IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2018
CORAM:

THE HON'BLE Mr. JUSTICE R.MAHADEVAN

Writ Petition Nos.7710 & 7711 of 2010
and M.P.Nos.1 & 1 of 2010

M/s. AVR Swarnamahal Jewelry Private Ltd.,
Represented by its Director,
No.251-A Omalur Main Road,
Swarnapuri, Salem - 4 ... Petitioner in both W.Ps.

..vs..

1 The State Of Tamil Nadu
Represented 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)
Arisipalayam Assessment Circle
Salem. ... Respondents in both W.Ps.

Prayer in WP No.7710 of 2010:- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a 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 Article 304(b) of the Constitution of India.

Prayer in WP No.7711 of 2010:- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the impugned proceedings of the third respondent in TIN No.33752844786/2009-10 dated 05.04.2010 and quash the same.

For Petitioner (in both W.Ps.) : Mr. P.Rajkumar
For Respondents (in both W.Ps.): Mr. M.Hariharan, AGP.,

O R D E R

These writ petitions lay 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).

2. 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), 201 and 304(a) and (b) of the Constitution of India.

3. 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.

4. In aid of the 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 furnished jewelery, 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 of India.

5. The issue which arises in the captioned writ petitions is covered by the order of this Court, dated 22.09.2017 passed in Writ Petition No.6377 of 2010 (Patina Gold Ornaments Pvt. Ltd., v. The Assistant Commissioner (CT)).

6. Accordingly, the relief claimed in the captioned writ petitions is allowed, leaving parties to bear their own costs. Consequently, the connected MPs are closed.

-s/d-
Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

srk

To

1 The Secretary To Government
State Of Tamil Nadu
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)
Arisipalayam Assessment Circle Salem.

+1 CC to Spl. Govt. Pleader sr 46645.
+1 CC to Mr.P. Rajkumar, Advocate sr 45932.

W.P.Nos.7710 & 7711 of 2010
and M.P.Nos.1 & 1 of 2010

SP(06/08/2018)