A.Nos.5134 and 5135 of 2023
in C.S.No.579 of 2019

P.T. ASHA, J,

A.No.5134 of 2023 has once again been taken to issue subpoena to the Commercial Tax Officer (CTO) North, Tiruppur to produce a further list of documents on the ground that annexures are missing and a list of further documents are sought to be marked.

2. The cross examination of the plaintiff's witness has taken place for a month practically on a day-to-day basis. It appears that from a reading of the affidavit filed in support of this application, the applicant had provided a pen drive giving the details to the respondent. That apart, the Commercial Tax Officer (CTO) North, Tiruppur had also given hard copies of the documents to the applicant. It is their contention that certain annexures are missing in the original and revised returns and further the VAT returns for the months of April 2016 to June 2017 in respect of the respondent / plaintiff have not been fully furnished. The applicant / defendant would plead the

inability to mark the VAT returns on the ground that all the annexures are not available and these returns are very essential to decide the issue of the stock as on the date of loss as well as the claim of the respondent.

3.Earlier by order dated 11.08.2023, this Court had directed that subpoena be issued to the Commercial Tax Officer (CTO) Tiruppur, North (1), Commercial Taxes Building, Ground Floor, Tiruppur Kumaran Road, Tiruppur 638 001 produce the VAT returns with all the relevant Annexures for the period 2014-2015, 2015-2016 and 2016-2017 and April 2017 to May 2017 with reference to M/s.Madras Silks (India) Pvt.Ltd, having registered Office at No.55, 67, North Usman Road, T.Nagar, Chennai 600 017 and the VAT returns with relevant annexures of Chennai Silks (Firm), Tiruppur for the period April 2016 to June 2017. The documents that have been directed to be produced by this Court do not appear to have been marked.

4.The cross examination of P.W1 was directed to be held from

24.08.2023 to 25.09.2023. P.W1's cross has not been completed on account of the public document not having been produced through subpoena.

5.The applicant apparently is on fishing expedition seeking further documents stating that these annexures are missing. This Court had directed the authorities to produce the returns and all the annexures that have been filed with them by the plaintiff and the Chennai Silks (Firm) for the respective periods as stated in the order and application and these documents are yet to be produced and marked. Even before its marking, the present application has been filed. Therefore, **A.No.5135 of 2023** is disposed of with the following directions:

> *The Official Witness shall appear before the learned Additional Master-II on 12.10.2023 and 16.10.2023 with all the relevant documents and*

annexures. The records shall be received and marked as exhibits by the Court. It is once again reiterated that the plaintiff will not cross-examine the witness as undertaken by them and extracted in the order dated 04.08.2023.

6. It is informed by Mr.Siddarth, learned Government Advocate that assessment in respect of Chennai Silks Firm, Tiruppur comes within the Jurisdiction of CTO, South Circle. Therefore, the documents relating to Chennai Silks (Firm) Tiruppur shall be produced by the CTO, South Circle, Tiruppur.

7. Though **A.No.5134 of 2023** is taken only only for subpoena to CTO North I Tiruppur, however, considering that this Court is also directing the production of the documents relating to Chennai Silks (Firm), Tiruppur. The necessary instructions shall be issued to the CTO, South Circle, Tiruppur to produce the document relating to

Chennai Silks (Firm), Tiruppur.

8. The revised case management schedule is fixed as follows:

Date	***Schedule***
16.10.2023 to 03.11.2023	Cross-examination of P.W.1
06.11.2023 and 07.11.2023	D.W.1 shall enter the box and complete the chief-examination.
08.11.2023, 09.11.2023, 14.11.2023, 15.11.2023 and 17.11.2023	Cross-examination of D.W1
20.11.2023	Chief-examination of D.W.2
21.11.2023 to 24.11.2023	Cross-examination of D.W.2
27.11.2023 and 28.11.2023	Chief-examination of D.W.3
29.11.2023 to 08.12.2023	Cross-examination of D.W.3

Date	Schedule
03.01.2024	Written arguments

9.The learned counsel for the plaintiff's reserves his right to seek further time, since D.W.3 is the surveyor and if need be and if the cross examination is not completed by 08.12.2023 the request for further time could be sought for. There is no necessity for the defendant to take supbeona to the official witness, since the learned Government Advocate is present before the Court and the orders have been passed before his presence. It is needless to state that the evidence will be taken on a day-to-day basis.

10. It is made clear that once again, if the defendant appears for a revision of the Case Management Schedule, the same will be considered only subject to payment of heavy costs. **A.No.5134 of 2023** is allowed. Post the matter on 03.01.2024.

29.09.2023

mac/srn

P.T. ASHA, J,

mac/srn

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