

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 09.02.2017
CORAM:
THE HONOURABLE MR. JUSTICE RAJIV SHAKDHER
W.P.Nos.2220 to 2222 of 2017

M/s.Modern Jewellery Mart
rep. by its Partner N.Vijayakumar,
11, Nanayakara Street,
Nagapattinam.

.. Petitioner in all the W.Ps

vs.

The Commercial Tax Officer,
Nagapattinam Circle,
Nagapattinam.

.. Respondent in all the W.Ps

* * *

Prayer in W.P.No.2220 of 2017 : Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, or any other appropriate Writ by directing the respondent to cancel the Bank Guarantee No.135BG160049/2015-16, dated 12.06.2015, and direct the respondent to send an advice of cancellation of the said Bank Guarantee to the petitioner or Bankers which was filed with the respondent as security as per the orders in SP No.59/2015 in VAT 60/2015 dated 25.05.2015 and to pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Prayer in W.P.No.2221 of 2017 : Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, or any other appropriate Writ by directing the respondent to cancel the Bank Guarantee No.135BG160050/2015-16, dated 12.06.2015, and direct the respondent to send an advice of cancellation of the said Bank Guarantee to the petitioner or Bankers which was filed with the respondent as security as per the orders in SP No.60/2015 in VAT 61/2015 dated 25.05.2015 and to pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Prayer in W.P.No.2222 of 2017 : Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, or any other appropriate Writ by directing the respondent to cancel the Bank Guarantee No.135BG160051/2015-16, dated 12.06.2015, and direct the respondent to send an advice of cancellation of the said Bank Guarantee to the petitioner or Bankers which was filed with the respondent as security as per the orders in SP No.61/2015 in VAT

62/2015 dated 25.05.2015 and to pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

* * *

For Petitioner in all: Mr.S.Ramanathan
the writ petitions

For Respondent in : Mr.S.Kanmani Annamalai,
all the writ petitions Additional Government Pleader

COMMON ORDER

1. On the previous date, i.e., 31.01.2017, I had made the following observations :

"1. The limited relief that the petitioner seeks in the present writ petitions is the return of the expired bank guarantee, pursuant to the conclusion of proceedings before the Appellate Deputy Commissioner, Thanjavur.

1.1. To be noted, the petitioner's appeal was partly allowed.

2. The only reason, the respondent, is holding on to the expired bank guarantee, which, at the relevant time was furnished as a security towards a part of the disputed tax claimed, is that, a second appeal appears to have been preferred with the Tribunal by the Sales Tax Department.

3. Issue notice. Mr.Venkatesh, learned Government Advocate, says that he will revert with instructions in the matter.

4. Re-notify on 09.02.2017."

2. Mr.S.Kanmani Annamalai, learned Additional Government Pleader, who appears for the respondent, has reverted with instructions.

3. Learned counsel for the respondent says that the continued refusal to cancel the Bank Guarantees, which are subject matter of the captioned writ petitions, is not in order, in view of the provisions of Rule 14(15) of the Tamil Nadu Value Added Tax Rules, 2007 (in short the 2007 Rules).

4. Having heard the submission made by Mr.Annamalai, the captioned writ petitions are allowed.

4.1. The respondent is directed to send an advice to the

concerned Bank indicating therein that the subject Bank Guarantees have been cancelled. The concerned Bank, in these cases, is the Tamil Nadu Mercantile Bank, Nagapattinam Branch.

5. There shall, however, be no order as to costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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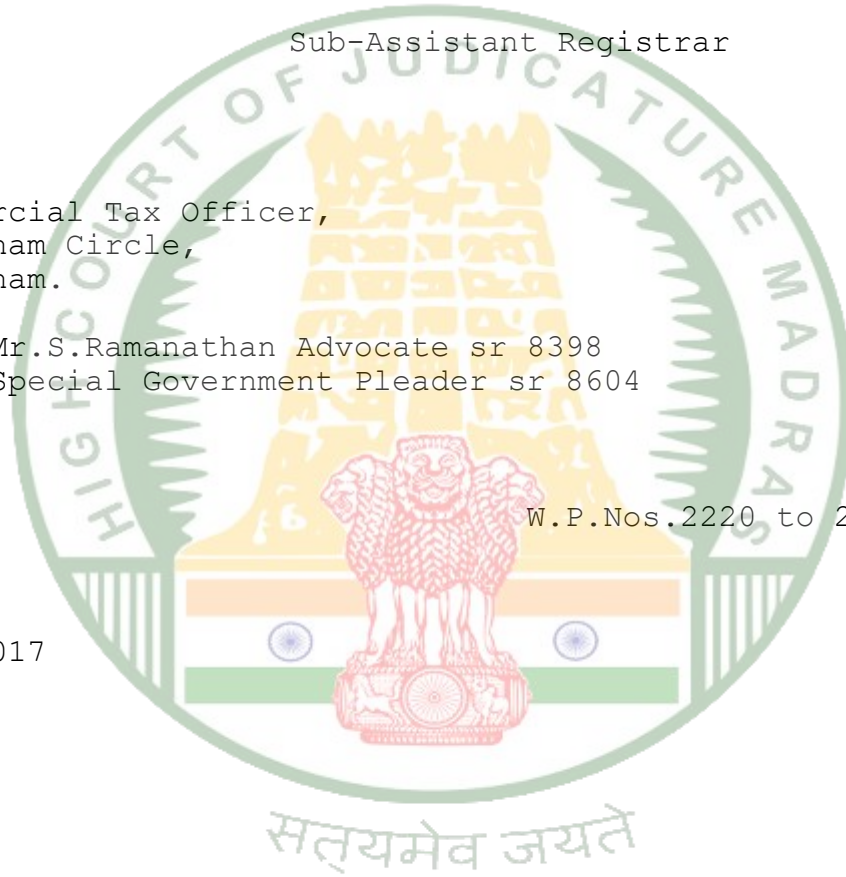
To

The Commercial Tax Officer,
Nagapattinam Circle,
Nagapattinam.

+1 cc to Mr.S.Ramanathan Advocate sr 8398
+1 cc to Special Government Pleader sr 8604

W.P.Nos.2220 to 2222 of 2017

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