IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2015

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.13314 of 2015

Tvl.TPV Technology India Pvt. Ltd.,
represented by its Director
Mr.Chin Sung Chen
C/o Schenker India Private Limited
CBIN Warehouse
Borex Nagar, G.N.T. Road
Peravallur Village
Chinnambedu Post
Ponneri Taluk
Tiruvallur District 601 206 .. Petitioner

-vs-

1. The Deputy Commercial Tax Officer-cum-
Check Post Officer
K.G.Chavadi (Incoming) Check Post
K.G.Chavadi
Coimbatore 641 105

2. The Assistant Commissioner (CT)
Ponneri Assessment Circle
No.21, New Cutchery Road
Ponneri 601 204
Tiruvallur District .. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, to call for the records of the first respondent in Detention Notice No.NIL dated 7.4.2015 and the consequential compounding notice in GDR No.7/2015-16 dated 17.4.2015 and quash the same as illegal, arbitrary and against the provisions of the Act and direct the first respondent to release the goods forthwith.

For Petitioner	::	Mr.K.Soundararajan
For Respondents	::	Mr.A.N.R.Jaya Prathap Government Advocate

ORDER

This writ petition is directed against the impugned order passed by the first respondent in detention notice No.NIL dated 7.4.2015 and the consequential compounding notice in GDR No.7/2015-16 dated 17.4.2015, to quash the same as arbitrary and illegal with a consequential direction to release the goods forthwith, on the ground that the impugned notices are without jurisdiction, since the originating State, namely, Kerala State had verified the consignment transported with the documents such as replacement goods challans, delivery note in Form No.15 and e-consignment declaration in Form No.8F at the check post at Kannur. When the originating authority, namely, State of Kerala had found that there was no sale of television sets as alleged by the first respondent, the State Government has no jurisdiction to treat the transaction as different from the one accepted by the State of Kerala, more particularly, when the goods in question were allowed to be moved to the State of Tamil Nadu. Taking strength from a similar order passed by this Court in W.P.No.4640 of 2015 dated 24.2.2015 (Tvl.RCI Logistics Private Limited etc., v. The Deputy Commercial Tax Officer, Pattanur Check Post, Villupuram District), the learned counsel submitted that while considering a similar issue, this Court, accepting the payment of the proposed tax amount, had directed the release of the goods.

2. Mr.A.N.R.Jaya Prathap, learned Government Advocate takes notice on behalf of the respondents.

3. In the present case, admittedly the petitioner is a registered dealer under the Tamil Nadu Value Added Tax Act and Central Sales Tax Act baring TIN No.33811705876 and CST Registration No.1243363 dated 12.7.2013. During the course of business, the petitioner had effected sale of LED television sets to the dealer viz., M/s Nikshan Electronics, Bank Road, Kannur, Kerala State. When it is the policy of the company to replace the defective television sets sent by the respective dealers, only pursuant to the said policy, the dealer at Kerala had returned the defective LED television sets for which they raised a delivery note in Form No.15 as per the Kerala Value Added Tax Rules, 2006. The said consignment has also been accompanied by e-consignment declaration in Form No.8F of the Kerala Value Added Tax Act. Being so, the said consignment passed through the check post at Kannur, Kerala. Since the consignment was transported for replacing the defective television sets, the dealer at Kannur had raised only the delivery note in Form No.15 and e-consignment declaration in Form No.8F and the statutory forms under the Kerala Value Added Tax Act. A reading of all the documents would show that there is no sale invoice. Therefore, accepting the submission made by the learned counsel for the petitioner for release of the goods on payment of the proposed tax amount of Rs.5,36,078/-, the first respondent is hereby directed to release the goods in question on payment of the aforesaid

amount forthwith to the petitioner. Accordingly, the writ petition is disposed of with the aforesaid direction to release the goods on payment of the proposed tax amount of Rs.5,36,078/-. So far as any other claim of the respondents is concerned, they shall await the adjudication. Consequently, M.P.No.1 of 2015 is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Deputy Commercial Tax Officer-cum-
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Coimbatore 641 105

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Ponneri Assessment Circle
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Tiruvallur District.

1 cc to Mr.K.Soundararajan ,Advocate, SR.No.24612
1 cc to Government Pleader,Sr.No24161

W.P.No.13314 of 2015

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pmk.6.5.2015