IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2018

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.Nos.4782 of 2011,
4795 to 4797, 19318, 19319, 26092 to 26096 of 2009,
3832 to 3834, 30045, 30046 of 2010,
5279, 5280 of 2011,
3624 to 3629, 6350 to 6353,
26458, 26459, 32156 to 32161, 34529 of 2012,
11641, 11642, 11779 to 11784, 13858 and 13859 of 2013 and
Connected Miscellaneous Petitions

M/S.JINENDRA JEWELLERS
REP. BY ITS PARTNER
M.MAHAVEER CHAND
NO.111, N.S.C.BOSE ROAD,
CHENNAI - 600 003. .. PETITIONER IN W.P.NO.4782 OF 2011

SRI ULAGANAYAGI AMMAN STEELS
REP.BY ITS MANAGING PARTNER M.SUBBIAH
393, BAZAAR STREET KOLLAPURAM
NANNILAM TALUK THIRUVARUR DISTRICT 609 608
.. PETITIONER IN W.P.NO.4795 OF 2009

SRI ULAGANAYAGI AMMAN STEELS
REP.BY ITS MANAGING PARTNER M.SUBBIAH
93 BAZAAR STREET KOLLAPURAM
NANNILAM TALUK THIRUVARUR DISTRICT 609 608
.. PETITIONERS IN W.P.NO.4796 & 4797 OF 2009

M/S.STEEL SHOPPE
(REP. BY ITS PROPRIETOR) MR.MAHENDRA KUMAR SINGHI
NO.20/46-D2 SHANTHI NAGAR OPP.
RAGHAVENDRA THEATRE HOSUR-635109.
.. PETITIONER IN W.P.NO.19318 OF 2009

M/S.STEEL SHOPPE
(REP. BY ITS PROPRIETOR) MR.MAHENDRA KUMAR SINGHI
NO.20/46-D2 SHANTHI NAGAR OPP.
RAGHAVENDRA THEATRE HOSUR-635109.
.. PETITIONER IN W.P.NO.19319 OF 2009

M/S.SIDHARTH SALES AGENCIES
REP. BY ITS PARTNER MR.ASHOK KUMAR
NO.186, MINT STREET CHENNAI-3.
.. PETITIONER IN WP.26092 TO 26095 OF 2009

M/S.SIDHARTH SALES AGENCIES
REP. BY ITS PARTNER MR.ASHOK KUMAR
NO.186, MINT STREET CHENNAI-3.
.. PETITIONER IN WP.26096 OF 2009

M/S.SILGO
REP.BY ITS PARTNER MR.KEWALCHAND JAIN
OLD NO.21 RAMASAMY STREET T.NAGAR
CHENNAI-17
.. PETITIONERS IN WP.3832 TO 3833 OF 2010

M/S.SILGO
REP.BY ITS PARTNER MR.KEWALCHAND JAIN
OLD NO.21 RAMASAMY STREET T.NAGAR
CHENNAI-17
.. PETITIONERS IN WP.3834 OF 2010

ABHISHEK JEWELLERS (P) LTD
REP BY ITS DIRECTOR 59 NSC BOSE ROAD
CHENNAI 3
... PETITIONER in WP No.30045 of 2010

ABHISHEK JEWELLERS (P) LTD
REP BY ITS DIRECTOR 59 NSC BOSE ROAD
CHENNAI 3
... PETITIONER in WP No.30046 of 2010

TVL.JOY ALUKKAS TRADERS(INDIA)PVT. LTD.
(NOW KNOWN AS JOYALUKKAS INDIA LTD)
REP.BY REGIONAL ACCOUNTS MANAGER
K.J.DOUGLAS 911 CROSS CUT ROAD
GANDHIPURAM COIMBATORE—12.
... PETITIONER in WP No.5279 of 2011

TVL.JOY ALUKKAS TRADERS(INDIA)PVT. LTD.
(NOW KNOWN AS JOYALUKKAS INDIA LTD)
REP. BY REGIONAL ACCOUNTS MANAGER
K.J.DOUGLAS 911 CROSS CUT ROAD
GANDHIPURAM COIMBATORE—12.
... PETITIONER in WP No.5280 of 2011

M/S.MEHTA JEWELLERY

NO.43 C.P.RAMASAMY ROAD ABHIRAMAPURAM
CHENNAI-18.
... PETITIONER in WP No.3624 of 2012

M/S.MEHTA JEWELLERY
NO.43 C.P.RAMASAMY ROAD ABHIRAMAPURAM
CHENNAI-18.
... PETITIONER in WP No.3625 of 2012

M/S.MEHTA JEWELLERY
NO.43 C.P.RAMASAMY ROAD ABHIRAMAPURAM
CHENNAI-18.
... PETITIONER in WP No.3626 of 2012

M/S.MEHTA JEWELLERY
NO.43 C.P.RAMASAMY ROAD ABHIRAMAPURAM
CHENNAI-18.
... PETITIONER in WP No.3627 of 2012

M/S.MEHTA JEWELLERY
NO.43 C.P.RAMASAMY ROAD ABHIRAMAPURAM
CHENNAI-18.
... PETITIONER in WP No.3628 of 2012

M/S.MEHTA JEWELLERY
NO.43 C.P.RAMASAMY ROAD ABHIRAMAPURAM
CHENNAI-18.
... PETITIONER in WP No.3629 of 2012

TVL.VUMMUDI BANGARU CHETTY AND SONS
REP.BY ITS PARTNER THIRU V.ASHWIN RAJ
SPENCERS PLAZA 769 ANNA SALAI CHENNAI 2
... PETITIONER in WP No.6350 of 2012

TVL VUMMUDI BANGARU CHETTY AND SONS
REP BY ITS PARTNER THIRU V.ASHWIN RAJ
SPENCERS PLAZA 769 ANNA SALAI CHENNAI 2
... PETITIONER in WP No.6351 of 2012

TVL.VUMMUDI BANGARU CHETTY AND SONS
REP BY ITS PARTNER THIRU V.ASHWIN RAJ
SPENCERS PLAZA 769 ANNA SALAI CHENNAI 2
... PETITIONER in WP No.6352 of 2012

TVL VUMMUDI BANGARU CHETTY AND SONS
REP BY ITS PARTNER THIRU V.ASHWIN RAJ
SPENCERS PLAZA 769 ANNA SALAI CHENNAI 2
... PETITIONER in WP No.6353 of 2012

M/S.J.C.JEWELLERS (CHENNAI)PVT.LTD.
REP BY ITS DIRECTOR MR.P.RAMESH KUMAR
NO.230/7 NSC BOSE ROAD SOWCARPET CHENNAI 79
... PETITIONER in WP No.26458 of 2012

M/S.J.C.JEWELLERS (CHENNAI)PVT.LTD.
REP BY ITS DIRECTOR MR.P.RAMESH KUMAR
NO.230/7 NSC BOSE ROAD SOWCARPET
CHENNAI 79
... PETITIONER in WP No.26459 of 2012

M/S.PRIORITY GOLD PVT.LTD.
REP BY ITS AUTHORISED SIGNATORY NO.18
RAMASAMY ST T.NAGAR CHENNAI 17
... PETITIONER in WP No.32156 of 2012

M/S.PRIORITY GOLD PVT.LTD.
REP BY ITS AUTHORISED SIGNATORY NO.18
RAMASAMY ST T.NAGAR CHENNAI 17
... PETITIONER in WP No.32157 of 2012

M/S.PRIORITY GOLD PVT.LTD.
REP BY ITS AUTHORISED SIGNATORY NO.18
RAMASAMY ST T.NAGAR CHENNAI 17
... PETITIONER in WP No.32158 of 2012

M/S.PRIORITY GOLD PVT.LTD.
REP BY ITS AUTHORISED SIGNATORY NO.18
RAMASAMY ST T.NAGAR CHENNAI 17
... PETITIONER in WP No.32159 of 2012

M/S.PRIORITY GOLD PVT.LTD.
REP BY ITS AUTHORISED SIGNATORY NO.18
RAMASAMY ST T.NAGAR CHENNAI 17
... PETITIONER in WP No.32160 of 2012

M/S.PRIORITY GOLD PVT.LTD.
REP BY ITS AUTHORISED SIGNATORY NO.18
RAMASAMY ST T.NAGAR CHENNAI 17
... PETITIONER in WP No.32161 of 2012

M/S.J.C.JEWELLERS (CHENNAI)PVT. LTD.
REP.BY ITS DIRECTOR MR.P.RAMESH KUMAR
NO.230/7 NSC BOSE ROAD SOWCARPET
CHENNAI-79

... PETITIONER in WP No.34529 of 2012

TVL.SHREE GANESH JEWELLERY HOUSE LTD
REP.BY ITS MANAGER MANISH ARORA
NO.21. RAMASWAMY STREET T.NAGAR CHENNAI-17.

... PETITIONER in WP No.11641 of 2013

TVL.SHREE GANESH JEWELLERY HOUSE LTD
REP.BY ITS MANAGER MANISH ARORA
NO.21. RAMASWAMY STREET T.NAGAR CHENNAI-17.

... PETITIONER in WP No.11642 of 2013

M/S.SOUTH INDIA JEWELLERY
DOOR NO.122 AND 123 NSC BOSE ROAD NATHELLA
JUBILEE PLAZA CHENNAI-79.

... PETITIONER in WP No.11779 of 2013

M/S.SOUTH INDIA JEWELLERY
DOOR NO.122 AND 123 NSC BOSE ROAD NATHELLA
JUBILEE PLAZA CHENNAI-79.

... PETITIONER in WP No.11780 To 11784 of 2013

M/S.K.M.C. ALUMINIUM PVT. LTD.
REPRESENTED BY ITS MANAGING DIRECTOR
SANJAY AGARWAL 88 BROADWAY CHENNAI-1.

... PETITIONER in WP No.13858 of 2013

M/S.K.M.C. ALUMINIUM PVT.LTD.
REPRESENTED BY ITS MANAGING DIRECTOR
SANJAY AGARWAL 88 BROADWAY CHENNAI-1.

... PETITIONER in WP No.13859 of 2013

-vs-

1.THE ASSISTANT COMMISSIONER (CT)
MOOR MARKET (NORTH) ASSESSMENT CIRCLE,
NO.191, N.S.C.BOSE ROAD,
CHENNAI -1.

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 IN WP.NO.4782 OF 2011

1.THE COMMERCIAL TAX OFFICER
(FAC) NANNILAM ASSESSMENT CIRCLE NANNILAM

2.THE COMMISSIONER OF
COMMERCIAL TAXES EZHILAGAM CHEPAUK
CHENNAI 600005

3.THE STATE OF TAMILNADU
REP. BY THE SECRETARYU TO GOVERNMENT
COMMERCIAL TAXES AND REGISTRATION B (1)
DEPARTMENT FORT ST. GEROGE CHENNAI 600009

.. RESPONDENTS IN WP.NO.4795 OF 2009

1 THE COMMERCIAL TAX OFFICER
(FAC) NANNILAM ASSESSMENT CIRCLE, NANNILAM

2 THE COMMISSIONER OF COMMERCIAL TAXES
EZHILAGAM, CHEPAUK, CHENNAI 600005

3 THE STTE OF TAMILNADU
REP.BY THE SECRETARY TO GOVERNMENT
COMMERCIAL TAXES AND REGISTRATION B (1)
DEPARTMENT FORT ST. GEROGE CHENNAI 600009

.. RESPONDENTS IN WP.NOs.4796 & 4797 OF 2009

1 THE UNION OF INDIA
REP. BY ITS FINANCE SECRETARY NEW DELHI.

2 THE STATE OF TAMILNADU
REP. BY ITS SECRETARY TO GOVT. COMMERCIAL
TAXES DEPARTMENT FORT ST.GEORGE CHENNAI.

3 THE ASSISTANT COMMERCIAL (CT)
HOSUR SOUTH HOSUR.

... RESPONDENTS in WP No.19318 of 2009

1 THE UNION OF INDIA
REP. BY ITS FINANCE SECRETARY NEW DELHI.

2 THE STATE OF TAMILNADU
REP. BY ITS SECRETARY TO GOVT. COMMERCIAL
TAXES DEPARTMENT FORT ST.GEORGE CHENNAI.

3 THE ASSISTANT COMMERCIAL (CT)
HOSUR SOUTH HOSUR.

... RESPONDENTS in WP No.19319 of 2009

1 THE STATE OF TAMILNADU
REP. BY ITS SECRETARY TO GOVT. COMMERCIAL
TAXES DEPARTMENT FORT ST. GEORGE CHENNAI.

2 THE ASSISTANT COMMERCIAL
(CT)(FAC) PARK TOWN-I ASSESSMENT CIRCLE
CHENNAI-1.

... RESPONDENTS in WP.Nos.26092 TO 26095 of 2009

1 THE STATE OF TAMILNADU
REP. BY ITS SECRETARY TO GOVT. COMMERCIAL
TAXES DEPARTMENT FORT ST. GEORGE CHENNAI.

2 THE ASSISTANT COMMERCIAL
(CT)(FAC) PARK TOWN-I ASSESSMENT CIRCLE
CHENNAI-1.

... RESPONDENTS in WP No.26096 of 2009

1 THE ASSISTANT COMMISSIONER
(CT) (FAC) T.NAGAR (SOUTH) ASSESSMENT
CIRCLE CHENNAI

2 THE COMMISSIONER OF
COMMERCIAL TAXES EZHILAGAM CHEPAUK
CHENNAI-5

3 THE STATE OF TAMILNADU
REP.BY THE SECRETARY TO GOVERNMENT
COMMERCIAL TAXES AND REGISTRATION B(1)
DEPARTMENT FORT ST. GEORGE CHENNAI-9

... RESPONDENT in WP No.3832 TO 3833 of 2010

1 THE ASSISTANT COMMISSIONER(CT)(FAC)
T.NAGAR (SOUTH) ASSESSMENT, CIRCLE CHENNAI

2 THE COMMISSIONER OF
COMMERCIAL TAXES EZHILAGAM CHEPAUK
CHENNAI-5

3 THE STATE OF TAMILNADU
REP.BY THE SECRETARY TO GOVERNMENT
COMMERCIAL TAXES AND REGISTRATION B(1)
DEPARTMENT FORT ST. GEORGE CHENNAI-9

... RESPONDENTS in WP No.3834 of 2010

1 THE ASSISTANT COMMISSIONER
(CT) MOORE MARKET (NORTH) ASSESSMENT CIRCLE
191 NSC BOSE ROAD CHENNAI 1

2 THE STATE OF TAMILNADU
(REP BY THE SECRETARY TO GOVERNMENT)
COMMERCIAL TAXES AND REGISTRATION DEPT.
FORT ST.GEORGE CHENNAI 9

... RESPONDENTS in WP No.30045 of 2010

1 THE ASSISTANT COMMISSIONER (CT)
MOORE MARKET (NORTH) ASSESSMENT CIRCLE
191 NSC BOSE ROAD CHENNAI 1

2 THE STATE OF TAMILNADU
(REP BY THE SECRETARY TO GOVERNMENT)
COMMERCIAL TAXES AND REGISTRATION DEPT.
FORT ST.GEORGE CHENNAI 9

... RESPONDENTS in WP No.30046 of 2010

1 THE ASSISTANT COMMISSIONER(CT)
GANDHIPURAM ASSESSMENT CIRCLE 18
BALASUNDARAM ROAD COIMBATORE-18.

2 THE STATE OF TAMIL NADU
REP. BY THE SECRETARY TO GOVERNMENT
COMMERCIAL TAXES & REGISTRATION DEPARTMENT
FORT ST. GEORGE CHENNAI-9.

... RESPONDENTS in WP No.5279 of 2011

1 THE ASSISTANT COMMISSIONER(CT)
GANDHIPURAM ASSESSMENT CIRCLE 18
BALASUNDARAM ROAD COIMBATORE-18.

2 THE STATE OF TAMIL NADU
REP. BY THE SECRETARY TO GOVERNMENT
COMMERCIAL TAXES & REGISTRATION DEPARTMENT
FORT ST. GEORGE CHENNAI-9.

... RESPONDENTS in WP No.5280 of 2011

1 THE SECRETARY TO GOVERNMENT
COMMERCIAL TAXES DEPARTMENT FORT ST. GEORGE
CHENNAI-9.

2 THE ASSISTANT COMMISSIONER(CT)
MANDAVELI ASSESSMENT CIRCLE CHENNAI-28.

... RESPONDENTS in WP No.3624 of 2012

1 THE ASSISTANT COMMISSIONER(CT)
MANDAVELI ASSESSMENT CIRCLE CHENNAI-28.

... RESPONDENTS in WP No.3625 of 2012

1 THE ASSISTANT COMMISSIONER(CT)
MANDAVELI ASSESSMENT CIRCLE CHENNAI-28.

... RESPONDENTS in WP No.3626 of 2012

1 THE ASSISTANT COMMISSIONER(CT)
MANDAVELI ASSESSMENT CIRCLE CHENNAI-28.

... RESPONDENTS in WP No.3627 of 2012

1 THE ASSISTANT COMMISSIONER(CT)
MANDAVELI ASSESSMENT CIRCLE CHENNAI-28.

... RESPONDENTS in WP No.3628 of 2012

1 THE ASSISTANT COMMISSIONER(CT)
MANDAVELI ASSESSMENT CIRCLE CHENNAI-28.

... RESPONDENTS in WP No.3629 of 2012

1 THE STATE OF TAMILNADU
REP BY THE SECRETARY TO GOVERNMENT
COMMERCIAL TAXES DEPARTMENT FORT ST.GEORGE
CHENNAI 9

2 THE ASSISTANT COMMISSIONER (CT)
ANNA SALAI III ASSESSMENT CIRCLE
NO.621 ANNA SALAI SIRE MANSION CHENNAI 6

... RESPONDENTS in WP No.6350 of 2012

1 THE STATE OF TAMILNADU
REP BY THE SECRETARY TO GOVERNMENT
COMMERCIAL TAXES DEPARTMENT FORT ST.GEORGE
CHENNAI 9

2 THE ASSISTANT COMMISSIONER (CT)
ANNA SALAI III ASSESSMENT CIRCLE
NO.621 ANNA SALAI SIRE MANSION CHENNAI 6

... RESPONDENTS in WP No.6351 of 2012

1 THE STATE OF TAMILNADU
REP BY THE SECRETARY TO GOVERNMENT
COMMERCIAL TAXES DEPARTMENT FORT ST.GEORGE
CHENNAI 9

2 THE ASSISTANT COMMISSIONER (CT)
ANNA SALAI III ASSESSMENT CIRCLE NO.
621 ANNA SALAI SIRE MANSION CHENNAI 6

... RESPONDENTS in WP No.6352 of 2012

1 THE STATE OF TAMILNADU
REP BY THE SECRETARY TO GOVERNMENT
COMMERCIAL TAXES DEPARTMENT FORT ST.GEORGE
CHENNAI 9

2 THE ASSISTANT COMMISSIONER (CT)
ANNA SALAI III ASSESSMENT CIRCLE NO.
621 ANNA SALAI SIRE MANSION CHENNAI 6

... RESPONDENTS in WP No.6353 of 2012

1 THE ASSISTANT COMMISSIONER (CT)
PEDDUNAICKENPET (SOUTH)
ASSESSMENT CIRCLE NO.191 NSC BOSE ROAD
CHENNAI 1

2 THE COMMISSIONER OF
COMMERCIAL TAXES EZHILAGAM CHEPAUK
CHENNAI 5

3 THE STATE OF TAMILNADU
REP BY THE SECRETARY TO GOVERNMENT
COMMERCIAL TAXES AND REGISTRATION B(1) DEPT.
FORT ST.GEORGE CHENNAI 9

... RESPONDENTS in WP No.26458 of 2012

1 THE ASSISTANT COMMISSIONER (CT)
PEDDUNAICKENPET (SOUTH)
ASSESSMENTCIRCLE NO.191 NSC BOSE ROAD
CHENNAI 1

2 THE COMMISSIONER OF
COMMERCIAL TAXES EZHILAGAM CHEPAUK
CHENNAI 5

3 THE STATE OF TAMILNADU
REP BY THE SECRETARY TO GOVERNMENT
COMMERCIAL TAXES AND REGISTRATION B(1) DEPT.
FORT ST.GEORGE CHENNAI 9

... RESPONDENTS in WP No.26459 of 2012

1 THE ASSISTANT COMMISSIONER (CT)
T.NAGAR (SOUTH) ASSESSMENT CIRCLE
CHENNAI 28

2 THE SPECIAL COMMISSIONER
OF COMMERCIAL TAXES EZHILAGAM CHEPAUK
CHENNAI 5

3 THE STATE OF TAMILNADU
REP BY THE SECRETARY TO GOVERNMENT
COMMERCIAL TAXES AND REGISTRATION B (1)
DEPARTMENT FORT ST.GEORGE CHENNAI 9

... RESPONDENTS in WP No.32156 of 2012

1 THE ASSISTANT COMMISSIONER (CT)
T.NAGAR (SOUTH) ASSESSMENT CIRCLE
CHENNAI 28

2 THE SPECIAL COMMISSIONER
OF COMMERCIAL TAXES EZHILAGAM CHEPAUK
CHENNAI 5

3 THE STATE OF TAMILNADU
REP BY THE SECRETARY TO GOVERNMENT
COMMERCIAL TAXES AND REGISTRATION B (1)
DEPARTMENT FORT ST.GEORGE CHENNAI 9

... RESPONDENTS in WP No.32157 of 2012

1 THE ASSISTANT COMMISSIONER (CT)
T.NAGAR (SOUTH) ASSESSMENT CIRCLE
CHENNAI 28

2 THE SPECIAL COMMISSIONER
OF COMMERCIAL TAXES EZHILAGAM CHEPAUK
CHENNAI 5

3 THE STATE OF TAMILNADU
REP BY THE SECRETARY TO GOVERNMENT
COMMERCIAL TAXES AND REGISTRATION B (1)
DEPARTMENT FORT ST.GEORGE CHENNAI 9

... RESPONDENTS in WP No.32158 of 2012

1 THE ASSISTANT COMMISSIONER (CT)
T.NAGAR (SOUTH) ASSESSMENT CIRCLE
CHENNAI 28

2 THE SPECIAL COMMISSIONER
OF COMMERCIAL TAXES EZHILAGAM CHEPAUK
CHENNAI 5

3 THE STATE OF TAMILNADU
REP BY THE SECRETARY TO GOVERNMENT
COMMERCIAL TAXES AND REGISTRATION B (1)
DEPARTMENT FORT ST.GEORGE CHENNAI 9

... RESPONDENTS in WP No.32159 of 2012

1 THE ASSISTANT COMMISSIONER (CT)
T.NAGAR (SOUTH) ASSESSMENT CIRCLE
CHENNAI 28

2 THE SPECIAL COMMISSIONER
OF COMMERCIAL TAXES EZHILAGAM CHEPAUK
CHENNAI 5

3 THE STATE OF TAMILNADU
REP BY THE SECRETARY TO GOVERNMENT
COMMERCIAL TAXES AND REGISTRATION B (1)
DEPARTMENT FORT ST.GEORGE CHENNAI 9

... RESPONDENTS in WP No.32160 of 2012

1 THE ASSISTANT COMMISSIONER (CT)
T.NAGAR (SOUTH) ASSESSMENT CIRCLE
CHENNAI 28

2 THE SPECIAL COMMISSIONER
OF COMMERCIAL TAXES EZHILAGAM CHEPAUK
CHENNAI 5

3 THE STATE OF TAMILNADU
REP BY THE SECRETARY TO GOVERNMENT
COMMERCIAL TAXES AND REGISTRATION B (1)
DEPARTMENT FORT ST.GEORGE CHENNAI 9

... RESPONDENTS in WP No.32161 of 2012

1 THE ASSISTANT COMMISSIONER (CT)
PEDDUNAICKENPET (SOUTH) ASSESSMENT
CIRCLE NO.191 NSC BOSE ROAD CHENNAI-1

2 THE COMMISSIONER OF
COMMERCIAL TAXES EZHILAGAM CHEPAUK
CHENNAI-5

3 THE STATE OF TAMILNADU
REP. BY THE SECRETARY TO GOVT. COMMERCIAL
TAXES AND REGISTRATION B(1) DEPARTMENT FORT
ST. GEORGE CHENNAI-9

... RESPONDENTS in WP No.34529 of 2012

1 THE STATE OF TAMIL NADU
REP. BY THE SECRETARY TO GOVERNMENT
COMMERCIAL TAXES AND REGISTRATION B(1)
DEPARTMENT FORT ST. GEORGE CHENNAI-9.

2 THE COMMISSIONER OF COMMERCIAL TAXES
EZHILAGAM CHEPAUK CHENNAI-5.

3 THE ASSISTANT COMMISSIONER(CT)
T.NAGAR (SOUTH) ASSESSMENT CIRCLE
CHENNAI-28.

... RESPONDENTS in WP No.11641 of 2013

1 THE STATE OF TAMIL NADU
REP. BY THE SECRETARY TO GOVERNMENT
COMMERCIAL TAXES AND REGISTRATION B(1)
DEPARTMENT FORT ST. GEORGE CHENNAI-9.

2 THE COMMISSIONER OF COMMERCIAL TAXES
EZHILAGAM CHEPAUK CHENNAI-5.

3 THE ASSISTANT COMMISSIONER(CT)
T.NAGAR (SOUTH) ASSESSMENT CIRCLE
CHENNAI-28.

... RESPONDENTS in WP No.11642 of 2013

1 THE COMMERCIAL TAX OFFICER(CT)
PEDDUNAICKENPET (SOUTH) ASSESSMENT
CIRCLE NO.191 NSC BOSE ROAD CHENNAI-1.

2 THE COMMISSIONER OF COMMERCIAL TAXES
EZHILAGAM CHEPAUK CHENNAI-5.

3 THE STATE OF TAMIL NADU
REP. BY THE SECRETARY TO GOVERNMENT
COMMERCIAL TAXES AND REGISTRATION B(1)
DEPARTMENT FORT ST.GEORGE CHENNAI-9.

... RESPONDENTS in WP.Nos.11779 TO 11784 of 2013

1 THE COMMERCIAL TAX OFFICER
HARBOUR III ASSESSMENT CIRCLE 191
NSC BOSE ROAD CHENNAI-1.

... RESPONDENT in WP No.13858 of 2013

1 THE STATE OF TAMIL NADU
REPRESENTED BY THE SECRETARY COMMERCIAL
TAXES AND REGISTRATION DEPARTMENT FORT ST.
GEORGE CHENNAI-9.

2 THE COMMERCIAL TAX OFFICER
HARBOUR III ASSESSMENT CIRCLE 191
NSC BOSE ROAD CHENNAI-1.

... RESPONDENTS in WP No.13859 of 2013

Prayers:-

These Writ Petitions filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Declaration,

WP.4782 of 2011:-
declaring that Section 19(2)(ii) 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.

WP.No.4795 of 2009:-
declaring that section 19(2) (ii) and Section 19(4) of the Tamilnadu Value Added Tax ACt 2006 as discriminatory ad 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 Tamilnadu Value Added Tax Act 2006 as inappalicable to cases involving stock transfer of raw materials to a place outside the state for manufacture and return of manufactured goods into the state of sale within the state of Tamil Nadu.

WP.No.4796 & 4797 of 2009:-
Calling for the records on the files of the first Respondent herein in TIN.33034021307/2007-08, 2008-09 respectively dated 30.01.2009 and issue a writ of certiorari or any other appropriate writ, direction or order under Article 226 of the Constitution of India, 1950 quashing the same.

WP.No.19318 of 2009:-
Writ of Certiorari Mandamus to call for the records on the files of the 3rd Respondent herein in TIN.3382-3364716/2008-09 & 2009-10 dated 30.07.2009 and quashing the same and further direct the 3rd respondent not to levy tax on inter-State purchase and branch transfer from other States and also not to levy more than 2% tax u/s.19(4)(i) of the Tamilnadu Value Added Tax Act, 2006 on branch transfer from Tamil Nadu.

WP.No.19319 of 2009:-

Writ of Declaration declaring the Section 19(4)(i) of the Tamil Nadu Value Added Tax Act, 2006 as discriminatory and violative of Articles 14, 19(1)(g), 301 and 304(a) of the Constitution of India, in so far as insisting upon the petitioner to reverse the Input Tax Credit at 3% on branch transfer, which is higher than the reversal of 2% tax on out right inter State sales.

WP.No.26092 To 26095 of 2009:-

Writ of Certiorarified Mandamus to call for the records on the files of the 2nd Respondent herein in TIN.33330320204/ 2006-07, 2007-08, 2008-09, 2009-10 Respectively dated 05.11.2009 and quashing the same and further direct the 3rd respondent not to levy tax on inter-State purchase and branch transfer from other States and also not to levy more than 2% tax u/s.19(4)(i) of the Tamil Nadu Value Added Tax Act, 2006 on branch transfer from Tamil Nadu.

WP.No.26096 of 2009:-

Writ of declaration declaring the Section 19(4)(i) of the Tamilnadu Value Added Tax Act, 2006 as discriminatory and violative of Articles 14, 19(1)(g), 301 and 304(a) of the Constitution of India, in so far as insisting upon the petitioner to reverse the Input Tax Credit at 3% on branch transfer, which is higher than the prescribed 2% rate of tax on outright inter State sales.

WP.No.3832 To 3833 of 2010:-

issue a Writ of Certiorari of any other appropriate Writ, direction or order under Article 226 of the Constitution of India, 1950 quashing the same to call for the records on the files of the first respondent herein in TIN-33291542523/2006-07 dated 14.12.2009 respectively.

WP.No.3834 of 2010:-

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 law materials to a place outside the State for manufacture and return of manufactured goods into the State for sale within the State of Tamilnadu,

WP.No.30045 of 2010:-

Writ of Declaration declaring that the provisions of Section 19(2)(ii) and Section 19(4) of the Tamilnadu Value Added Tax Act, 2006 infringe Articles 14, 19 (l)(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 Tamilnadu converted into finished Jewellery and outside the State and brought back as finished ornaments into the State of Tamilnadu and sold in the State are without the sanction of Article 265 of the Constitution of India and illegal

WP.No.30046 of 2010:-

Writ of Mandamus directing the 1st respondent herein to forbear from relying on the provisions of Section 19(2)(ii) and Section 19(4) to reverse or recover the Input Tax Credit under Section 27(2) of the Tamilnadu Value Added Tax Act, 2006 in respect of the purchase of the inputs entrusted to a job worker outside the State for manufacture on condition of return into the State of Tamilnadu and found sold in the State of Tamilnadu under Tax invoice

WP.No.5279 of 2011:-

Writ of Mandamus Directing the first respondent herein to forbear from relying on the provisions of Section 19(2)(ii) and Sec.19(4) to reverse or recover the input tax credit under Sec.27(2) of the the Tamil Nadu Value Added Tax Act, 2006 in respect of the purchase of the inputs entrusted to a job worker outside the State for manufacture on condition of return into the State of Tamil Nadu and found sold in the State of Tamil Nadu under Tax Invoice

WP.No.5280 of 2011:-

Writ of Declaration declaring that the provisions of Sec.19 (2)(ii) and Sec.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 Sec.27 of the said Act in respect of the bullion and raw material purchased in the State of Tamil Nadu converted into finished jewellary in 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

WP.No.3624 of 2012:-

Writ of Declaration declaring that Secs.19(2)(ii) of TNVAT Act 2006 as in the state are unconstitutional and violative of Article 19(1)(g), 301 and 304 that same is inconsistent with the charging Section 3(1), 3(2), 3(3) of TNVAT Act

WP.No.3625 of 2012:-

Writ of Certiorarified Mandamus Calling for the records of the respondent in his proceedings in TIN No.33591520630/ 2006-07 dated 23.12.2011 and to quash the same as illegal, unconstitutional and against Article 19(1)(g) of the Constitution of India and direct the respondent to pass appropriate assessment proceedings

WP.No.3626 of 2012:-

Writ of Certiorarified Mandamus calling for the records of the respondent in his proceedings in TIN No.33591520630/ 2007-08 dated 23.12.2011 and to quash the same as illegal, unconstitutional and against Article 19(1)(g) of the Constitution of India and direct the respondent to pass appropriate assessment proceedings.

WP.No.3627 of 2012:-

Writ of Certiorarified Mandamus Calling for the records of the respondent in his proceedings in TIN No.33591520630/ 2008-09 dated 23.12.2011 and to quash the same as illegal, unconstitutional and against Article 19(1)(g) of the Constitution of India and direct the respondent to pass appropriate assessment proceedings

WP.No.3628 of 2012:-

Writ of Certiorarified Mandamus calling for the records of the respondent in his proceedings in TIN No.33591520630/ 2009-10 dated 23.12.2011 and to quash the same as illegal, unconstitutional and against Article 19(1)(g) of the Constitution of India and direct the respondent to pass appropriate assessment proceedings.

WP.No.3629 of 2012:-

Writ of Certiorarified Mandamus calling for the records of the respondent in his proceedings in TIN No.33591520630/ 2010-11 dated 23.12.2011 and to quash the same as illegal, unconstitutional and against Article 19(1)(g) of the Constitution of India and direct the respondent to pass appropriate assessment proceedings

WP.No.6350 of 2012:-

Writ of Declaration Declaring the words used in Section 19 (2) (ii) of the Tamilnadu Value Added Tax Act 2006 are unconstitutional, violative of Articles 19(1)(g), 301 and 304 of the Constitution of India and inconsistent with the Charging Sections 3 (1), 3 (2) and 3 (3) of the said Act

WP.No.6351 of 2012:-

Writ of Certiorarified Mandamus calling for the records in respect of the impugned Assessment Order TIN 33580640215/2006-07 dt 19.1.2012 of the 2nd respondent under the Tamilnadu Value Added Tax Act 2006 for the assessment years 2006-07, quash the same and direct the 2nd respondent to pass appropriate orders

WP.No.6352 of 2012:-

Writ of Certiorarified Mandamus Calling for the records in respect of the impugned Assessment Order TIN 33580640215/2007-08 dt 19.1.2012 of the 2nd respondent under the Tamilnadu Value Added Tax Act 2006 for the assessment year 2007-08, quash the same and direct the 2nd respondent to pass appropriate orders

WP.No.6353 of 2012:-

Writ of Certiorarified Mandamus calling for the records in respect of the impugned Assessment Order TIN 33580640215/2008-09 dt 19.1.2012 of the 2nd respondent under the Tamilnadu Value Added Tax Act 2006 for the assessment years 2008-09, quash the same and direct the 2nd respondent to pass appropriate orders

WP.No.26458 of 2012:-

Writ of Certiorarified Mandamus to call for the records on the files of the 1st rspondent herein in TIN 33920282292/ 2010-11 dt 16.8.2012, and direction or order under Article 226 of the Constitution of India, 1950 and for quashing the same

WP.No.26459 of 2012:-

Writ of Certiorarified to call for the records on the files of the 1st rspondent herein in TIN 33920282292/ 2011-12 dt 16.8.2012, and direction or order under Article 226 of the Constitution of India, 1950 and for quashing the same

WP.No.32156 of 2012:-

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 Tamilnadu

WP.No.32157 of 2012:-

Writ of Certiorari to call for the records on the files of the 1st respondent herein in TIN 33591542940/2012-13 for May 2012 dt 1.11.2012 or any other appropriate writ, direction or order under Article 226 of the Constitution of India,1950 quashing the same.

WP.No.32158 of 2012:-

Writ of Certiorari to call for the records on the files of the 1st respondent herein in TIN 33591542940/2012-13 for June 2012 dated 01.11.2012 or any other appropriate writ, direction or order under Article 226 of the Constitution of India,1950 quashing the same

WP.No.32159 of 2012:-

Writ of Certiorari to call for the records on the files of the 1st respondent herein in TIN 33591542940/2012-13 for July 2012 dated 01.11.2012 or any other appropriate writ, direction or order under Article 226 of the Constitution of India,1950 quashing the same

WP.No.32160 of 2012:-

Writ of Certiorari to call for the records on the files of the 1st respondent herein in TIN 33591542940/2012-13 for August 2012 dated 01.11.2012 or any other appropriate writ, direction or order under Article 226 of the Constitution of India,1950 quashing the same

WP.No.32161 of 2012:-

Writ of Certiorari to call for the records on the files of the 1st respondent herein in TIN 33591542940/2012-13 for September 2012 dated 01.11.2012 or any other appropriate writ, direction or order under Article 226 of the Constitution of India,1950 quashing the same

WP.No.34529 of 2012:-

Writ of declaration declaring that Section 19(2) (ii) of the Tamilnadu 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

WP.No.11641 of 2013:-

Writ of Declaration declaring that Section 19(2), (ii) 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 Articles 304(b) of the Constitution of India

WP.No.11642 of 2013:-

Writ of Declaration declaring that Section 19(2), (ii) 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 Articles 304(b) of the Constitution of India

WP.No.11779 of 2013:-

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

WP.Nos.11780 to 11784 of 2013

To call for the records on the files of the First Respondent herein in TIN.33940280535/2007-08, 2008-09, 2009-10, 2010-11, 2011-12 dated 19.03.2013 and issue a Writ of Certiorari appropriate Writ, direction or orders under Article 226 of the Constitution of India, 1950 quashing the same.

WP.No.13858 of 2013:-

Writ of Certiorari to call for the records of the proceedings of the respondent in TIN 33030041106/2007-08 Dated 2.4.2013, quash the same

WP.No.13859 of 2013:-

Writ of Declaration declaring that Section 19(4) of the Tamil Nadu Value Added Tax Act, 2006 and Rule 10(9)(b) of the Tamil Nadu Value Added Tax Rules, 2007 are inconsistent with the charging Section 3 and the General Scheme of Annual Assessment under Sections 20, 21 and 22 of the Tamil Nadu Value Added Tax Act, 2006 and void as being arbitrary and irrational, infringing the rights of the Petitioner under Articles 14 and 19(1)(g)

For Petitioner :

Mrs.C.Rekha Kumari in
W.P.Nos.4782/2011, 19318, 19319,
26092 to 26096 of 2009,
3832 to 3834 of 2010, 26458, 26459, 34529,
32156 to 32161 of 2012 and 11779 to 11784 of 2013

Mr.C.Bakthasiromoni in
W.P.Nos.3624 to 3629 of 2012

Mr.S.P.Asokan in
W.P.Nos.6350 to 6353 of 2012

Mr.S.Ramesh Kumar in
W.P.Nos.11641 and 11642 of 2013

Mr.N.Prasad in
W.P.Nos.4795 to 4797 of 2009, 5279 and 5280/2011

Mrs.Hema Muralikrishnan in
W.P.Nos.30045 and 30046 of 2010

Mr.R.Kumar in
W.P.Nos.13858 and 13859 of 2013

For Respondents : Mr.Md.Saffiq
Special Govt.Pleader (Taxes)

C O M M O N O R D E R

[Order of the Court was delivered by
T.S.SIVAGNANAM,J.]

In all these writ petitions, the petitioners challenge the constitutional validity of Section 19(2)(ii) and 19(4) of the Tamil Nadu Value Added Tax Act, 2006.

2. Similar relief was sought for in a batch of writ petitions in the case of Patina God Ornaments Pvt. Ltd. v. Assistant Commissioner (CT) and another [(2018) 50 GSTR 114 (Mad)].

3. The Division Bench allowed the said writ petition in favour of the assessee, wherein, the Division Bench held as follows:-

"Held accordingly, and held that the final product (i.e.,jewellery) manufactured by the dealer within the State from tax-paid raw materials purchased within the State upon sale, within the State, got the benefit of input-tax credit, whereas, those goods which were manufactured outside the State, though by use of tax suffered raw materials purchased, within the State, did not get that benefit. Clearly, if the impact test was applied, goods manufactured outside the State, upon being brought within the State for sale would be costlier as against those manufactured within the State. Goods which were similar in quality and nature bore a different tax burden, thus, violating article 304 (a) of the Constitution. The denial of tax credit was on the basis of circumstances and not on the basis of quality or nature of goods. The fact that input-tax credit was denied on the basis of where the manufacturing unit of the dealer was located resulted in hostile discrimination against those who had their manufacturing unit located outside the State of Tamil Nadu. The Department was not entitled to retain input-tax credit on goods purchased within the State, invoking section 19(4) of the 2006 Act to the extent of rate of tax provided therein, ie., three per cent. (which was the rate provided therein at the relevant point of time), as that would make the relief inefficacious since the subject goods, i.e., bullion/worn-out jewellery on which tax credit was sought by the dealer were taxed at the rate of one per cent."

4. Following the above decision, these writ petitions are allowed on the same terms, leaving the parties to bear their own costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

svki

To

1. The Assistant Commissioner (CT)
Moor Market (NORTH) Assessment Circle,
No.191, N.S.C.Bose Road, Chennai -1.

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

3. The Secretary to Government
The State of Tamil Nadu,
Commercial Taxes and Registration B(1)Department,
Fort St.George, Chennai - 600 009.

4. The Commercial Tax Officer,
(FAC), Nannilam Assessment Circle,
Nannilam.

5. The Union of India,
Finance Secretary,
New Delhi.

6. The Assistant Commercial (CT),
Hosur south, Hosur.

7. The Assistant Commercial (CT) (FAC),
Park Town-I Assessment Circle, Chennai-1

8. The Assistant Commissioner (CT),
Anandhipuram Assessment Circle,
18, Balasundaram Road, Coimbatore-18.

9. The Secretary to Government,
Commercial Taxes Department,
Fort St.George, Chennai-9

10. The Assistant Commissioner (CT),
Mandaveli Assessment Circle,
Chennai-28.

11. The Assistant Commissioner (CT)
Annasalai III Assessment Circle,
No.621, Annasalai, Sire Mansion,
Chennai-6

12. The Assistant Commissioner (CT),
Peddunaickenpet (south)
Assessment Circle, No.191,
NSC Bose Road, Chennai 1

13. The Assistant Commissioner (CT),
T.Nagar(South) Assessment Circle,
Chennai-28.

14. The Commercial Tax Officer,
Harbour III Assessment Circle,
191, NSC Bose Road, Chennai-1

+1cc to Mr.N.Inbarajan, Advocate, S.R.No.89390
+1cc to Mr.M.Nalla Thambi, Advocate, S.R.No.89704

W.P.Nos.4782 of 2011,4795 to 4797,
19318, 19319, 26092 to 26096 of 2009,
3832 to 3834, 30045, 30046 of 2010,
5279, 5280 of 2011, 3624 to 3629, 6350 to 6353,
26458, 26459, 32156 to 32161, 34529 of 2012,
11641, 11642, 11779 to 11784, 13858 and 13859 of 2013

JP(CO)
CS/11/03/2019
CS/26/03/2019