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.6868 of 2010

and M.P.Nos.1 and 2 of 2010

ANS Guptha Jewels,
(rep. By its Partner A.Anand Kumar)
186/386, Bazaar Street,
Salem - 636 001. .. Petitioner

Vs.

1. The Assistant Commissioner (CT) (FAC),
Salem Town West Circle,
Salem.

2. The State of Tamil Nadu,
Represented by the Secretary to Government,
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 Tax 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 unenforceable and the resultant recoveries 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 converted into finished jewellery and 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.

For Petitioner : Mr.C.Natarajan, Senior Counsel for Mr.N.Inbarajan
For Respondents: Mr.V.Ayyadurai, A.A.G. Assisted by Mr.S.Kanmani Annamalai

O R D E R

RAJIV SHAKDHER,J.

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 applications shall stand closed.

/sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

kk/gg
To
1. The Assistant Commissioner (CT) (FAC),
Salem Town West Circle,
Salem.

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

W.P.No.6868 of 2010
and M.P.Nos.1 and 2 of 2010

BR (CO)
MD: 28/10/2017