(MD) Nos.9782, 9774 and 9775 of 2022 and 404, 430 and 397 of 2024

M/S.V.V.V. and Sons Edible Oils Ltd.,
(formerly known as M/S.V.V.Vanniaperumal & Sons),
represented by its Director,
443 Main Bazaar,
Virudhunagar 626 001.
... Petitioner in all W.Ps.,

/vs./

The State Tax Officer-I,
Virudhunagar.
... Respondent in all W.Ps.,

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records of the respondent in his proceedings in Entry Tax Asst. Nos.5720025/2002-03, 5720025/2004-05 and 5720025/2003-04 quash the assessment order dated 29.04.2022 passed therein.

For Petitioner
in all W.Ps., : Mr.R.L.Ramani Senior Counsel for
Mr.S.Raja Jeya Chandra

For Respondent
in all W.Ps., : Mr.J.K.Jeyaseelan
Government Advocate

COMMON ORDER

The challenge in these writ petitions is to the orders of the assessments made by the respondent.

2. The primordial contention of the petitioner is that the impugned order had been passed again in violation of the directions of this Court in the previous round of litigation. He had also submitted that the earlier judgment of this Court in the case of ***Kasi and Sethu Vs. DCTO, Kumbakonam and another*** reported in ***131 STC 73*** and the case of ***C.A.Motors Vs. The Commercial Tax Officer, Tiruvarur*** reported in ***2019 VIL 448 Mad*** have all been violated.

3. From a reading of the grounds that had been raised by the petitioner in support of these writ petitions do not indicate the parameters prescribed by the Hon'ble Apex Court in entertaining a writ petition under Article 226 of the

Constitution of India reported in ***2021 SCC Online SC 884 (Assistant Commissioner of State Tax and others Vs. Commercial Steel Limited),*** when there is an efficacious alternative remedy available to the petitioner. In such view of the matter, I am not inclined to entertain the writ petition, as the petitioner can always seek appropriate remedy before the appellate authority.

4. Even though the learned Senior Counsel appearing on behalf of the petitioner would vehemently contend that the writ petitions had been filed in the year 2022 and counter had also been filed in these writ petitions, it was not necessary for this Court to relegate the parties to the appellate authority. I am not in agreement with the reasonings raised by the learned Senior Counsel for entertaining the writ petition any further.

5. It is to be seen that the present writ petitions relate to the order of assessments made to the years 2002-2003 to 2004-2005. The same had been the subject matter of writ petitions, wherein the order of assessment had been set aside and the matter was remitted back to the authority and every time, the respondent had been making one mistake or the other. Even accepting the

contention of the learned Senior Counsel that the respondent had passed the orders in violation of the orders passed by this Court in the earlier round of litigation, it is to be seen that the appellate authority is also superior to the Assessing Authority. The infirmity that had been made by the respondent can be brought to the notice of the appellate authority, when an appeal is filed against such orders. The appellate authority being the superior can also initiate appropriate action against the Assessing Authority for his infirmities that is being repeatedly made by the Assessing Officer.

6. In this context, this Court takes judicial notice of the circular issued under the Income Tax Act for dealing with compliance of higher scrutiny assessment. An inbuilt mechanism had been made to initiate actions against the authorities, who passes the order contravening the provisions of the Income Tax Act, 1961. Drawing parlance, only if an appeal is filed against the order made by the Assessing Officer before the authority, who also wields administrative control over the assessing officer, such erroneous orders can be reduced, which would cause a great impact on the administration of the Department.

7. For the aforesaid reasonings, I am not inclined to accept the contentions raised by the learned Senior Counsel appearing for the petitioner in all the writ petitions. In fine, the Writ Petitions stand dismissed with liberty to the petitioner to approach the appellate authority in the manner known to law. If the petitioner files an appeal on or before 28.02.2025, the appellate authority shall take them on record and pass appropriate orders on merits and in accordance with law without insisting the period of limitation in filing the appeals. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No **09.01.2025**
Internet : Yes / No
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Issue order copy on 29.01.2025

To

The State Tax Officer-I,
Virudhunagar.

K.KUMARESH BABU, J.

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W.P.(MD) Nos.13767 to 13769 of 2022

09.01.2025