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.28617 of 2010
and M.P.No.1 of 2010

M/s.Mohanlal Jewellers,
Rep. By its Proprietor,
Mr.Mohanlal Khatri,
No.246, NSC Bose Road,
Chennai - 79. .. Petitioner

Vs.

1. The Assistant Commissioner (CT) (FAC),
   Peddunaickenpet (South) Assessment Circle,
   Chennai.

2. The Commissioner of Commercial Taxes,
   "Ezhilagam", Chepauk,
   Chennai – 600 005.

3. The State of Tamil Nadu,
   Represented by the Secretary
   to Government, Commercial Taxes and
   Registration B(1) 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 Section 19(2)(ii) and Section 19(4) of the Tamil Nadu Value Added Tax Act, 2006 as discriminatory and violative of Articles 14, 301 and 304(a) of the Constitution of India, not saved by Presidential Assent under Article 304(b) of the Constitution of India and, in any view, Section 19(4) of the Tamil Nadu Value Added Tax Act, 2006 as inapplicable to cases involving stock transfer of raw materials to a place outside the State for manufacture and return of manufactured goods into the State for sale within the State of Tamil Nadu.

For petitioner : Ms.C.Rekha Kumari

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.

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.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

kk/gg

To

1. The Assistant Commissioner (CT),
Peddunaickenpet (South) Assessment Circle,
Chennai - 1.

2. The Commissioner of Commercial Taxes,
"Ezhilagam", Chepauk,
Chennai – 600 005.

3. The Secretary to Government,
to Government, Commercial Taxes and
Registration B(1) Department,
Fort St. George, Chennai – 600 009.

Pre-Delivery Order in
W.P.No.28617 of 2010
and M.P.No.1 of 2010

CB(30/10/2017)