IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2017

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.17001 of 2017 &
W.M.P.No.18459 of 2017

Tvl.Multicity Digital Consortium Pvt., Ltd.,
Rep. By its Director, T.K.Arjunaan,
No.124, 2nd Floor, Ramasamy Lay-out,
DPF Street, Papanaickenpalayam,
Coimbatore - 641 037. ... Petitioner

Vs.

1.The Commercial Tax Officer,
(Enforcement),
Roving Squad-I, Coimbatore.

2.The Assistant Commissioner (CT),
Thudiyalur Assessment Circle,
Coimbatore.

3.The Special Commissioner and
Commissioner of Commercial Taxes,
Ezhilagam, Chepauk, Chennai - 600 005. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a WRIT OF CERTIORARI calling for the records on the files of the first respondent in GDR.44621/2017-18/OR.Nil dated 21.04.2017 and quash the same as being without jurisdiction and authority of law and contrary to the circular issued by the third respondent in Circular No.33/2014/Q4/7752/2014 dated 17.07.2014.

For Petitioner : Mr.R.Senniappan
For Respondents : Mr.K.Venkatesh,
Government Advocate.

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O R D E R

Heard Mr.R.Senniappan, learned counsel for the petitioner and Mr.K.Venkatesh, learned Government Advocate for the respondents. With the consent on either side, the writ petition itself is taken up for disposal.

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2.The petitioner has filed this writ petition challenging a goods detention notice dated 21.04.2017, by which the set-top boxes transported by the petitioner have been detained. The respondents would state that the petitioner has not paid taxes for the interstate purchase effected by them of the said goods.

3.The petitioner's case is that the set-top boxes are meant to be given to the customers and it is not a sale by them to the customers and the ownership of the set-top boxes will always remain with the petitioner. However, this issue has to be adjudicated, not by the Check Post Officer but by the Assessing Officer of the petitioner.

4.In such circumstances, there will be a direction to the first respondent to forthwith release the consignment in question. There will be a further direction to the second respondent to issue a show cause notice to the petitioner calling upon them to explain as to why the transaction should not be taxed within the State of Tamil Nadu. On receipt of the show cause notice, the petitioner is directed to submit their objections within a period of 15 days and after which, an opportunity of personal hearing shall be given and the second respondent shall pass orders on merits and in accordance with law.

5.With the above directions, this writ petition stands disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

abr

To

1.The Commercial Tax Officer,
(Enforcement),
Roving Squad-I, Coimbatore.

2.The Assistant Commissioner (CT),
Thudiyalur Assessment Circle, Coimbatore.

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3.The Special Commissioner and
Commissioner of Commercial Taxes,
Ezhilagam, Chepauk, Chennai - 600 005.

+1 cc to M/s.R.Senniappan Advocate sr 47810
+1 cc to Special Government Pleader sr 47893

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sr(co)
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