IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 22.06.2017

DELIVERED ON : 22.09.2017

Coram

The Honourable Mr.Justice RAJIV SHAKDHER

and

The Honourable Mr.Justice R.SURESH KUMAR

Writ Petition No.14619 of 2011

and M.P.No.1 of 2011

Prince Jewellery,
represented by its Proprietor,
Princeson Jose,
No.13, Nageswara Rao Road,
T.Nagar, Chennai-600 017. .. Petitioner

Vs.

1. The Assistant Commissioner (CT),
T.Nagar (South) Assessment Circle,
46, Greenways Road,
Chennai-600 028.

2. The State of Tamil Nadu
Represented by the Secretary,
Commercial Taxes & Registration Department,
Fort St.George,
Chennai - 600 009. .. Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India for issuance of a Writ of Declaration, declaring that the provisions of Section 19(2)(ii) and Section 19(4) of the Tamil Nadu Value Added Tact Act, 2006, infringe Articles 14, 19(1)(g) and violative of Articles 301 and 304(a) not being saved by Article 304(b) of the Constitution of India, and therefore unforceable and the resultant recoveries of both tax and penalty and forfeiture of the input tax credit under Section 27 of the said Act in respect of the bullion and raw material purchased in the State of Tamil Nadu which have suffered tax, converted into finished jewellery outside the State and brought back as finished ornaments into the State of Tamil Nadu and sold in the State, are without the sanction of Article 265 of the Constitution of India and illegal.

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For Petitioner : Mr.C.Natarajan, Senior Counsel
for Mr.N.Inbarajan

For Respondents: Mr.V.Ayyadurai, A.A.G.
Asst.by Mr.S.Kanmani Annamalai, AGP

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O R D E R

1. This writ petition lays, in effect, a challenge to Sections 19(2)(ii) and 19(4) of the Tamil Nadu Value Added Tax Act, 2006 (in short 'the 2006 Act').

1.1. The challenge to the said Sections, is based on the assertion, made by the writ petitioner, that the said provisions of the 2006 Act, violate, Articles 14, 19(1)(g), 301 and 304(a) & (b) of the Constitution.

1.2. Accordingly, the writ petitioner, seeks a direction against the respondents to forbear from relying upon the impugned provisions to reverse or recover Input Tax Credit (in short, "ITC") under Section 27(2) of the 2006 Act.

1.3. In aid of its submissions, the writ petitioner has also asserted that denial of ITC, in respect of bullion and raw material, purchased within the State of Tamil Nadu, which is converted into finished jewellery, albeit, outside the State and sold, thereafter, within the State of Tamil Nadu, is unlawful and violative of the provisions of Article 265 of the Constitution.

2. The issue which arises in the captioned writ petition is covered by our judgement delivered today i.e. 22.09.2017, passed in W.P.No.6377 of 2010 titled : Patina Gold Ornaments Pvt. Ltd., Vs. The Assistant Commissioner (CT).

3. Accordingly, the relief claimed in the captioned writ petition is allowed, leaving parties to bear their own costs. Resultantly, the pending application shall stand closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

kk/gg

To

1. The Assistant Commissioner (CT),
   T.Nagar (South) Assessment Circle,
   46, Greenways Road,
   Chennai-600 028.

2. The Secretary to Government,
   Government of Tamil Nadu,
   Commercial Taxes & Registration Department,
   Fort St.George,
   Chennai - 600 009.

Pre-Delivery Order in
W.P.No.14619 of 2011

VGII(CO)
KP(27.10.2017)