

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 19.07.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.2196 of 2010

M/s.Pondicherry Sri Lakshmi Jewellery,
(Formerly known as V.Krishnamurthy
Chettiar Sons)
No.186, Kosakadai Street,
Pondicherry.

...Petitioner

Vs

Assistant Commissioner of Income Tax,
Circle - I,
Pondicherry.

...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari, calling for the records in No.AAAFV4906C/K-302 dated 23.12.2009, for the assessment year 2007-2008 on the file of the respondent herein and quash the same.

For Petitioner : Mrs.Sree Lakshmi Valli
for Mr.N.Muthukumar

For Respondents : Mr.ANR.Jayaprathap, JSC

O R D E R

The limited grievance of the petitioner is that, when the Assessing Officer had passed an order under Section 143 of the Income Tax Act, 1961, he had not considered the objections of the petitioner, with regard to the making charges and wastage incurred by the assessee to the effect that the wastage is not an outgo in terms of money and that the making charges do not involve any sale at all.

2. The grievance of the petitioner is that these objections were not considered through a subsequent order, which is against the decision of the Hon'ble Supreme Court in GKN Driveshafts (India) Ltd. vs. Income Tax Officer & Ors. reported in (2003) 259 ITR 0019. A perusal of the impugned order also reveals that these objections cannot be construed to be a speaking order and as such, it is not in line with the decision rendered in GKN Driveshafts case (supra).

3. Hence, the impugned order dated 23.12.2009, is set aside and remanded back to the respondent herein for the limited purpose of passing a speaking order on the issues of making charges and wastage. Such an exercise shall be completed within a period of 4 weeks from the date of receipt of copy of this order.

4. Accordingly, the writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

hvk

To

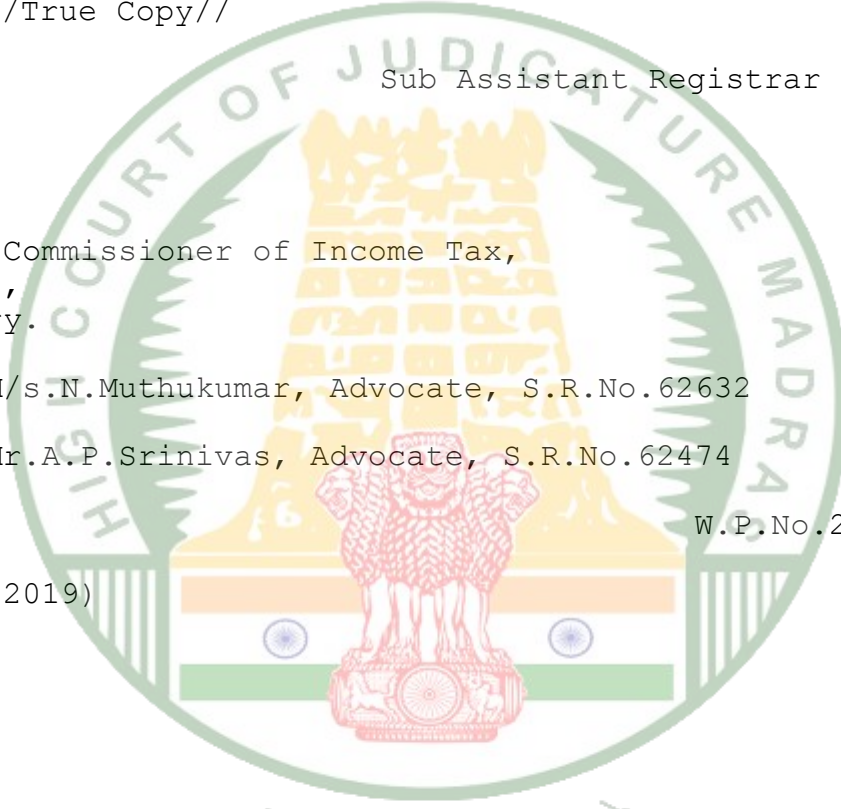
Assistant Commissioner of Income Tax,
Circle - I,
Pondicherry.

+1 cc to M/s.N.Muthukumar, Advocate, S.R.No.62632

+1 cc to Mr.A.P.Srinivas, Advocate, S.R.No.62474

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BR(CO)
SSM(29/08/2019)



सत्यमेव जयते

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