



WEB COPY



W.P. Nos. 14333 to 14335 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2025

CORAM

THE HON'BLE DR. JUSTICE ANITA SUMANTH

AND

THE HON'BLE MR. JUSTICE C. KUMARAPPAN

W.P. Nos. 14333 to 14335 of 2013

M/s. Dhanalaxmi Jewellers,
rep. by its Proprietor,
Mr. Vinod Kumar Jain,
No. 118, NSC Bose Road,
Chennai – 600 079.

..Petitioner in

all the WPs
Vs.

1. The Commercial Tax Officer, (CT),
Peddunaickenpet (South) Assessment
Circle,
No.191, NSC Bose Road,
Chennai – 1.

2. The Special Commissioner &
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
Department,
Fort St. George, Chennai – 600 009.

..Respondents



W.P. Nos. 14333 to 14335 of 2013

in all WPs

Prayer in W.P. No. 14333 of 2013: Petition under Article 226 of the Constitution of India praying for issue 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 Article 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.

Prayer in W.P. No. 14334 & 14335 of 2013: Petitions under Article 226 of the Constitution of India for issue of a Writ of Certiorari to call for the records on the files of the 1st respondent herein in TIN.33720281723/2010-11 dated 23.04.2013 and TIN.33720281723/2011-12 dated 23.04.2013 and quash the same.

For Petitioner :: Ms.C. Rekha Kumari
in all WPs

For Respondents :: Mr.V. Prashanth Kiran
in all WPs Govt. Advocate (Taxes)

COMMON ORDER

(Made by Dr. ANITA SUMANTH,J.)

Both learned counsel would accede to the position that the issue raised is covered by the decision of the Division Bench of this Court in the



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case of *Patina Gold Ornaments Pvt. Ltd. V. Assistant Commissioner (ct), Park Road Circle, Erode and Another* (2018 (50) GSTR 114). The operative portion of the judgment is as follows:

...‘The facts which obtain in the present case, clearly, demonstrate, that ITC is not made available by the respondents, to those assesseees who have had tax suffered raw materials such as bullion and / or worn out jewellery converted into final products (i.e. jewellery) by having them manufactured / processed in units situate outside the State of Tamil Nadu, even though, the final product is sold, upon payment of tax within the State of Tamil Nadu.

...

Therefore, having regard to the foregoing discussion, we are of the view that [Section 19\(2\)\(ii\)](#) of the 2006 Act is invalid to the extent that it denies availment of ITC in respect of those units which despatch tax suffered raw materials i.e. bullion / worn-out jewellery for conversion into final product (i.e. jewellery) outside the State which upon conversion are received back and sold within the State of Tamil Nadu. Thus, according to us, the mere fact that the manufacturing unit is located outside the State of Tamil Nadu, cannot be the basis, for denial of ITC, under [Section 19\(1\)](#) of the 2006 Act. Clause (ii) of Sub-Section (2) of [Section 19](#) of the 2006 Act is, thus, declared bad in law.

The writ petition is, thus, allowed in the aforesaid terms, leaving parties to bear their own costs’

2. In view of the above, the writ petitions are allowed. No costs.

(A.S.M.J.) (C.K.J.)

nv

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To

1. The Commercial Tax Officer, (CT),

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