MINISTRY OF HOME AFFAIRS

NOTIFICATION

New Delhi, 20th November, 2014

S.O. 2946(E).—Whereas, the Central Government, in exercise of the powers conferred by sub-section (1) of Section 3 of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967) (hereinafter referred to as the said Act), had declared the Liberation Tigers of Tamil Eelam (hereinafter referred to as LTTE) to be an unlawful association *vide* notification of the Government of India in the Ministry of Home Affairs number S.O. 1272 (E), dated 14th May, 2014 (herein after referred to as the said notification), published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), dated the 14th May, 2014;

And whereas, the Central Government, in exercise of the powers conferred by sub-section (1) of Section 5 of the said Act, had constituted the Unlawful Activities (Prevention) Tribunal (hereinafter referred to as the said Tribunal) consisting of Mr. Justice G.P. Mittal, a Judge of the Delhi High Court, *vide* notification of the Government of India in the Ministry of Home Affairs number S.O. 1449(E), dated 5th June, 2014, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-Section (ii), dated the 5th June, 2014;

And whereas, the Central Government, in exercise of the powers conferred by sub-section (1) of the Section 4 of the said Act, referred the said notification to the said Tribunal on 11th June, 2014 for the purpose of adjudicating whether or not there is sufficient cause for declaring the LTTE as unlawful association;

And whereas, the said Tribunal has, by its Order dated 11th November, 2014 made under sub-section (3) of section 4 of the said Act, confirmed the declaration made in the said nofitication;

Now, therefore, in pursuance of sub-section (4) of Section 4 of the said Act, the Central Government hereby publishes the order of the said Tribunal, as under:—

BEFORE THE UNLAWFUL ACTIVITIES

(PREVENTION) TRIBUNAL

IN THE MATTER OF:

GAZETTE NOTIFICATION NO. S.O. 1272(E) DATED 14th MAY, 2014 DECLARING THE LIBERATION TIGERS OF TAMIL EELAM (LTTE) AS AN 'UNLAWFUL ASSOCIATION' UNDER SUB-SECTION (1) OF SECTION 3 OF THE UNLAWFUL ACTIVITIES (PREVENTION) ACT, 1967

AND

GAZETTE NOTIFICATION NO. S.O. 1449(E) DATED 5th JUNE, 2014 CONSTITUTING THE UNLAWFUL ACTIVITIES (PREVENTION) TRIBUNAL

CORAM :

HON'BLE MR. JUSTICE G. P. MITTAL

PRESENT :

Present: Mr. Sanjay Jain, Additional Solicitor General of India with Mr. Anil Soni and Mr.Amit Mahajan, Central Govt. Standing Counsel and Ms. Saakshi Agrawal, Advocate and Mr. Narendra Kumar, Under Secretary (IS-I Division), Ministry of Home Affairs, New Delhi.

Mr. M. Yogesh Kanna, Advocate for the State of Tamil Nadu with Ms. K. Bhavaneeswari, IPS, Superintendent of Police, Q Branch, CID, Chennai.

Mr. Vaiko, Applicant in person with Mr. G. Devadass, Mr. M. S. M. Asaithambi and Mr. G. Anandaselvam, Advocates.

Mr. Naresh Chand Garg, Registrar of the Tribunal.

REPORT

11.11.2014

PREFATORY FACTS

1. By a Gazette Notification No. S.O. 1272(E) dated 14th May, 2014, the Central Government declared the Liberation Tigers of Tamil Eelam (for short, LTTE) as an 'unlawful association'. This Notification was issued by the Central Government in consonance with powers conferred upon it under the provisions of Section 3(1) of the Unlawful Activities (Prevention) Act, 1967 (in short, the Act) and directed that the Notification shall, subject to any order that may be made under Section 4 of the Act, have effect on and from the date of its publication in the official gazette.

2. By another Notification No. S.O. 1449(E) dated 5th June, 2014, the Central Government, in exercise of the powers conferred upon it by sub-section (1) of Section 5 of the Act, constituted "The Unlawful Activities (Prevention) Tribunal", consisting of me, for the purpose of adjudicating whether or not there is sufficient cause of declaring LTTE as an unlawful association.

3. By letter F.No.I-11034/I/2014-IS-I dated 11th June, 2014, the Government of India, Ministry of Home Affairs, (IS-I Division), New Delhi, forwarded to the Tribunal a resume indicating the aims, objectives and activities of LTTE. The documents annexed to the resume comprise the Constitution of the Peoples Front Liberation Tigers (PFLT); details of the cases registered/arrests made etc. indicating evidence of continuing activities of LTTE, pro-LTTE elements/groups including Tamil chauvinists groups in Tamil Nadu since May, 2012; details to show that LTTE still has a strong presence in Tamil Nadu; details of activities of pro-LTTE organizations and Tamil chauvinists groups in Tamil Nadu and elsewhere since May, 2012; and details regarding LTTE/pro-LTTE groups having links with other anti-national and militant organizations in India. Copies of Notifications publishing the orders of the earlier Tribunals upholding the proscription since 1992 have also been annexed to the resume.

4. The Notification dated 14.05.2014 reads as under:—

> "Whereas the Liberation Tigers of Tamil Eelam (hereinafter referred to as the LTTE), is an association based in Sri Lanka but having its supporters, sympathisers and agents in the territory of India;
>
> And whereas, the LTTE's objective for a separate homeland (Tamil Eelam) for all Tamils threatens the sovereignty and territorial integrity of India, and amounts to cession and secession of a part of the territory of India from the Union and thus falls within the ambit of unlawful activities;
>
> And whereas, the LTTE, even after its military defeat in May, 2009 in Sri Lanka, has not abandoned the concept of 'Eelam' and has been clandestinely working towards the 'Eelam' cause by undertaking fund raising and propaganda activities. The remnant LTTE leaders or cadres have also initiated efforts to regroup the scattered activists and resurrect the outfit locally and internationally;
>
> And whereas, the separatist Tamil chauvinist groups and pro-LTTE groups continue to foster a separatist tendency amongst the masses and enhance the support base for LTTE in India and particularly in Tamil Nadu;
>
> And whereas, a case was registered under the Unlawful Activities (Prevention) Act, 1967 against LTTE, pro-LTTE elements and chauvinist groups since the last notification of the Government of India in the Ministry of Home Affairs vide number S.O. 1062(E), dated the 14th May, 2012, that is between May, 2012 and April, 2014. Besides, cases were registered under the provisions of Explosive Substances Act, 1908 and Indian Penal Code;
>
> And whereas, the Diaspora continue to spread through articles in the Internet portals, anti-India feeling amongst the Sri Lankan Tamils by holding the Government of India responsible for the defeat of the LTTE. Such propaganda through the Internet, is likely to impact VVIP security adversely in India;
>
> And whereas, for the reasons aforesaid, the Central Government is of the opinion that the LTTE is an 'unlawful association' and there is a need to control all such separatist activities by all possible means;
>
> And whereas, the Central Government has the information that –
>
> (i) the activities of the LTTE remnant cadres, sympathisers, supporters in the State of Tamil Nadu suggest that the cadres would ultimately be utilized by the LTTE for unlawful activities;
>
> (ii) it has come to notice of the Government of India that despite the ban in force, attempts have been made by pro-LTTE organizations and individuals to extend their support to the LTTE;
>
> And whereas, the Central Government is of the opinion that the aforesaid activities of the LTTE pose a threat to the public order as well as the sovereignty and territorial integrity of India and, therefore, it should be declared as an 'unlawful association' with immediate effect;
>
> Now, therefore, in exercise of the powers conferred by sub-section (1) and the proviso to sub-section (3) of Section 3 of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967), the Central Government hereby

declares the Liberation Tigers of Tamil Eelam (the LTTE) as an unlawful association and directs that this notification shall, subject to any order that may be made under Section 4 of the said Act, have effect on and from the date of its publication in the Official Gazette."

5. Section 4(2) of the Act provides that on receipt of reference, the Tribunal shall call upon the association, affected by the notice in writing, to show cause within 30 days from the date of such notice, why the association should not be declared unlawful.

6. Rule 6 of the Unlawful Activities (Prevention) Rules, 1968 (for short, the Rules) deals with service of notice issued under Section 4(2) of the Act and reads as under:-

"6. **Service of notice issued by the Tribunal-**

Every notice referred to in sub-section (2) of Section 4 shall be served on the affected association in such manner as the Tribunal may think fit and all or any of the following modes may be followed by the Tribunal in effecting service of such notice, namely:-

(a) by affixing a copy of the notice to some conspicuous part of the office, if any, of the association; or

(b) by serving a copy of the notice, where possible, on the principal office bearers, if any, of the association, by registered post or otherwise; or

(c) by proclaiming by beat of drum or by means of loudspeakers the contents of the notification in the area in which the activities of the association are ordinarily carried on."

7. Accordingly, vide order dated 16.07.2014, it was directed that the notice under Section 4(2) of the Act be issued to LTTE to show cause within 30 days as to why it be not declared unlawful within the meaning of the Act. The notice was directed to be served in the following manner:

(i) By affixing a copy of the notice at some conspicuous part of the office of the Association, if any, in India and Sri Lanka;

(ii) By serving a copy of the notice, wherever possible, on the principal office-bearers, if any, of the Association;

(iii) By proclaiming by beat of drum or by means of loudspeakers, the contents of the notice in the area in which the activities of the association are ordinarily carried on;

(iv) By pasting the notice on the notice board of the office of the District Magistrate or the Tehsildar at the Headquarters of the District or the Tehsil, as the case may be, in which the Principal offices of the Association is situated; and

(v) By publishing on the website of Ministry of Home Affairs (http://mha.nic.in).

(vi) In addition, notice be served by publication in a National Newspaper (in English) and in one vernacular newspaper of the respective States in which the activities of the LTTE are ordinarily carried on. In addition notice be also published in two leading newspapers in Sri Lanka out of 'Island', 'Virakesari', 'Daily News' or 'Thinakaran Sunday Observer'.

(vii) Besides the aforesaid modes, notices be also served upon the LTTE by way of broadcasting on All India Radio and telecast on Doordarshan.

8. Pursuant to the order dated 16.07.2014, an affidavit dated 13.08.2014 of Mr. Narendra Kumar, Under Secretary, Internal Security-I Division of Ministry of Home Affairs, Government of India, New Delhi was filed thereby affirming that in compliance with Tribunal's order dated 16.07.2014, the following steps were taken:

(a) The notice dated 17.07.2014 was uploaded on the official website of the Ministry of Home Affairs, Government of India, i.e., www.mha.nic.in under the link "What is new" on 24.07.2014.

(b) The notice dated 17.07.2014 has been published on 31.07.2014 in 36 editions of leading newspapers in English, Hindi and Tamil languages.

(c) It has been further stated in the above referred affidavit that the Ministry of External Affairs vide its communication dated 31.07.2014 has confirmed that the High Commission of India in Colombo has given wide publicity to the notice by publishing the same in an English daily newspaper "Daily News" on 26.07.2014 and also in Tamil daily "Virakesari" on 26.07.2014, both published from Sri Lanka.

(d) The notice dated 17.07.2014 has been broadcast from the entire network of All India Radio except few AIR stations, details whereof are mentioned at page 5 of the affidavit.

(e) It has also been stated that the notice dated 17.07.2014 has been telecast on DDK Chennai Regional News Bulletin on 25.07.2014 at 8.00 p.m. and 10.00 p.m. as well as on DD News on 25.07.2014 Midnight and on 26.07.2014 at 6.00 a.m. The notice has also been published in one English Daily newspaper "The New

Indian Express" and one Tamil Daily "Dhina Thanthi" in all their editions in Tamil Nadu on 25.07.2014. The notice is also stated to have been displayed on the notice boards of Police Headquarters, Commissionerates, District Police Offices, Police Stations, Collectorates, Taluk Offices and Revenue Divisional Offices in the State of Tamil Nadu.

(f) It has also been stated in the affidavit that a news item with respect to the service of notice was also broadcast in news bulletin of All India Radio, Chennai, Kodai FM and Kovai at 12.00 noon, 1.00 p.m. and 6.00 p.m. of Rainbow Chennai, Kodai and Kovai FM on 25.07.2014 and 6.45 a.m. Maanila Seithigal on 26.07.2014.

(g) It has further been stated that the said notice has been telecast by Doordarshan Kendra, Chennai on "Podhigai" Tamil News Channel in the Prime Time news at 8.00 p.m. and 10.00 p.m. on 25.07.2014.

9. On behalf of the State of Tamil Nadu, an affidavit of service dated 03.09.2014 of Ms. K. Bhavaneeswari, Superintendent of Police, Q Branch, CID, Mylapore, Chennai was also filed thereby showing compliance of the order dated 16.07.2014 passed by the Tribunal.

10. From the above referred affidavits and the documents annexed thereto, the Tribunal was satisfied that notice to LTTE has duly been published and served in the manner as directed by the Tribunal in terms of Rule 6 of the Rules.

11. An Application No.1/2014 was filed by Mr. Vaiko, General Secretary of Marumalarchi Dravida Munnetra Kazhagam (MDMK) for impleadment. In support of his application, Mr. Vaiko referred to the order dated 25.09.2010 passed by the previous Tribunal whereby he was permitted to address arguments on whether the ban on LTTE should be continued. Mr. Vaiko relied upon the following paragraph of the aforesaid order:

> "I have carefully perused the pronouncement in **Jamaat-E-Islami** already referred to above. The Hon'ble Supreme Court has pointedly articulated the need of the Tribunal to act in a judicial manner, since otherwise it may be perceived as a mere rubber stamp of the Government. Their Lordships have observed that in order to "satisfy the minimum requirements of a proper adjudication, it is necessary that the Tribunal should have the means to ascertain the credibility of conflicting evidence relating to the points in controversy." Accordingly, I do not rule out the possibility of permitting a person who enjoys credibility to address arguments to present a point of view different to the Government. Even so, Mr. Vaiko has no right to be impleaded as a party."

12. Mr. Vaiko also referred to the order dated 27.08.2012 passed by the previous Tribunal on his application for impleadment, which is reproduced below:

> "1. After arguments on this application and perusing the order dated 25.09.2010 passed by the previous Tribunal on a similar application filed by the applicant – Mr. Vaiko, it is directed that the applicant– Mr. Vaiko would be permitted to address arguments on the basis of such material which is otherwise produced before the Tribunal though he would neither be impleaded as a party nor would he have a right to cross-examine the witnesses of the Government or to produce witnesses of his own."

13. It was, thus, submitted that he should be permitted to address arguments before this Tribunal as well.

14. The learned Additional Solicitor General, on the other hand, referred to Section 4(3) of the Act to argue that as per this sub-section, only an office bearer or member of the Association can be heard in the inquiry to be held by the Tribunal and, therefore, simply because Mr. Vaiko was earlier permitted to address arguments, he cannot be permitted to address arguments during the present inquiry. He further submitted that in case he is to be permitted to address arguments, the extent may be specified as was done by the previous Tribunal vide order dated 27.08.2012.

15. After going through the application filed by Mr. Vaiko and on a thoughtful consideration of the arguments advanced in support and against the application, it was held that though the applicant will not be a necessary party to these proceedings and, therefore, cannot be impleaded as a party, yet he was permitted to address arguments on the basis of the material which would otherwise be produced before the Tribunal during the inquiry. However, it was clarified that Mr. Vaiko will not have any right to cross-examine the witnesses of the Government or to produce his own witnesses. Accordingly, the application was disposed of vide order dated 03.09.2014.

16. By order dated 03.09.2014, it was directed that the next sitting of the Tribunal would be held at Chennai on 26.09.2014 and 27.09.2014 at 10.30 a.m. The Central Government and Government of Tamil Nadu shall give due publicity in one Tamil newspaper published from Chennai, and in "Hindu" (English) published from New Delhi and Chennai as well as through media with respect to the date, time and place of the sitting of the Tribunal.

17. In compliance of the directions of the Tribunal, the notice issued by the Registrar of the Tribunal, notifying the date, time and place for sitting of the Tribunal was published in English newspaper the *Indian Express* and Tamil newspaper *Thinathanthi* on 23.09.2014. The notice was also broadcasted on All India Radio on 18.09.2014 at 6:45 a.m. in *Maanila Seithigal* (State News), FM Rainbow 11:00 a.m., 12:00 noon and 1:00 p.m.; on 19.09.2014 at 1:45 p.m. in *Maanila Seithigal* (State News) FM Rainbow 11:00 a.m., 12:00 noon and 1:00 p.m. Chennai, Kodai and Kovai FM and 6:30 bulletin *(Maanila Seithigal);* and on 20.09.2014 at 3:00 p.m., 4:00 p.m., 5:00 p.m. FM

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Rainbow. The notice has also been telecast in Doordarshan in Prime Time news bulletins of 6:30 p.m. and 8:00 p.m. on 19.09.2014.

18. Section 4(3) of the Act provides for cause being shown not only by the banned association but also by any of its office bearers or members, the reply/objections, therefore, could be filed by LTTE as also by any of its office bearers or members. No objections/replies were, however, filed either by LTTE or any of its office bearers or members and by order dated 26.09.2014, the inquiry was ordered to be proceeded against LTTE *ex parte*.

19. On 26.09.2014 and 27.09.2014, the evidence of PW-1 and PW-2 was recorded in Chennai, and by order dated 27.09.2014, for recording the evidence of remaining witnesses, the hearing was fixed for 26.10.2014 and 27.10.2014 at Coonoor and the Central Government and Government of Tamil Nadu were directed to give due publicity in one Tamil newspaper published from Chennai, and in "Hindu" (English) published from New Delhi and Chennai as well as through media with respect to the date, time and place of the sitting of the Tribunal.

20. In compliance of the directions of the Tribunal, an affidavit dated 21.10.2014 of Ms. K.Bhavaneeswari, IPS, Superintendent of Police, 'Q' Branch, CID, Tamil Nadu was filed stating that the notice issued by the Registrar of the Tribunal, notifying the place, time and date of sitting of the Tribunal has been telecast in *Doordarshan* in the Prime Time news bulletins of 6:30 p.m. and 8:00 p.m. on 17.10.2014; in All India Radio, Chennai, Kodai FM and Kovai on 16.10.2014 at 6:30 p.m. Maanila Seithigal (State News); FM Rainbow 4:00 p.m., 5:00 p.m. in Chennai, Kodai and Kovai FM; and on 20.10.2014 at 1:00 p.m., 2:00 p.m. and 3:00 p.m. FM Rainbow. It was further stated in the affidavit that notice has also been published in Tamil Newspaper *'Thinathanthi'* (in Tamil) on 17.10.2014. It was further stated in the affidavit that the Government of India, Ministry of Home Affairs, New Delhi had also published the notice of the Tribunal in English newspaper *'The Hindu'* (in English) and in Tamil Newspaper *'Dinakaran'* (in Tamil) on 16.10.2014.

21. On 26.10.2014, the evidence of PW-3 and PW-4 was recorded, and on 27.10.2014, the evidence of PW-5 was recorded and Mr. Vaiko was also heard in the matter.

22. By order dated 27.10.2014, the next date of hearing was fixed for 30.10.2014 at 2.30 pm in the Delhi High Court, New Delhi.

23. On 30.10.2014 the matter was adjourned to 05.11.2014 to enable learned counsel for the Central Government and the State of Tamil Nadu to file their written submissions. The arguments were heard on 05.11.2014 and concluded on the same day.

EVIDENCE

24. The following witnesses have been examined by the Central Government and the State of Tamil Nadu to satisfy the Tribunal that there is sufficient cause for declaring LTTE as an unlawful association:-

(i) PW-1 Shri Narendra Kumar, Under Secretary, Internal Security-I Division, Ministry of Home Affairs, Government of India, North Block, New Delhi.

(ii) PW-2 Ms. K. Bhavaneeswari, IPS, Superintendent of Police, Q Branch, CID, Mylapore, Chennai-4, Tamil Nadu.

(iii) PW-3 Mr. N. Rajaram, Deputy Superintendent of Police, Q Branch, CID, Madurai Range, Tamil Nadu.

(iv) PW-4 Mr. Jayachandran, Deputy Superintendent of Police, Q Branch, CID, Ramanathapuram, Tamil Nadu.

(v) PW-5 Mr. N. Velavan, Inspector of Police, Q Branch, CID, Chennai City, Chennai-4, Tamil Nadu.

25. It may be noted that all the witnesses who had tendered their evidence by way of affidavit(s) of evidence, were examined on oath. The respective witnesses, during their deposition, proved their signatures on their affidavits at points indicated therein, while tendering them in evidence along with documents marked therein. There was no representation made, in any form whatsoever by LTTE or any of its office bearer or member, to cross-examine the aforementioned witnesses produced before this Tribunal both by the Union of India and the State of Tamil Nadu. The evidence in the matter was closed by the Central Government and the State of Tamil Nadu on 27.10.2014.

26. At the hearing held on 05.11.2014, on behalf of the Union of India arguments were advanced by Mr. Sanjay Jain, learned Additional Solicitor General, assisted by Mr. Anil Soni and Mr. Amit Mahajan, CGSCs. On behalf of the State of Tamil Nadu, submissions were advanced by Mr. M. Yogesh Kanna, Advocate. Learned Additional Solicitor General for the Union of India and learned counsel for the State Government relied upon the contents of Notification dated 14.05.2014, the evidence and material filed to support the decision taken to declare LTTE as an unlawful association.

27. I have also heard Mr. Vaiko and perused the written submissions made by him. Before dealing with the submissions, it would be apposite to briefly advert to the evidence produced before me, in the form of testimonies of witnesses examined by the State of Tamil Nadu and the Central Government.

28. PW-5 Mr. N. Velavan, Inspector of Police, Q Branch, CID, Chennai City, Chennai-4, Tamil Nadu tendered in evidence his affidavit Ex.PW-5/A along with all its annexures on 27.10.2014 at Coonoor. He was also examined on oath. He is the Investigating Officer of Crime No. 3/2012 registered under Section 120(B) IPC r/w Section 5 of the Explosive Substances Act, 1908 and Section 10(a)(i) and (iv) and Section 10(b) of the Act. He has deposed that based on information, one person, namely, Uthayathas @ Uthayasankar, son of Thavarajah, native of Mullaikattai, Kambar Malai, Udupatti, Jaffna, Sri Lanka, who was staying at Angalakurihi Road, Gandhipuram, Pollachi, Coimbatore District, was detained by him on 19.12.2012 along with a bag. On interrogation, he stated that he belonged to LTTE and that as per the instructions of another LTTE cadre Sivaneswaran @ Nesan @ Priyan @ Isaipriyan @ Anbu, he was carrying electronic device from the residence of LTTE cadre Sureshkumar @ Sera located at No.13/7, 7th Main Road, 7th Cross Street, Anna Nagar, Pammal to hand over the same to Nesan @ Anbu near Vignesh Kalyanamandapam. He further stated that Sureshkumar @ Sera, Sivaneswaran @ Nesan, Maheswaran @ Gopi, Maheswaran @ Anbu and he (Uthayathas @ Uthayasankar) were undergoing training to make electronic devices that can be used as initiation mechanism in Improvised Explosive Devices (IEDs) with a view to prepare the same in Sri Lanka and use them to cause explosion in Sri Lanka. Uthayathas @ Uthayasankar was arrested on 19.12.2012 and an electronic circuit which was kept in his bag was seized from him. In this connection, a case bearing Cr.No.3/2012 under Section 120(B) IPC r/w Section 5 of the Explosive Substances Act, 1908 and Section 10(a)(i) and (iv) and Section 10(b) of the Act was registered in Chennai City, 'Q' Branch, CID. An attested copy of the FIR along with its English translation has been filed along with the affidavit and is exhibited as Ex.PW-5/1 (Colly). PW-5 has further deposed that during investigation, he recorded confessional statement made by accused Uthayathas @ Uthayasankar in presence of two independent witnesses. The confessional statement along with its English translation has been filed by him along with his affidavit and exhibited as Ex.PW-5/2 (Colly).

29. It has been deposed by PW-5 that on the basis of the confessional statement made by Uthayathas @ Uthayasankar, he arrested another Sri Lankan Tamil Sureshkumar @ Sera, son of Gnanasounthiram on the same day, i.e., 19.12.2012. Sureshkumar @ Sera also made a confessional statement which was recorded by him and a laptop, electronic materials and a circuit diagram was recovered from him. The investigation disclosed that he worked in Computer Wing of LTTE and came to Tamil Nadu during November, 2010 on a valid visa and passport and was staying at various places. He was planning to organize some blasts in Sri Lanka against Sri Lankan Government in retaliation for the defeat of LTTE. He was trying to contact ex-LTTE cadres and supporters in Chennai and managed to establish contact with other accused arrested in the case and conspired together with an intention to cause sabotage in Sri Lanka. He and Sivaneswaran @ Nesan @ Priyan @ Isaipriyan @ Anbu agreed to impart training to the LTTE cadres in making electronic devices to cause explosion in Sri Lanka. The confessional statement made by Sureshkumar @ Sera and its English translation has been filed by him along with his affidavit and is exhibited as ExPW-5/3 (Colly).

30. Based on the confessional statement of Sureshkumar @ Sera, two more Sri Lankan Tamils, who were the LTTE cadres, namely, (i) Maheswaran @ Easan @ Anbu Kumaran @ Anbu, son of Thangavel, native of No.98, Thirunagar, Kilinochchi, Sri Lanka, residing at No.6/385, Maruthupandi Street, Lakshmi Nagar, Pozhichalur, Chennai, and (ii) Krishnamoorthy @ Moorthy, son of Kandasamy, native of Jaffna, Sri Lanka, residing at No.12/170, Vanaja Nagar, Pozhichalur, Chennai, were arrested by PW-5 on the same day, i.e., 19.12.2012 and electronic devices with programmes, mobile phone, GPRS, a laptop, a note book containing electronic circuit diagrams and tools used for preparation of electronic circuits were seized from them in presence of two independent witnesses. Their confessional statements were also recorded which have been filed with the affidavit along with their English translation and are exhibited as Ex.PW-5/4 (Colly).

31. All the aforesaid four accused persons, who were the LTTE cadres, were produced before the Judicial Magistrate, Tambaram, Chennai and were remanded to judicial custody.

32. PW-5 has further deposed that during investigation of the case, he had examined 51 witnesses and on 30.08.2013, two more Sri Lankan Tamils, namely, (i) Sivaneswaran @ Nesan @ Priyan @ Isaipriyan @ Anbu and (ii) Maheswaran @ Gobi @ Mathi, who were the LTTE cadres and were named by Uthayathas @ Uthayasankar in his confessional statement, were arrested by him at East Mogappair, Chennai on the basis of the source information for their involvement in the commission of offence and were sent to judicial custody. They also made confessional statements which were recorded by PW-5 in the presence of two independent witnesses. Their confessional statements along with English translation have been filed along with the affidavit and the same are exhibited as Ex.PW-5/5 (Colly).

33. PW-5 has further deposed that during the course of investigation, it was revealed that the aforesaid six LTTE cadres were engaged in re-grouping other LTTE cadres and were undergoing training to make electronic devices at the residence of earlier said Sureshkumar @ Sera with a view to cause explosion in Sri Lanka using the electronic devices as initiation mechanism in bombs. PW-5 has deposed that the material recovered on the basis of the confessional statements made by the six accused persons named above, it has been established that the accused persons made bombs and tested it by blasting the same at Panrutti, Tamil Nadu. The evidence clearly shows that the aforesaid six accused persons were involved in the crime. He has further deposed that on the basis of the

investigation which has been concluded, a final report under Section 173 Cr.P.C. has been prepared which discloses commission of offence punishable under Section 120-B IPC, under Section 5 of the Explosive Substances Act, 1908 and Section 10(a)(i) and 10(b) of the Act. He has testified that on the basis of the confessional statements made by the aforesaid six accused persons arrested in the present case, it is evident that they were the LTTE cadres. He has further deposed that statements of four witnesses during investigation were also got recorded under Section 164 Cr.P.C. before the Judicial Magistrate wherein they confirmed that the above stated six accused persons were the LTTE cadres and were engaged in re-grouping of the LTTE cadres. The names of those four witnesses whose statement under Section 164 Cr.P.C. were recorded are (i) Mohandoss @ Mohan, (ii) V. Jeyam Mario Vijanth, (iii) Ruber Ravindraraja @ Ravi and (iv) Jagadeeswaran @ Raja.

34. In response to a question by the Tribunal as to which articles were seized from Maheswaran @ Anbu and Krishnamoorthy @ Moorthy, PW-5 stated that electronic circuit base boards (16 in number), assembled electronic circuit, electronic circuit base board (40 in number), long sized note book containing circuit diagrams, de-soldering pump and an Indian map were seized from Krishnamoorthy @ Moorthy, and from Maheswaran, a laptop, GPRS modem, micro chips, micro chip with joined pin and micro chip demo board, electronic testing device, USB cables, pen torch, vinayak register box, electronic duro tool compartment box, one soldering tool, cutting plier, wire cutter and green, yellow and red colour wire pieces were recovered.

35. On the suggestion of Mr. Vaiko, certain questions were put to PW-5 which are reproduced hereunder:

"Q. Whether the confessional statements of any of the aforesaid six accused persons were got recorded under Section 164 Cr.P.C. before a Judicial Magistrate?

Ans. Statement of accused persons were not got recorded under Section 164 Cr.P.C. before a Judicial Magistrate. However, confessional statements of the accused persons were recorded in presence of two independent witnesses.

Q. Whether sanction for prosecution under Section 45 of the Unlawful Activities (Prevention) Act, 1967 has been obtained from the Government?

Ans. Sanction under Section 45 of the Unlawful Activities (Prevention) Act, 1967 has been obtained from the Government of Tamil Nadu.

Q. Is it a fact that the charge sheet against accused Uthayathas @ Uthayasankar was not filed within the period of 90 days and therefore he was granted bail by the Court?

Ans. It is correct that the charge sheet could not be filed within 90 days and therefore, accused Uthayathas @ Uthayasankar was granted bail."

36. PW-4 Mr. Jayachandran, Deputy Superintendent of Police, Q Branch, CID, Ramanathapuram, Tamil Nadu, tendered in evidence his affidavit dated 18.09.2014 Ex.PW-4/A along with all its annexures on 26.10.2014 at Coonoor and was examined on oath.

37. PW-4 has deposed that he is the Investigating Officer of Nachiyapuram PS Crime No. 10/2014 under Section 153(A)(1) IPC. On 25.02.2014, Q Branch found four printed pamphlets brought out by Tamil Nadu Liberation Army (TNLA) at the backside compound wall of former Union Finance Minister's residence located at Managiri in Sivagangai District. In this connection, Cr. No.10/2014 was registered and a copy of the FIR along with its English translation and copy of the pamphlet and its English translation has been filed along with the affidavit, which is exhibited as Ex.PW-4/1 (Colly).

38. PW-4 has deposed that one Thiruselvam @ Murasu @ Sankar @ Murali @ Kumar @ Kannan of Tamilaga Makkal Viduthalai Padai was arrested on 10.03.2014 in connection with Othakadai PS Cr.No.47/2014 under Section 4 & 5 of the Explosive Substances Act, 1908. He made a confession that he, along with his brother Kalai @ Kalailingam, exploded an iron pipe bomb and threw printed pamphlets in the name of TNLA near the house of former Union Finance Minister Thiru P. Chidambaram at Managiri. On 11.03.2014, the IO in Nachiyapuram PS Cr.No.10/2014 seized remnants of exploded iron pipe bomb and other material from near the house of former Union Finance Minister. The case was transferred to Q Branch for further investigation on 20.03.2014. He has further deposed that that during investigation of this case, he arrested accused Thiruselvam, Kalailingam, Thangaraj, and Kaviarasan on 24.03.2014 at Central Prison, Madurai. He also arrested accused John Martin on 08.04.2014 at Central Prison, Palayamkottai and accused Karthick on 05.05.2014 at Central Prison, Madurai.

39. He has deposed that investigations have revealed that the aforesaid six accused persons conspired to commit terror acts by planting bombs at the houses of the then Union Ministers and multinational companies and strike terror in the minds of people by using explosive substances and thereby to cause death or injury and loss or damage to the property and all had agreed to commit conspiracy in order to show their protest against the policies of Government of India such as approach of Indian Government towards Tamils, Tamil Nadu Fishermen, Katchatheevu issue and for allowing Foreign Direct Investments in retail trade. In furtherance of their conspiracy, they prepared pamphlets in the name of the banned organization TNLA which carried seditious matter condemning the economic policies of

India such as allowing MNCs to operate in India and allowing Methane and GAIL projects, criticizing attacks on Tamil fishermen, Katchatheevu issue, river water disputes, demanding release of three Tamils convicted in Rajiv Gandhi murder case, demanding release of Thentamilan, a TNLA cadre, demanding to give up atomic power stations at Koodankulam, Kalpakkam and invited the militants, who are fighting for the liberation of their native races to unite against the imperialistic Indian Government, which is denying rights to the people of Tamil Nadu, Kashmir, Punjab, Mizoram, Manipur, and Nagaland etc. The pamphlets also condemned the then Union Ministers Thiru P. Chidambaram and Thiru V. Narayanasamy.

40. PW-4 has further deposed that during the course of investigation, it was revealed that the six accused persons were followers of Tamilarasan who was the founder of TNLA, the objective of TNLA is to achieve liberation of Tamil Nadu through armed rebellion and that TNLA has close ties with LTTE and drew inspiration from LTTE.

41. PW-4 has further deposed that the accused persons made a confession that on 04.02.2014 accused Kalailingam and Thiruselvam went to Managiri, blasted an iron pipe bomb at the back side compound wall of former Union Finance Minister P. Chidambaram's residence and threw pamphlets in order to support the ideology of their leader Tr. Tamilarasan and TNLA, to cause hatred and contempt and dissatisfaction against India containing seditious matters near the scene of occurrence.

42. PW-4 has further deposed that TNLA was formed by late Tamilarasan in 1984-85 with the objective of secession of Tamil Nadu from Indian Union and according to TNLA, armed struggle is the only path to achieve independence and it has close ties with LTTE and drew inspiration from it.

43. PW-4 has further deposed that he recorded the confessional statements of the aforesaid six accused persons, which along with their English translation have been filed by him along with his affidavit and are exhibited as Ex.PW-4/2 (Colly).

44. PW-4 has further deposed that after completion of the investigation, he has filed a final report (under Section 173 Cr.P.C.) for commission of offences under Section 120-B read with Section 124-A IPC; Sections 3(a) and 5(a) of the Explosive Substances Act, 1908 and Section 15 read with Section 16(b), 18 and 20 of the Act against all the six accused persons. The case was taken on the file in SC No.133/2014 on 13.10.2014 by the Court of Sessions, Sivagangai.

45. In response to a question by the Tribunal as to whether any of the six accused, who were arrested by PW-4, is a member of LTTE, he answered that he could not find out any evidence to show that the six accused persons were members of LTTE. However, he did find that the six accused persons were members of TNLA, which is an unlawful organization and it has close ties with and drew inspirations from LTTE.

46. On the suggestion of Mr. Vaiko, certain questions were put to PW-4 which are reproduced hereunder:

"Q. Did you collect any evidence which could suggest that TNLA has close ties with LTTE?

Ans. From the pamphlets which were recovered and seized and filed by me along with my Affidavit, it is apparent that TNLA has close ties with LTTE.

Q. Whether the pamphlets referred by you were printed in the name of TNLA, LTTE or were there name of any other organization?

Ans. The pamphlets were published in the name of TNLA only. The name of LTTE was not mentioned in the pamphlets.

Q. Did the six accused persons made their confessional statements, as stated by you, before a Judicial Magistrate, Executive Magistrate or a Police Officer?

Ans. The confessions were made to the police officer in the presence of independent witnesses as is reflected in the said confessional statements."

47. PW-3 Mr. N. Rajaram, Deputy Superintendent of Police, 'Q' Branch CID, Madurai Range, Tamil Nadu tendered in evidence his affidavit Ex.PW-3/A along with all its annexures on 26.10.2014 at Coonoor and was examined on oath. He has deposed that he is the Investigating Officer of Crime No. 47/2014 registered in PS Othakadai, Madurai District under Sections 4 and 5 of the Explosive Substances Act, 1908. He has further deposed that Cr.No.47/2014 was registered on the complaint of one Sivathanu, Store Manager of Reliance Market, Uthankudi, Madurai District. An attested copy of the FIR along with its English translation has been filed along with the affidavit and the same is exhibited as Ex.PW-3/1 (Colly).

48. PW-3 has further deposed that one iron pipe bomb (measuring 32 cm in length and 36 cm in circumference, filled with 3.5 kg of slurry and 19 ordinary detonators, out of which two were connected with safety fuse inside the iron pipe for initiation), a Mazza cool drink bottle containing 1500 ml of petrol and 16 pamphlets brought out in the name of TNLA, a banned organization, were seized from the scene of crime. The pamphlets condemned India's economic policies such as allowing MNCs, methane and GAIL projects, criticizing attacks on Tamil fishermen,

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Katchatheevu issue, river water disputes, demanding release of three Tamils convicted in Rajiv Gandhi murder case, demanding to give up atomic power stations at Koodankulam, Kalpakkam, etc. The pamphlets also condemned the then Union Ministers Tr. P. Chidambaram and Tr. Narayanasamy. A copy of the pamphlet and its English translation has been filed along with the affidavit and the same is exhibited as Ex.PW-3/2 (Colly).

49. PW-3 has also deposed that TNLA is banned organization in Tamil Nadu under the Criminal Law (Amendment) Act, 1908 and is declared as a terrorist organization under the Act in the First Schedule at S.No.30. He has further testified that the objective of TNLA is to achieve liberation/secession of Tamil Nadu from the Indian Union through armed rebellion and TNLA has close ties with LTTE and drew inspiration from LTTE.

50. PW-3 has deposed that during investigation, the accused Thiruselvam was arrested on 10.03.2014 at Melur and based on his confession, the accused Thangaraj @ Tamilarasan and Kaviarasan @ Raja were arrested on 11.03.2014 at Melur and the accused Kalai @ Kalailingam was arrested on 13.03.2014. The accused John Martin was arrested on 28.03.2014 while the accused Karthick surrendered before the Court of Metropolitan Magistrate-V, Chennai on 08.04.2014. They all belong to TNLA. The confessional statements of the aforesaid six accused persons were recorded, copies of which, along with their English translation, have been filed along with his affidavit and the same are exhibited as ExPW-3/3 (Colly).

51. PW-3 has further deposed that during the course of the investigation, the sections of law were altered to Section 120(B) IPC read with Section 121, 121-A, 124-A IPC and Sections 4 and 5 of the Explosive Substances Act, 1908 and Section 15 read with Section 16, 18 and 20 of the Act on 23.03.2014.

52. PW-3 has further affirmed that during investigation, it was revealed that the six accused conspired together with an intention to commit terror acts by planting bombs at the residences of then Union Ministers and companies run by multinational companies and strike terror in the minds of the people by using explosive substances and thereby likely to cause death or injury and loss or damage to the property and all had agreed to commit conspiracy in order to show their protest against the policies of the Government of India such as approach of the Union Government towards Tamils, Tamil Nadu fishermen, Katchatheevu issue and for allowing foreign direct investment in retail trade. He has further affirmed that the seized explosive object was capable of causing multiple deaths and grievous injuries to several persons and also huge damage and destruction of properties, if exploded.

53. PW-3 has further deposed that during the course of investigation, it was revealed that the aforesaid six accused persons were the ardent followers of the ideology of Tr. Tamilarasan, founder of TNLA and since TNLA has been declared as a terrorist outfit, Thiruselvan got attached to Tamilaga Makkal Viduthalai Padai (TMVP) while the remaining accused got attached to Tamil Desa Makkal Katchi (TDM) instead by concealing themselves as members of TNLA.

54. PW-3 has further affirmed that to achieve the object of TNLA, all the accused assembled at Odaikkal Village in Ramanathapuram District and on 01.01.2014 at about 10.00 hrs, on the occasion of New Year Day, conspired to commit terror acts by planting bombs at former Union Minister's residence and companies run by multinational companies and strike terror in the minds of people by using explosive substances and thereby to cause death or injury and loss or damage to the property.

55. PW-3 has added that on 16.01.2014 at about 12.00 noon, all the accused assembled at Manjuvirattu Pottal (Siravayal) situated at Thirupathur to Karaikudi Main Road in Sivagangai District and they conspired with each other that they wanted to strike terror against Union Government by planting bombs and cause death and damage to the properties and get Tamil Nadu seceded from the Indian Union.

56. PW-3 has further affirmed that to achieve the objectives of TNLA, all the six accused conjointly came together on 23.01.2014 at Thiruselvam's rented house situated at No.74, Vasuki Street, Meenakshi Nagar, Villapuram in Madurai and made three iron pipe bombs and planted one iron pipe bomb at former Union Minister Tr. Narayanasamy's house at Puducherry on 29.01.2014, another iron pipe bomb at the backside compound wall of then Union Finance Minister house at Managiri in Sivagangai District on 04.02.2014, and the third iron pipe bomb at the backside of the Reliance Market Building, Uthangudi, Madurai District on 10.02.2014.

57. PW-3 has further deposed that on the basis of the confessional statement of the aforesaid six accused persons, on 11.03.2014, two live iron pipe bombs and explosive substances and other material were recovered and seized from the possession of Thiruselvam from his rented house and the same were defused.

58. PW-3 has also deposed that after completion of investigation, he has filed final report (under Section 173 Cr.P.C.) before the Court of Judicial Magistrate, Melur, Madurai District on 04.09.2014 against the aforesaid six accused persons under Section 120-B read with Section 124(A), 34 IPC; Section 3(a), 4(b), 5(a) and 6 of the Explosive Substances Act, 1908 and Section 109 IPC read with Section 15, 15(1)(a)(ii), 18 and 20 of the Act and the same has been taken on file in PRC No.16/2014 on 05.09.2014. A copy of the final report has been filed along with his affidavit and the same is exhibited as PW-3/4.

59. PW-3 has testified that TNLA is an organization founded by one Late Tamilarasan with the objective of secession of Tamil Nadu from Indian Union. The TNLA uses armed struggle for its operation and has close ties with LTTE

and drew inspiration from LTTE. This is also revealed by the contents of the pamphlets which have already been placed on record by him along with his affidavit.

60. In answer to a question put by the Tribunal, PW-3 has admitted that the accused are not members of LTTE but are members of TNLA and drew inspiration from LTTE.

61. On the suggestion of Mr. Vaiko, following questions were put to PW-3:

"Q. Whether there is any concrete evidence which shows that the six accused persons arrested by you in Cr.No.47/2014 and who belonged to TNLA drew any inspiration from LTTE?

Ans. The pamphlets recovered from the scene of crime state that they demand a separate Tamil Eelam and further demanded release of accused who were awarded capital punishment in the assassination of Late Mr. Rajiv Gandhi, former Prime Minister of India.

Q. Whether the confessions made by the six accused persons were made before a Police Officer or before a Judicial Magistrate?

Ans. The confessions were made before a police officer in the presence of independent witnesses."

62. PW-2 Ms. K. Bhavaneeswari, IPS, has deposed that she is working as Superintendent of Police, 'Q' Branch CID, Chennai, Tamil Nadu since 29.07.2013, and that she is authorized by the Government of Tamil Nadu to file evidence by way of affidavit on behalf of the State of Tamil Nadu and is fully conversant with the facts on the activities of LTTE in her official capacity based on available case records. On behalf of the Government of Tamil Nadu, she tendered in evidence her affidavit dated 06.09.2014 along with all its annexures in support of the Notification dated 14th May, 2014 issued by the Government of India, thereby declaring LTTE as an 'unlawful association' under the Act for a period of five years from 14th May, 2014. The said affidavit has been proved as Ex.PW-2/A.

63. PW-2 deposed that the Government of India, Ministry of Home Affairs, in exercise of the powers conferred in sub-section (1) and proviso to sub-section (3) of section 3 of the Act, in the Gazette Notification No. S.O. 1272(E), dated 14.05.2014, has declared LTTE as an Unlawful Association with effect from 14.5.2014. The said Notification is exhibited as Ex.PW-2/1.

64. PW-2 has further deposed that LTTE is an association based in Sri Lanka but having its supporters, sympathizers and agents in the territory of India. She has further deposed that LTTE's objective for a separate homeland for all Tamils threatens the sovereignty and territorial integrity of India, and amounts to cession and secession of a part of the territory of India from the Union and thus falls within the ambit of unlawful activities. The Constitution of People's Front of Liberation Tiger (PFLT), and declaration of Tamil National Retrieval Troup as an 'unlawful association' and declaration of Tamil Nadu Liberation Army as 'unlawful association' are filed along with her affidavit and the same are collectively exhibited as Ex.PW-2/2. She has also filed along with her affidavit an article on Tamil Nadu Liberation Front and a map, and the same is exhibited as Ex.PW- 2/3. She has also filed a note on Tamilar Paasaria along with her affidavit and the same is exhibited as Ex.PW-2/4.

65. PW-2 has further deposed that the LTTE even after its military defeat in May 2009 in Sri Lanka, has not abandoned the concept of separate nation for Tamils. The remnant LTTE leaders or cadres have also initiated efforts to regroup the scattered activists and resurrect the outfit locally and internationally. She has further deposed that the separatist Tamil groups and pro-LTTE groups continue to foster a separatist tendency amongst the masses and enhance the support base for LTTE in India and particularly in Tamil Nadu. The documents in this regard have been filed by her in a sealed cover and the same is marked as Mark Z1.

66. PW-2 has further deposed that cases were registered under the Act against LTTE, pro-LTTE elements since the last Notification No.S.O. 1062 (E), dated 14.05.2012, i.e. between May 2012 and April 2014, besides cases under the provisions of Explosive Substances Act 1908 and Indian Penal Code. She has further deposed about the activities of pro-LTTE group which is also supported by relevant documents which have already been marked as Mark Z1.

67. PW-2 has affirmed that LTTE was originally formed in 1974 as Liberation Tigers in Sri Lanka. It took its present name in 1976 with Veluppillai Prabhakaran as Military Commander. This organization has given to itself a Constitution and despite the ban in force, the organizations has got supporting organizations, sympathizers agents in India and the overt activities of these pro-LTTE organizations have also come to notice and even attempts have been made by these forces to extend their support.

68. PW-2 has further affirmed that PFLT, a political front of LTTE, was formed on 05.05.1976 with the rectangular party flag in red colour and the emblem Tiger in the middle with the following aims, objectives and ideology:

a) To fight for the Social, Political, and Economic Emancipation of the Tamil and Muslim masses.

b) To fight against all forms of oppression, discrimination and exploitation of the Tamils and Muslims.

c) To fight for the right of self-determination of the Tamil and Muslims.

d) To protect and preserve the geographical identity and integrity of the traditional homelands of the Tamils and Muslims.

69. PW-2 has further deposed that subsequent to the previous ban on LTTE on 14.05.2012, one accused Chidambaram @ Vaithi @ Jeeva @ Siva Kumar @ Dinesh, who was arrested on 11.01.2010, was convicted for offences under Section 120B IPC, Section 3(3) and Section 4(1) of TADA and Section 5 of the Explosive Substances Act, and was sentenced to undergo imprisonment for life and other sentences. She has filed a copy of the judgment along with her affidavit and the same is exhibited as Ex.PW-2/5.

70. PW-2 has further deposed that there is an input from sister agency that remnant LTTE cadres and TNLF are imparting training to Peoples Liberation Guerrilla Army (PLGA). Various pro-LTTE groups are conducting demonstrations/agitations. They also celebrate the birth anniversary of LTTE leader Prabhakaran on 26.11.2012 to 28.11.2012 at various places in Tamil Nadu by exhibiting "Thatti" boards and digital banners, lighting candles, organizing blood donation camps and public meetings, distributing sweets, etc. They also observe Muthukumar's 4th year Memorial Day (Muthukumar committed self-immolation on 29.01.2009 for the cause of LTTE and Sri Lankan Tamils) on 29.01.2013 and 5th year Memorial Day from 24.01.2014 to 02.02.2014 at various places in Tamil Nadu by conducting exhibition, seminar, mourning, lighting candles, procession, etc. She has also affirmed that Mullivaikkal memorial was constructed in Vilar Village, Thanjavur District, in the memory of 'Mullivaikkal martyrs' (innocent people killed during the final phase of war in Mullivaikkal, Sri Lanka in 2009) and 20 others who self-immolated themselves in Tamil Nadu, Malaysia and Switzerland for the cause of Sri Lankan Tamils. An inscription 6' x 5' in size containing the engravings of Charles Antony and Balachandran, sons of LTTE leader Prabhakaran was unveiled on 08.11.2013. The members of pro-Tamil/pro-LTTE organizations, inmates of Chengalpattu and Trichy Special camps and Sri Lankan Tamil refugees of various settlements celebrated 59th birth day of LTTE leader Prabhakaran and Heroes week from 24.11.2013 to 27.11.2013 by conducting public meeting, indoor meeting, blood donation camps, exhibiting wall posters/ distributing sweets/pamphlets, erecting flex banners, paying homage/floral tribute, hoisting flags, lighting candles etc., all over the State. She has also affirmed that these groups continue to foster a separatist tendency among the masses by openly accusing the Central Government of allegedly helping Sri Lanka. These groups celebrate the birth anniversary of LTTE leader Prabhakaran and Heroes Week and that these activities of separatist Tamil chauvinist groups and pro-LTTE groups will ultimately have a strong disintegrating influence over the territorial integrity of India.

71. PW-2 has affirmed that six Sri Lankan Tamils, who arrived at Arichalmunai seashore, Ramanathapuram District from Sri Lanka through a plastic boat in wee hours on 05.05.2014 were arrested for entering India without any travel documents, and a case Cr.No.27/2014 under Section 14 of Foreigners Act, 1946 and under Rule 3(1) read with Rule 6(a) of Passports (Entry into India) Rules, 1950 was registered against them in PS Dhanushkodi. Similarly, four more Sri Lankan Tamils, who arrived at Arichalmunai seashore, Ramanathapuram District from Sri Lanka through a plastic boat at wee hours on 05.05.2014 were secured by 'Q' Branch, CID, Ramanathapuram at Muguntharayat Chathiram, Kambipadu Seashore, for entering India without any travel documents. They were handed over to Dhanushkodi PS and a case Cr.No.28/2014 under Section 14 of Foreigners Act, 1946 and under Rule 3(1) read with Rule 6(a) of Passports (Entry into India) Rules, 1950 was registered against them.

72. PW-2 has stated in her affidavit that the continuation of the ban is absolutely essential in the larger interest of the security of India and in the interest of sovereignty and territorial integrity of India. It is only due to the ban in existence today, the law enforcing agencies and the State administration are able to have a better control over the situation and the Act is a tool to the law enforcing agencies in the State in curbing the menace of such a militant organisation. Lifting of the ban on LTTE would imply allowing such a deadly foreign terrorist organization to fully operate from India, freedom to harness the support from secessionist/pro-LTTE elements/groups in Tamil Nadu/India, which will all amount to giving a tremendous psychological boost to LTTE as well as the secessionist Tamil forces in India.

73. PW-2 has further affirmed that the activities of LTTE still persist and despite the ban, sympathy for separate nation concept still remains and craving for secession of Tamil Nadu from Indian Union also remains as undercurrent and unless the ban continues to be in force for a further period of five years, the very purpose of ban enforced initially for two years in 1992 and subsequently extended from time to time, would be defeated and the consequential effect could be highly detrimental to the sovereignty and territorial integrity of India.

74. In response to a question by the Tribunal as to whether any cases have been registered against LTTE cadres after the previous ban on LTTE on 14.05.2012, PW-2 stated as under:

"Ans. Yes. In all, five cases have been registered. I have stated about these in paragraphs 19.1 to 19.4 of my affidavit.

In the first case, six LTTE cadres were arrested on 19.12.2012 and the case is still under investigation.

The second and third cases were registered on 5.5.2014 by PS Dhanushkodi against the accused Thayapararaj and others. I have deposed about this case in paragraph 19.2 of my affidavit.

The fourth case has been registered against six TNLA members by PS Othakadai, Madurai District against the accused Thiruselvam, Thangaraj @ Tamilarasan, Kaviarasan, Kalai @ Kalailingam, John Martin and Karthik. In this case, charge sheet has been filed in Court which is pending trial. I have mentioned about this in paragraph 19.3 of my affidavit.

The fifth case was registered by PS Nachiapuram and the persons aforesaid have been found to be involved in this case also. I have mentioned about this in paragraph 19.4 of my affidavit. In this case also, charge sheet has been filed on 18.9.2014.

There are eight cases pending against LTTE cadres in various courts since the year 1990 for the reasons that some of the accused persons in these cases have not been apprehended and have been declared as proclaimed offenders, details of which are mentioned in paragraph 20 of my affidavit."

75. On the suggestion of Mr. Vaiko, certain questions were put to PW-3 which are reproduced hereunder:

"Q. Have you placed on record any material except the Constitution of People's Front of Liberation Tigers (PFLT) which could suggest that the objective of LTTE or its activities are against the sovereignty and territorial integrity of India?

A. I have filed Annexure B-3 along with my Affidavit at page 382 to 388. On page 387 there is a map of greater Tamil Nadu which includes State of Tamil Nadu, part of Kerala, part of Karnataka, part of Andhra Pradesh and North-Eastern provinces of Sri Lanka. I have also filed along with Affidavit, a judgment dated 19.07.2012 , Ex.PW-2/5. I would draw attention to internal page 65 of the judgment.

Q. Whether demand for greater Tamil Nadu was made by LTTE or by any other organization?

A. It is the claim of the LTTE to have greater Tamil Nadu as was stated by the convict who was trained by LTTE in a training camp at Sri Lanka.

Q. Whether this convict was a member of the LTTE?

A. He was a member of Tamil Pasarai as well as member of the LTTE.

Q. Whether the Tamil Pasarai is a banned organization?

A. No. It is not a banned organization.

Q. Are you aware that People's Front of Liberation Tigers (PFLT) came into existence only in the year 1990 only for a small period?

A. There is no material regarding dismantling of PFLT, therefore, I can say that it is still continuing."

76. PW-1 Mr. Narendra Kumar deposed that he is working as Under Secretary, Internal Security-I Division, Ministry of Home Affairs, Government of India, North Block, New Delhi since November, 2011, and that he is authorized and competent to deal with the subject matter of the present reference. He tendered in evidence his affidavit dated 05.09.2014 along with all its annexures in support of the Notification dated 14th May, 2014 issued by the Government of India, thereby declaring LTTE as an 'unlawful association' under the Act for a period of five years from 14th May, 2014. The said affidavit has been exhibited as Ex.PW-1/A.

77. PW-1 has affirmed that PFLT, the political front of LTTE, has a constitution, whose aims, objectives and ideology, inter-alia, include the following :-

(a) to fight for the Social, Political, and Economic Emancipation of the Tamil and Muslims;

(b) to fight for the right of self-determination of the Tamil and Muslims;

(c) to protect and preserve the geographical identity and integrity of the traditional homelands of the Tamils and Muslims.

A copy of the constitution of the PFLT has been filed by him along with his affidavit by way of evidence, and the same has been exhibited as Ex.PW-1/1 (Colly).

78. PW-1 has deposed that on the basis of the information and material received from State of Tamil Nadu as well as various intelligence agencies, with respect to the activities of LTTE, that this is an association which though based in Sri Lanka has sympathizers, promoters, agents and operators carrying on various activities in India as well. This organization is capable of gaining local support in Tamil Nadu and several other parts of South India, on account of linguistic, ethnic, affinity and geographical contiguity between Tamils in India and Tamils in Sri Lanka. The LTTE continues to look at Tamil Nadu as a base for carrying out anti-India activities. The Central Government has information which shows that LTTE continues to practice violent, disruptive and unlawful

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activities which are prejudicial to the territorial integrity and sovereignty of India. Its activities continue to pose threat and are detrimental to the sovereignty and territorial integrity of India.

79. PW-1 has, along with his affidavit by way of evidence, filed copies of the reports of previous Tribunals the notifications issued by the Central Government thereby declaring LTTE as an 'unlawful association' since 1992 till 2012, which have been exhibited as Ex.PW-1/1 (Colly).

80. PW-1 has further deposed that the satisfaction of Government of India is based upon the past and current activities of LTTE and the evidence that this organization continues to operate on Indian soil and indulge in activities which are prejudicial to the sovereignty and territorial integrity of India, through various pro-LTTE organizations.

81. PW-1 has affirmed that the separatist Tamil chauvinist groups and pro-LTTE groups continue to foster a separatist tendency amongst the masses and enhance the support base for LTTE in India and particularly in Tamil Nadu. If allowed to continue their activities, it will ultimately have strong disintegrating influence over the territorial integrity of India. Hence, there is a clear need to control such separatist activities by all possible lawful means and the Central Government has information that the LTTE continues to practice unlawful activities prejudicial to the territorial integrity and sovereignty of India and after coming to the opinion that the aforesaid activities of LTTE continue to pose threat to, and are detrimental to the sovereignty and territorial integrity of India as also to the public order, it has declared the LTTE to be an unlawful association for a further period of five years with effect from the date of Notification No.1272(E) dated 14.05.2014. A copy of the notification has been filed by him along with affidavit and the same is exhibited as Ex.PW-1/2.

82. PW-1 has deposed that the LTTE even after its military defeat in Sri Lanka has not abandoned the concept of Eelam and has been clandestinely working towards the said cause through various activities and the LTTE cadres have also initiated efforts to re-group them and resurrect the organization, locally and internationally. He has further deposed that LTTE, pro-LTTE elements/groups including Tamil chauvinists groups are still active in Tamil Nadu even during the period of ban on LTTE since May, 2012 and are involved in criminal/terrorist activities causing a threat to the security and integrity of the State. He has mentioned about the cases registered against LTTE from May, 2012 onwards are stated in paras 19.1 to 19.9 of his affidavit (the same have been dealt in detail in the testimonies of the respective Investigating Officers).

83. PW-1 has further deposed that in December, 2012, three LTTE cadres were arrested by the Tamil Nadu police who were involved in imparting training for fabricating of electronic devices for explosions. He has also affirmed in his affidavit that the Puducherry police registered the following cases against the Naam Tamilar Katchi (NTK) activists, who indulged in unlawful activities including damaging of buses by pelting stones, during the observance of bandh on September 17, 2012 protesting against the visit of Sh. Mahindra Rajapakse (Sri Lankan President) to India to attend foundation stone laying function for 'Buddhist Education Centre' at Sanchi (MP) on Sept.21, 2012:

(i) **Orleanpet PS Cr.no.268/12** u/s 294, 427 r/w 34 IPC on Sept. 17, 2012 against Arumaidas (State Secretary/NTK), and Kannan @ Govardhan for damaging front glasses of the buses parked in new bus stand;

(ii) **D Nagar PS Cr.No.332/12** u/s 341, 427, 336, 506 (ii) r/w 34 IPC dated September 17, 2012 against Devanathan @ Marimuthu and Vijaya vikraman @ Vicky for causing damage to one Vinayaga bus at Vazhudavur Road, Goundapalayam, Puducherry and pelting stones endangering human lives etc; and

(iii) **D Nagar PS Cr.No.333/12** u/s 341, 427, 506 (ii) r/w 34 IPC dated September 17, 2012 against Ponnarasan @ Ponnan and two others for causing damage to wind screens of MNC owned company (Neumerci Power System- Novatear Electrical and Digital System Pvt. Ltd) bus at Gourimedu, Puducherry by pelting stones, endangering human lives etc. All the accused persons were arrested.

(iv) **Thanjavur PS Cr. No. 512/2013 and 513/2013**

Two cases in Thanjavur Taluk PS (Thanjavur district) Cr.Nos.512/2013 and 513/2013 u/s.188 IPC r/w. 3 and 4 Tamil Nadu Open Plan Prevention of Disfigurement Act 1959 were registered against P Nedumaran (President/World Tamil Confederation Trust), Kasi Anandan (Sri Lankan Tamil poet) and 4 others for displaying pictures of Prabhakaran (LTTE) in flex banners and wall posters in public places in connection with Mullivaikal Martyrs' Memorial Inauguration function (November 8-10, 2013).

(v) ***National Investigation Agency (NIA) Case No. 1/2014/NIA-HYD***

The Puducherry Police recovered an unexploded pipe bomb, near the residence of Sh. V.Narayansamy, the then Union Minister of State in Puducherry on January 29, 2014. The pipe bomb was suspected to be planted by Tamil Nadu Liberation Army (TNLA) and Dravida Viduthalia Kazhagam (DVK). Leader of DVK, Dravida Periyar, reported to have linkages with LTTE remnants. He had facilitated sheltering of the LTTE cadres arrested on December 17, 2012 and August 29, 2013 in Pammal, Chennai. This Case is being investigated by the National Investigation Agency (NIA).

84. PW-1 has further deposed that in May, 2013, Thiva Satesh Kumar was arrested by the Crime Branch, CID, Tamil Nadu police while he was attempting to travel to Nairobi from Mumbai on forged documents. He was an LTTE activist against whom the Sri Lankan Government had got issued an Interpol notice. He was deported to Sri Lanka.

85. PW-1 has further affirmed that an LTTE activist Baskarasivaji Suthakaran @ Sudha, based in Switzerland and associated with Tamil Coordination Committee (front of LTTE in that country), who had visited Tamil Nadu during April 3-20, 2013 was questioned by the Tamil Nadu Police during his departure to Switzerland on April 20, 2013. Interrogation of Baskarasivaji Suthakaran revealed that he had visited Tamil Nadu on the pretext of visiting his mother and sister living as refugees in Chennai. He had met P Nedumaran (Tamil National Movement (TNM)), Seeman (NTK) and Kasi Anandan (LTTE poet, living in Chennai) and another LTTE element Elango, also living in Chennai. Sudha was also found evincing keen interest in the students' agitation in support of SL Tamils, which was at its peak during his visit and he was reporting to one Raghupathi, heading the Tamil Co-ordination Committee (TCC) in Switzerland, about the intensity and magnitude of the agitation. He has further deposed that from May, 2012 to January, 2014, 78 Sri Lankan Tamils were lodged in special camps. Out of them, 7 were LTTE cadres or LTTE dropouts. He has further deposed that LTTE has a strong presence worldwide.

86. PW-1 has further deposed about the activities of pro-LTTE organizations and Tamil Chauvinists groups in Tamil Nadu and elsewhere since May, 2012, in paras 21.1 to 21.27 of his affidavit, which are as under:

21.1 A book titled Prabhakaran – Tamilar Elutchiyin Vadivam' written by P Nedumaran, Tamil National Movement (TNM) was released across the State & Puducherry during May-July 2012. P Nedumaran wanted the youth of Tamil Nadu to read the book to know the real history of Tamil Eelam Movement in Sri Lanka (SL) and get ready for fourth stage of war against the SL government to form a separate State for SL Tamils under the leadership of Prabhakaran. While speaking at a book release function (160/Coimbatore/July 28, 2012), Nedumaran claimed that the book was written to counter the systematic campaign carried out by intelligence organizations of India and certain anti-Tamil journals against LTTE and Tamil Eelam.

21.2 Seeman (President/NTK), while addressing a public meeting (650/ Sanoorapatti – Thanjavur district/May 24, 2012) criticized the observance of anti-terrorism day (May21) in view of the death anniversary of Rajiv Gandhi. He warned that if the same continued, the NTK would observe the day of 'Indian Peace Keeping Force' landing in Sri Lanka as 'International Terrorism Day'.

21.3 Wall posters, purportedly brought out by Forum of Students for Tamil Eelam (FSTE) demanding the Rayalaseema administration to cancel the contract of supplying of railway sleeper woods to Sinhalese who allegedly killed 1.5 lakh of Eelam Tamils, was found pasted at Tirumangalam (Madurai district) on June 4, 2012. A picture showing a Tamil in a naked position being dragged by Sinhalese Army Sepoy after tying his hands, was printed in the wall poster.

21.4 A demonstration (Chennai/August 4, 2012) was organized by the members of the Tamizhaga Makkal Urimai Kazhagam u/I of Pugalendhi (Convenor) urging for the recognition of Tamil Eelam by various international bodies and demanding the Centre to remove the ban on LTTE.

21.5 Meenava Viduthalai Vengaigal (IND), Akkaraipettai (Nagapattinam district) pasted wall posters in and around Nagapattinam town (August 15, 2012) demanding lifting of ban on LTTE in India and a general voting in UN for a separate Tamil Eelam.

21.6 Tamil Chauvinists outfits, namely Tamil Desiya Viduthalai Iyakkam (TDVI), Tamil Desiya Puduvudamai Katchi (TDPK), Radical Students' Youth Front (RSYF), Dharmaram Vidya Kshetram (DVK) etc. demanded an unconditional apology from NKKP Raja (Erode District Secretary/DMK) for his alleged anti-Prabhakaran remarks in a public meeting (Erode/August 9, 2012) that 'Prabhakaran was a killer who killed more Tamils than Rajapakse by making them as human shields' and also threatened to stage protest demonstrations.

21.7 Addressing a public meeting (300/Chennai/August 18, 2012), Seeman (President/NTK) accused that, for the single casualty of Rajiv Gandhi (former PM), Sonia Gandhi and Rahul Gandhi 'killed' 2 lakh Tamils in Sri Lanka. He branded the late Rajiv Gandhi as an 'international terrorist'. He stated that if the Government of India continued to supply arms to SL Government, then he would supply arms to the SL Tamils for their protection. He observed that it was upto the Indian Government to decide whether it wanted Sri Lanka or Tamil Nadu and in case the Indian Government preferred Sri Lanka in place of Tamil Nadu, then 'it should leave Tamil Nadu from the Indian Union'.

21.8 While addressing another meeting (2250/Puducherry/ August 18, 2012), Seeman said that Rajiv Gandhi had violated the sovereignty of another country (Sri Lanka) by sending the Indian Peace Keeping Force (IPKF) to Sri Lanka and allegedly killing about 20,000 Eelam Tamils. Hence, he justified the assassination of Rajiv Gandhi for crimes unleashed on Eelam women/Tamils etc.

21.9 Thileepan (State propaganda Secretary/NTK) while addressing a public meeting (Namagiripettai-Namakkal district/September 2, 2012) justified assassination of Rajiv Gandhi who was allegedly responsible for the killing of Tamils in Sri Lanka. He questioned, while death sentence was given for a single murder, what punishment should have been given to Sonia Gandhi who was allegedly responsible for the killing of lakhs of Tamils.

21.10 Members (22) of Pudhiya Tamilagam (PT) observed Dhileepan's (LTTE cadre who died while fasting undo death programme at Sri Lanka for Eelam cause) death anniversary at Trichy on September 26, 2012 by garlanding his portrait.

21.11 Speaking at the 6th State Conference (Kumbakonam-Thanjavur district/November 17, 2012) of Tamil Nadu Youth Front of TDPK, P. Maniarasan (GS/TDPK) exhorted that Tamils in Tamil Nadu should fight for creation of a Tamil Eelam in Sri Lanka and thereafter for creation of a separate country (republic) for Tamils in India (Tamil Nadu).

21.12 Addressing a public meeting (150/Salem District/January 13, 2013) under the caption 'Creation of New Political Era in 2016', Vetriselvan (State Propaganda Wing Secretary/NTK) said that the NTK was the only party aimed at the development of the Tamils Community and added that their leader was not Seeman but Prabhakaran who led the liberation struggle for more than thirty years and was having all forces including infantry, air and suicide squads in his army. He added that Prabhakaran was safe and would come again with all military/nuclear weapons.

21.13 Handwritten posters were exhibited (January 15, 2013) in Madurai city by Dravida Ilaignar Tamil Peravai (DITP), which paid tribute to LTTE Commander Kittu. It also claimed that Kittu and 28 liberation tigers were allegedly burnt to death by treachery of Indian Government as perceived by the author of the said poster.

21.14 In a public meeting organized by NTK (120/Erode/January 25, 2013), Kalyanasundaram (State Organiser) threatened the then Union Defence Minister Sh. A. K. Antony for his statement that the training for SL defence personnel in the State would continue. He warned that if any more Sinhalese Army men were given training in Tamil Nadu, in the next Republic Day, instead of Indian Flag, Pakistani flags would flutter in all the flag posts in the State. He remarked that if Pakistan was the enemy for India, in a similar way Sinhalese were the enemy of Tamils and India could remain with Tamil Nadu only if it was ready to accept the reality and wishes of 8 crore Tamils. He justified the killing of Rajiv Gandhi, saying that IPKF sent by him allegedly killed 12000 Eelam Tamils. He said that SL and the world armed forces could retrieve only a small portion of the arms and vessels of LTTE and that Prabhakaran would come back to lead the next stage of Eelam war.

21.15 K. Venkatraman (GS/TDPK), while addressing a public meeting (55/Thanjavur/January 28, 2013), said that the LTTE had never pursued a policy of harming the Indian interests and the fear of harming Indian business interest in Sri Lanka was also unfounded. Still India consistently campaigned to get the LTTE banned in several countries in the world. He stated that formation of a Tamil Nation (secession of Tamil Nadu) and Tamil Eelam were the only remedies to get the voice of Tamils heard in the international forums.

21.16 In a street corner meeting (40/February 1/Chennai, 2013), Vetriseelan (State Propaganda Secretary/NTK) warned that they would hoist US Flag by downing Indian Flag, if ban against the visit of SL President to India was not issued by August 15.

21.17 Pressing the same demand, NTK Puducherry Unit, observed hunger fast (1000) on February 9, 2013. Seeman, participating in the fast, was very vociferous in his support to the Eelam cause and his speech smacked highly of chauvinistic taints and secessionist tendencies expressing Tamils yearning for a separate nation of their own. He envisaged that if a Tamil Government was formed in Tamil Nadu, it would adopt two resolutions immediately on two issues viz. a separate nation for 12 crore Tamils comprising Tamil Eelam, Tamil Nadu, and Puducherry; granting recognition to the Socialist Republic of Tamil Eelam. He left it to the nations that had prevented formation of separate Eelam in Sri Lanka, to decide, whether it would be Tamil Nadu or separate Tamil Eelam.

21.18 The release (February 19, 2013) of videos by Channel 4 on the brutal killing of Balachandran (son of Prabakaran, slain LTTE Supremo) by the SL army when he was under its custody evoked sharp reactions from various quarters in the State. Leaders of political parties and Tamil chauvinist groups strongly condemned the brutal murder and demanded action against the SL President/Government. The protestors resorted to various forms of agitations, including effigy burning, demonstrations and court boycott. Members of Manithaneya Makkal Katchi and May 17, Movement (100/February 22, 2013) and Tamizhaga Munnetra Congress (42/February 27, 2013) staged a picketing agitation near the SLDHC, Chennai. For the same cause, members (26) belonging TN Thevar Peravai (a caste outfit of Mukkulathore Community/BC) attempted to stage a demonstration in front of SLDHC on February 23, 2013.

21.19 The students agitation in the State gained momentum in February/March 2013 when series of agitations like human chain agitation, slogan shouting demonstration, relay fast, class boycott and train picketing were organized by students under the banner of 'Students Federation for Liberation of Tamil Eelam', 'Tamil Nadu Students Federation', 'Students' Front for Self Rights of Eelam Tamils' and 'Students Struggle Committee for Tamil Eelam' – demanding that the incidents that took place in Sri Lanka be declared genocide, constitution of an independent International Enquiry Commission to enquire into the war crimes, holding of referendum in the North and East Sri Lanka and formation of Tamil Eelam, imposition of economic embargo on Sri Lanka etc. Six students in Trichy attempted to spill their blood in public on March 13, 2013 by extracting a syringe full of their blood. However, the police thwarted their attempt and detained them. In Puducherry, the students (50) entered (March 21, 2013) the office of Regional Registration Office (IB-Immigration Unit), Puducherry and refused to leave. They shouted slogans like "separate Eelam in Sri Lanka or separate Tamil Nadu in India". They were forcibly removed by the police. While leaving, they caused damaged to the cabin glasses of adjacent State Science and Technology Department and office of the Chairman Puducherry Housing Board. On March 29, 2013, the Students Federation for Free Eelam performed (15) mock funeral of PM, UPA Chairperson and SL president in Erode district.

21.20 Pudukottai district unit of NTK lodged a complaint with Vadakadu PS (Pudukottai district) on March 23, 2013 that one Manoj (25), s/o Durairaj, r/o Solakampatti, Vadakadu, Alangudi Taluk, Pudukottai district had posted an objectionable photo of LTTE supremo Prabhakaran on his facebook page and demanded his immediate arrest.

21.21 Transnational Government of Tamil Eelam (TGTE) Solidarity Centre, Chennai, organized a hall meeting (200/Chennai/April 18, 2013) in which a CD captioned 'Bonfire of Tamil Eelam women in Eelam land' and a questionnaire on Draft Constitution of Independent Tamil Nation were released. Thiyagu (President/TDVI) in his speech said that India, a country which treated the people as slaves, could not be termed as an independent country and added that a recognition/certificate of independence was required for free Tamil Eelam.

21.22 Maniarasan (TDPK) directed district units to conduct wall posters campaign (May 17, 2013) in memory of those who laid down lives for the cause of Tamil Eelam. The wall posters read "Mullivaikal is not an end; but a beginning; it will avenge the Indian-Sinhalese enemies". It also carried the photographs of all except Prabhakaran, who laid down their lives during Eelam war and also those of Prabhakaran's sons.

21.23 NTK undertook a rally and organized an indoor meeting (750/Cuddalore/May 18, 2013) which was addressed by Yasin Malik. The speakers alleged that Indian Government helped Sri Lanka to carry out genocide of Tamils and vowed that it would not rest till they wrest power etc.

21.24 Addressing the Viduthalai Ciruthai Katchi (VCK) sponsored symposium (200/Chennai/July 26, 2013), to mark the July 23, 1983 anti Tamil riots/sufferings of the SL Tamils (observed by the SLTs as 'Black July'), Thirumavalavan stated that the LTTE was the only organization which had all the three wings of the Armed forces and expressed hope that the Tamil tigers, who were scattered worldwide, would unite to fight against the SL Government.

21.25 Mullivaikkal Memorial was inaugurated at Vilar Village, Thanjavur District by P Nedumaran (President/WTC) on November 6, 2013. The Memorial bore carved pictorial inscriptions depicting the brutalities against Tamils during the final phase of war in Mullivaikkal in Sri Lanka, the alleged torture of Tamils by SL armed forces and the helpless Tamils inside barbed wire fencing, besides a long gallery having the carved faces of Muthukumar and 19 other martyrs (who committed self-immolation for SL Tamils cause). The speakers at the inauguration function were unanimous in their opinion of India boycotting the Commonwealth Heads of Government Meeting (CHOGM) summit in Sri Lanka and wanted Sri Lanka to be ousted from the Commonwealth of Nations. They hoped that the Mullivaikkal memorial courtyard would act as a catalyst for 'Tamil revolution'. It would create a national awakening among Tamils and would be the foundation for a separate Tamil nation. P Maniarasan (TDPK) in his speech was virulent in his attack on the Union and State Governments. He demanded that if Prime Minister of India attended the CHOGM summit in Sri Lanka, Tamils should decide that India was not their country. Seeman (NTK) said that like temples to Hindus, churches to Christians and Mosques to Muslims, the Mullivaikkal martyrs memorial should become a place of importance for all Tamils. He appealed to observe November 6 (the day of inauguration of martyrs' memorial) as Tamil National day. He vehemently advocated formation of separate Tamil Eelam and added that formation of a Separate country was necessary for racial liberation.

21.26 Addressing a meeting (300/Madurai/November 26, 2013) organized by NTK to observe Heroes Day, Seeman said that Prabhakaran (slain LTTE leader) had struggled for liberation of Tamil Eelam through peaceful means, but was forced to take up arms as the people could not tolerate the injustice to Tamils by the SL Government. He was confident that in the next 10 years, the birth anniversary of Prabhakaran and

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Martyrs' Day would be observed as a Government function. He eulogized Prabhakaran as a symbol of braveness and a leader who sacrificed his wards for the liberation of a race. He stated that they were pushed to the stage of launching political revolution for the liberation of Tamil race.

21.27 Members of Pro-SL Tamil and LWE organizations observed Muthukumar's memorial Day on January 29 in 2013 & 2014 at various centres in Tamil Nadu. They paid tribute to Muthukumar, who sacrificed his life allegedly for the cause of Tamil Eelam and asserted that Tamil Eelam would blossom and Tamil Eelam was the only solution. They appealed to the people to put an end to the expansionistic fanaticism of India, which helped Eelam 'genocide'.

87. PW-1 has further deposed that LTTE/pro-LTTE groups have links with other anti-national and militant organizations, like UK chapter of Jammu Kashmir Liberation front, Kesari Lehar Movement, Sikh Activist Network, etc. He has further deposed that the Government of India and the Government of Tamil Nadu have information that People's Liberation Guerilla Army (PLGA) is operating training camps in the border area of Tamil Nadu at the tri-junction point of Kerala, Karnataka and Tamil Nadu.

88. PW-1 has further deposed that LTTE activists and pro-LTTE groups continue to spread propaganda and campaign against Government of India and its policies by various means. He has further affirmed that Pro-LTTE Groups all over the world maintain that Prabhakaran is still alive and that the Fifth Eelam War would start soon for which the Tamils in Tamil Nadu should extend help.

89. PW-1 has further deposed that as per information received, the LTTE supporters are making efforts to regroup the LTTE in Malaysia, Mauritius and Tamil Nadu and recently, three LTTE cadres, namely, Kasanthan Sundararaja @ Kusanthan Chandralingam @ Sundraralingam Rasa Usanthan @ Mullaiselvam, Mahadevan Kirubakaran and Selvadurai Kirubanandan were arrested in Malaysia on 15th May, 2014 on the strength of red notice of INTERPOL issued at the behest of Sri Lankan Government. I also state that Kusanthan, the Chief of Air Wing of LTTE who had joined LTTE in 1994, was closely related to V. Prabhakaran. Subsequently, they were handed over to Sri Lanka.

90. PW-1 has further deposed that though the struggle of LTTE is against Government of Sri Lanka, its larger and ultimate objective is to form a larger Tamil country including some areas of India where Tamils are living. The Tamil Eelam concept still remains a goal amongst pro-LTTE organisations and in spite of the ban on the organization being imposed, the remnant cadres/agents /sympathizers continue to arrive in Tamil Nadu in the guise of refugees of Sri Lanka and if their activities are not curbed, it would cause grave threat to the sovereignty and territorial integrity of India and security of various high dignitaries. He has further deposed that apart from this, if the ban on LTTE were to be lifted, their activities would increase and cause a serious threat to the security of the State of Tamil Nadu and the remnants of LTTE will form a base in India and revive their unlawful activities. He has further deposed that revival of such activities will also give a fillip to Tamil separatist groups and promote secessionist tendencies.

91. All the witnesses produced by the Central Government and the State of Tamil Nadu submitted that the present Notification dated 14.5.2014 was necessitated in public interest and that without declaring LTTE as unlawful association it would be difficult to check the disruptive activities of LTTE that are a threat to the sovereignty and territorial integrity of India.

SUBMISSIONS

92. At the outset, the Learned Additional Solicitor General submitted that apart from inputs received from the State Government of Tamil Nadu about the unlawful activities of LTTE, the Central Government has also received information from Intelligence Agencies and Central Forces regarding continued unlawful activities of LTTE during the period in question. He further submitted that the additional material, which was placed before the Tribunal in a sealed cover, cannot be brought on record, as the reports and inputs contained therein were privileged and confidential documents, which could not be made available to any third party except the Tribunal, and that the Central Government is of the view that it would not serve public interest if such intelligence reports and inputs are disclosed to either the banned organization/LTTE or any other third party. He further submitted that since the unlawful activities conducted by LTTE were clandestine in nature, the source of Central Government's inputs and information qua its activity requires confidentiality. He also submitted that the non-disclosure of the inputs and information, in the instant case, is in the public interest. I am satisfied that the material placed before this Tribunal in sealed covers, both by the Central Government and the State of Tamil Nadu, need not be put in public domain and made a part of record in public interest. Ordered accordingly.

93. The Learned Additional Solicitor General, while referring to the events leading to the issuance of the instant Notification, submitted that the subscribers of LTTE continue to pursue their illegal designs even during the ban, affected under the previous Notification dated 14.05.2012. He referred to the Constitution of PFLT with particular reference to its objectives, which have already been stated hereinbefore. It was submitted that a map of Grater Tamil Nadu includes territories of Kerala and Tamil Nadu with portions of Sri Lanka, a copy of which has been filed by PW-2 along with her affidavit, and is a picture that highlights the startling reality of how LTTE is gaining

support on Indian soil through its sympathizing groups, which threatens the sovereignty and territorial integrity of India and amounts to an attempt of secession of a part of the Indian territory.

94. The learned Additional Solicitor General further submitted that LTTE remnant cadres/agents/sympathizers/dropouts are arriving in Tamil Nadu in the guise of refugees from Sri Lanka and if the proscription were to be lifted, their activities would increase in a manner causing breach of the security of the State. He further submitted that recent reports reveal that remnant LTTE leaders/ cadres/operations are regrouping in Tamil Nadu so as to achieve their avowed objective of establishing separate Tamil Eelam and wrecking revenge on the traitors (India) and enemies (Sri Lanka).

95. As regards the relevancy of documents filed in sealed covers, the learned Additional Solicitor General relied upon a judgment of the Delhi High Court in Union of India v. SIMI, 99 (2002) DLT 147 and submitted that strict rules of evidence and standard of proof are not applicable in respect of an inquiry under the provisions of the Act as the same is not a regular trial, and that the Tribunal should form its opinion on all the points in controversy after assessing for itself the credibility of the material relating to it, even though it may not be disclosed to the association, if the public interest so requires.

96. The learned Additional Solicitor General submitted that since Tamil Chauvinist Groups are extending vociferous support to the cause of LTTE, there is a need to maintain a close and constant vigil and monitoring of the activities of LTTE, pro-LTTE groups and its sympathizers. Given the cultural, linguistic, ethnic affinity and geographical contiguity, the secessionist forces in Tamil Nadu and LTTE have forged a common agenda and, thus, necessitates an extension of ban on LTTE for a further period of five years.

97. The learned Additional Solicitor General further submitted that LTTE, which though based in Sri Lanka, has sympathizers, promoters, agents and operators carrying on various activities in India as well. LTTE is capable of gaining local support in Tamil Nadu and several other parts of South India on account of linguistic, ethnic affinity and geographical contiguity between Tamils in India and Tamils in Sri Lanka. It was further submitted that, in support thereof, the Central Government as well as the State Government have placed on record before this Tribunal the relevant documents and oral evidence to show that LTTE continues to practice violent, disruptive and unlawful activities, which are prejudicial to the territorial integrity and sovereignty of India. He also submitted that despite a continuous ban on LTTE since 1992 in India, its activities continue to pose threat and are detrimental to the sovereignty and territorial integrity of India directly or through various pro-LTTE organizations.

98. Mr. M. Yogesh Kanna, Advocate appearing for the State of Tamil Nadu, while adopting the arguments advanced by the learned Additional Solicitor General, supplemented the same by submitting that one of the aims and objectives of PFLT is to protect and preserve the geographical identity and integrity of the '*traditional homeland of Tamils and Muslims*'. The constitution of PFLT has been placed on record by the PW-2. The State of Tamil Nadu has traditionally been considered to be homeland of Tamils and, therefore, the ultimate objective of LTTE is to integrate traditional Tamil areas of India with the Tamil-speaking areas of Sri Lanka and such an act constitutes '*unlawful activity*' within the meaning of Section 2(o) of the Act. A copy of the map of Greater Tamil Nadu published by Tamil Nadu Liberation Front has also been filed by PW-2 along with her affidavit. A perusal of the map would show that parts of State of Tamil Nadu have been shown as part of '*Greater Tamil Nadu*' in this map. The demands of TNLF, as displayed on the home page of the organization, comprise '*secession of Tamil Nadu from the artificial so-called Indian union*', '*the Re-Unification of Eelam with liberated Tamil Nadu*', '*the Re-Unification of Kerala with liberated Tamil Nadu*' and '*the Restoration of lost lands to Greater Tamil Nadu, including the Kolar Gold Fields, Malnadu, Lakshadweep Islands, Maledives, and Mauritius*'. He further submitted that when PW-2 was deposing before this Hon'ble Tribunal, Mr. Vaiko himself admitted that PFLT came into existence in the year 1990 and PW-2 categorically stated that PFLT is still in existence, as there is no material regarding dismantling of PFLT. It was also stated by PW-2 that the convict Chidambaram was a member of Tamilar Pasarai and LTTE and he had undergone training in LTTE training camp in Sri Lanka and that LTTE's objective is the liberation of Tamils. It was further submitted that in spite of opportunity available before this Tribunal, LTTE has not come forward to appear to oppose the stand of the Government in respect of the aims and objectives of LTTE. Earlier Tribunal(s) also upheld the stand taken by the Government with regard to the objectives set out in the constitution of PFLT, which is admittedly a part of LTTE.

99. With regard to the averments of Mr. Vaiko in respect of (i) Vattukotai Resolution of May 1976, (ii) the Map of Tamil Eelam published by the Transnational Government of Tamil Eelam, (iii) LTTE's Map of Tamil Eelam exhibiting the territory of Tamil Eelam, (iv) the speech delivered by Prabhakaran on the Martyr's Day and (v) The speech by Sadhasivam Krishnakumar (Kittu), a founding member of LTTE, in Zurich about the boundaries of Tamil Eelam, the learned counsel for the State of Tamil Nadu submitted that LTTE has not come forward to appear before this Tribunal in spite of opportunity available to express their views. Admittedly, Mr. Vaiko does not represent LTTE and that LTTE has also not endorsed the views of Mr. Vaiko. Thus, the submissions made by Mr. Vaiko are untenable.

100. With regard to the judgment of the European Court, relied upon by Mr. Vaiko, Mr. Kanna submitted that the said Court annulled certain restrictions directed against certain persons and entities by the European Union in its view of

combating terrorism and the Court stated that its decision does not annul the classification of LTTE as a terrorist group.

101. While rebutting the submission of Mr. Vaiko that security of the VVIP is not one of the criteria to ban any organization and that none of the provisions of the Act require that VVIP security would lead to declare any organization as unlawful, Mr. Kanna submitted that LTTE was involved in assassination of former Prime Minister of India, Rajiv Gandhi and also rival groups leaders in Tamil Nadu and involved in several other violent activities. Several cases including those cases coming under the ambit of the Act are still pending in court(s) and in many cases some of the LTTE cadres and members of Tamilar Pasarai, TNRT and TNLA, who are accused in those cases, are still absconding. Several LTTE cadres have infiltrated into Tamil Nadu clandestinely by boat and such elements would ultimately indulge in unlawful activities. They may also pose grave threat to the sovereignty and integrity of India including security of the high dignitaries. There is information that remnant cadres of LTTE and Tamil Nadu Liberation Force are imparting training to CPI (Maoist) cadres in the Western Ghats, in Tri-junction parts of Kerala, Karnataka and Tamil Nadu. Pro-LTTE elements indulge in sabotage and attempt to plant and explode bombs in Tamil Nadu condemning the Central Government for economic policies and failure in preventing the attack on Tamil fishermen and Katchatheevu issue, etc and calling upon the people to retrieve Tamil Nadu. Despite the ban on LTTE in force, LTTE cadres were arrested in Tamil Nadu under the Act, who were found indulging in unlawful activities and attempt to use Tamil Nadu as their base by undergoing training to make electronic devices that can be used as initiation mechanism in Improvised Explosive Devices with a view to prepare and use the same to cause explosions in Sri Lanka.

102. Mr. Kanna further submitted that after the death of LTTE leader Prabhakaran and other prominent leaders of LTTE in the war, the activities of Pro-LTTE organizations show that they have not eschewed violence. In spite of the ban on LTTE, LTTE cadres continue to indulge in unlawful activities in Tamil Nadu. If the ban were to be lifted, their activities would increase and cause a serious threat to the security of the State of Tamil Nadu. If the ban is not extended, LTTE will form a base in India by regrouping remnants of LTTE and revive their unlawful activities. Revival of such activities will also give a fillip to Tamil separatist groups and promote secessionist tendencies.

103. It was also submitted by Mr. Kanna that the continuation of the ban is absolutely essential in the larger interest of the security of India and in the interest of sovereignty and territorial integrity of India. It is only due to the ban in existence today, the law enforcing agencies and the State administration are able to have a better control over the situation, and the Act is a tool to the Law Enforcing agencies in the State in curbing the menace of such a militant organization. Lifting of ban on LTTE would imply allowing such a deadly foreign terrorist organization to fully operate from India, freedom to harness the support from secessionist/pro-LTTE elements/groups in Tamil Nadu/India, which will all amount to giving a tremendous psychological boost to LTTE as well as the secessionist Tamil forces in India. The activities of LTTE still persist though they are well under control at present, in view of the stern measures taken by the Government including its declaration as an Unlawful Association. In spite of that, sympathy for separate Nation concept still remains and craving for secession of Tamil Nadu from Indian union also remains as under current.

104. Lastly, Mr. Kanna submitted that unless the ban continues to be enforce, the purpose of ban imposed initially for a period of two years in 1992 and subsequently extended from time to time, the last extension being in the year 2012, would be defeated and the consequential effect could be highly detrimental to the sovereignty and territorial integrity of India.

ANALYSIS & FINDINGS

105. At the outset, it would be useful to reproduce the definitions of the expressions '*unlawful activity*' and '*unlawful association*' as contained in Sections 2(o) and 2(p) of the said Act, which are in the following terms:

> "2. **Definitions.** - (1) In this Act, unless the context otherwise requires,—
>
> (o) "*unlawful activity*", in relation to an individual or association, means any action taken by such individual or association (whether by committing an act or by words, either spoken or written, or by signs or by visible representation or otherwise),—
>
> (i) which is intended, or supports any claim, to bring about, on any ground whatsoever, the cession of a part of the territory of India or the secession of a part of the territory of India from the Union, or which incites any individual or group of individuals to bring about such cession or secession; or
>
> (ii) which disclaims, questions, disrupts or is intended to disrupt the sovereignty and territorial integrity of India; or
>
> (iii) which causes or is intended to cause disaffection against India;
>
> (p) "*unlawful association*" means any association,—

(i) which has for its object any unlawful activity, or which encourages or aids persons to undertake any unlawful activity, or of which the members undertake such activity; or

(ii) which has for its object any activity which is punishable under Section 153-A or Section 153-B of the Indian Penal Code (45 of 1860), or which encourages or aids persons to undertake any such activity, or of which the members undertake any such activity:

Provided that nothing contained in sub-clause (ii) shall apply to the State of Jammu and Kashmir;"

(emphasis supplied)

106. Section 2(p)(ii) of the Act, while making reference to Section 153-A and Section 153-B of the IPC, enlarges the scope of the term '*unlawful association*'. Sections 153-A and 153-B of the IPC read as under:

"153-A. Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony.—(1) Whoever—

(a) by words, either spoken or written, or by signs or by visible representations or otherwise, promotes or attempts to promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, or

(b) commits any act which is prejudicial to the maintenance of harmony between different religious, racial, language or regional groups or castes or communities, and which disturbs or is likely to disturb the public tranquillity, [or]

(c) organizes any exercise, movement, drill or other similar activity intending that the participants in such activity shall use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, or participates in such activity intending to use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, against any religious, racial, language or regional group or caste or community and such activity, for any reason whatsoever causes or is likely to cause fear or alarm or a feeling of insecurity amongst members of such religious, racial, language or regional group or caste or community, shall be punished with imprisonment which may extend to three years, or with fine, or with both.

Offence committed in place of worship, etc.—(2) Whoever commits an offence specified in sub-section (1) in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.

153-B. Imputations, assertions prejudicial to national integration.—(1) Whoever, by words either spoken or written or by signs or by visible representations or otherwise,—

(a) makes or publishes any imputation that any class of persons cannot, by reason of their being members of any religious, racial, language or regional group or caste or community, bear true faith and allegiance to the Constitution of India as by law established or uphold the sovereignty and integrity of India, or

(b) asserts, consents, advises, propagates or publishes that any class of persons shall, by reason of their being members of any religious, racial, language or regional group or caste or community, be denied or deprived of their rights as citizens of India, or

(c) makes or publishes any assertion, counsel, plea or appeal concerning the obligation of any class of persons, by reason of their being members of any religious, racial, language or regional group or caste or community, and such assertion, counsel, plea or appeal causes or is likely to cause disharmony or feelings of enmity or hatred or ill-will between such members and other persons, shall be punished with imprisonment which may extend to three years, or with fine, or with both.

(2) Whoever commits an offence specified in sub-section (1), in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine."

(emphasis supplied)

107. Insofar as the issue of reliance and/or admissibility of the evidence, recorded in the form of statements under Sections 161 and/or 164 Cr.P.C and the incriminating materials/articles collected during the course of investigation, before the Tribunal, is concerned, the same is no more *res integra*. Suffice it to refer to the authoritative pronouncement of the Supreme Court in the case of Jamat-E-Islami Hind vs. Union of India reported as JT 1995 (1) SC 31, while examining the provisions of the Act, more particularly, Sections 3, 4, 5 and 9, wherein it was held as under:—

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"11. ... The entire procedure contemplates an objective determination made on the basis of material placed before the Tribunal by the two sides; and the inquiry is in the nature of adjudication of a lis between two parties, the outcome of which depends on the weight of the material produced by them. Credibility of the material should, ordinarily, be capable of objective assessment. The decision to be made by the Tribunal is "whether or not there is sufficient cause for declaring the Association unlawful". Such a determination requires the Tribunal to reach the conclusion that the material to support the declaration outweighs the material against it and the additional weight to support the declaration is sufficient to sustain it. The test of greater probability appears to be the pragmatic test applicable in the context.

... ...

21. To satisfy the minimum requirements of a proper adjudication, it is necessary that the Tribunal should have the means to ascertain the credibility of conflicting evidence relating to the points in controversy. Unless such a means is available to the Tribunal to determine the credibility of the material before it, it cannot choose between conflicting material and decide which one to prefer and accept. In such a situation, the only option to it would be to accept the opinion of the Central Government, without any means to test the credibility of the material on which it is based. The adjudication made would cease to be an objective determination and be meaningless, equating the process with mere acceptance of the ipse dixit of the Central Government. The requirement of adjudication by the Tribunal contemplated under the Act does not permit abdication of its function by the Tribunal to the Central Government providing merely its stamp of approval to the opinion of the Central Government. The procedure to be followed by the Tribunal must, therefore, be such which enables the Tribunal to itself assess the credibility of conflicting material on any point in controversy and evolve a process by which it can decide whether to accept the version of the Central Government or to reject it in the light of the other view asserted by the association. The difficulty in this sphere is likely to arise in relation to the evidence or material in respect of which the Central Government claims non-disclosure on the ground of public interest.

22. ... The materials need not be confined only to legal evidence in the strict sense. Such a procedure would ensure that the decision of the Tribunal is an adjudication made on the points in controversy after assessing the credibility of the material it has chosen to accept, without abdicating its function by merely acting on the ipse dixit of the Central Government. Such a course would satisfy the minimum requirement of natural justice tailored to suit the circumstances of each case, while protecting the rights of the association and its members, without jeopardizing the public interest. This would also ensure that the process of adjudication is not denuded of its content and the decision ultimately rendered by the Tribunal is reached by it on all points in controversy after adjudication and not by mere acceptance of the opinion already formed by the Central Government.

... ...

26. ... The provision for adjudication by judicial scrutiny, after a show-cause notice, of existence of sufficient cause to justify the declaration must necessarily imply and import into the inquiry, the minimum requirement of natural justice to ensure that the decision of the Tribunal is its own opinion, formed on the entire available material, and not a mere imprimatur of the Tribunal affixed to the opinion of the Central Government. Judicial scrutiny implies a fair procedure to prevent the vitiating element of arbitrariness. What is the fair procedure in a given case would depend on the materials constituting the factual foundation of the notification and the manner in which the Tribunal can assess its true worth. This has to be determined by the Tribunal keeping in view the nature of its scrutiny, the minimum requirement of natural justice, the fact that the materials in such matters are not confined to legal evidence in the strict sense, and that the scrutiny is not a criminal trial. The Tribunal should form its opinion on all the points in controversy after assessing for itself the credibility of the material relating to it, even though it may not be disclosed to the association, if the public interest so requires."

(emphasis supplied)

108. In the aforesaid case, it has been held by the Supreme Court that material, which would not be admissible in criminal trial, can be considered and the evidence need not be confined to legal evidence in strict sense. The scrutiny of the Tribunal is not a criminal trial. Thus, the opinion formed by the Tribunal will be governed by the principles as applicable to civil law. In other words, the test of preponderance of probabilities will apply and proof beyond reasonable doubt will not apply.

109. At the same time, it was also held that the Tribunal should assess the credibility of the material placed on record, before reaching and forming an objective satisfaction as to '*sufficient cause*'. This objective opinion of the Tribunal, on the question whether there is sufficient cause for declaring association(s) unlawful or not, mandates the presence of relevant material, which can be relied upon and accepted and not mere *ipse dixit* of the Central Government. Thus, the principles of natural justice must be complied with and a fair procedure should be adopted.

110. The learned Additional Solicitor general also placed reliance on a judgment of Delhi High Court in Union of India v. SIMI, 99 (2002) DLT 147, which held as under:

> "24. ... The enquiry under this Act is not a regular trial. Strict rules of evidence and standard of proof are not applicable. The material placed before the Tribunal need not be a legal evidence in the strict sense. The Tribunal can even look into undisclosed material for the purpose of assessing the credibility of information and satisfying itself whether it can be safely acted upon."
>
> "... What is the fair procedure in a given case would depend on the materials constituting the factual foundation of the notification and the manner in which the Tribunal can assess its true worth. This has to be determined by the Tribunal keeping in view the nature of its scrutiny, the minimum requirement of natural justice, the act that the materials in such matters are not confined to legal evidence in the strict sense, and that the scrutiny is not a criminal trial. The Tribunal should form its opinion on all the points in controversy after assessing for itself the credibility of the material relating to it, even though it may not be disclosed to the association, if the public interest so requires."

111. It may be noticed here that Section 5 of the said Act provides that the proceedings of the Tribunal will be deemed to be judicial proceedings and the Tribunal shall be deemed to be a civil court for the purposes specified. Rule 3(1) of the said Rules provides that the Tribunal, subject to sub-rule (2) thereof, shall follow, as far as practicable, the rules of evidence laid down in the Evidence Act. However, there can be no quibble over the proposition that admissions can be used against the persons making them in view of Sections 17 and 21 of the Evidence Act, however, they are not a conclusive proof of the matters admitted. Admissions, duly proved, are admissible evidence, irrespective of the fact that the party making them has appeared in the witness box or not. In a catena of cases, it has been held that an admission, though not a conclusive proof of the facts admitted, may be shown to be wrong, creates estoppel and shifts the burden of proof on the person making the admission or his representative in interest. Unless admission is successfully withdrawn or proved erroneous, it is the best evidence against the person making it.

112. It is stated in the affidavit of PW-1 Mr. Narendra Kumar that LTTE was established in 1974 under the name of "Liberation Tigers" and changed its name to "Liberation Tigers of Tamil Eelam (LTTE) in the year 1976 with Mr. V. Prabhakaran as its Military Commander and it has declared "Liberation of the Traditional Homeland of Tamils and establishment of an independent sovereign, socialist State of Tamil Nadu" as its ultimate objective. He maintains in his affidavit that despite struggle of LTTE being against Government of Sri Lanka, the larger objective of the organization is to form a larger Tamil country, which would include some areas of India where Tamils are living and if the ban on LTTE is lifted, it is likely to be highly detrimental to be sovereignty and territorial integrity of India.

113. In their affidavits by way of evidence, PW-1 & PW-2 have stated that LTTE had given to itself a Constitution, a copy of which has also been filed by both of them, and that PFLT is a political front of LTTE, which was formed on 5th May, 1976. PW-2 has further stated that Tamil National Retrieval Tribunal (TNRT) is an underground organization which was formed at the instance of LTTE and the objective of this outfit is to fight for an independent homeland for Tamils, which would eventually extend the boundaries of Tamil Nadu to form a Tamil Nation including what now comprises Tamil Nadu and certain areas in Sri Lanka. According to her, this organization has close ties with LTTE. She has further stated that another organization namely TNLA also has close ties with LTTE, the objective of TNLA is secession of Tamil Nadu from the Indian Union and the organization professes armed struggle as the only way to achieve independence. The objective of TNLA, according to the witness, which draws inspiration from LTTE, is also secession of Tamil Nadu from Indian Union. She has also stated that another underground organization Tamil Nadu Liberation Front (TNLF), which is a front organization of TNLA, has exhibited, on internet, a map of Greater Tamil Nadu, which encompasses some areas of Sri Lanka, Tamil Nadu, Kerala, Lakshdweeps and Maldives. The map is annexure B-3 to the affidavit of PW-2, and the same has been exhibited as Ex.PW-2/3.

114. A perusal of the map would show that parts of State of Tamil Nadu have been shown as part of "Greater Tamil Nadu" in this map. The demands of TNLF, as displayed on the home page of the organization comprise 'secession of Tamil Nadu from the artificial so-called Indian Union', 'the Re-Unification of Eelam with liberated Tamil Nadu', 'the Re-Unification of Kerala with liberated Tamil Nadu' and 'the Restoration of lost lands to Greater Tamil Nadu, including the Kolar Gold Fields, Malnadu, Lakshadweep Islands, Maledives, and Mauritius'. It has come in the deposition of PW-2 that TNLF is an underground front organization of TNLA, the objective of which is cession of Tamil Nadu from Indian Union and this organization has close ties with LTTE. In fact, the areas of Tamil Nadu, shown in the map published by TNLF, are the areas which have been described as traditional homeland of Tamils and Muslims in the constitution of PFLT. This very map has been relied upon by the Government before the earlier Tribunals so as to prove its case for continuation of ban on LTTE, and this has duly been accepted too, from time to time.

115. In view of the above, I am unable to accept the submission of Mr. Vaiko that a map of Tamil Eelam, which used to be displayed on the Dais during address by LTTE leader Prabaharan did not include any part of territory of India and this map is the official map of transnational Government of Tamil Eelam, making it quite clear that the area of

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Tamil Eelam comprises only territorial area within the Island of Sri Lanka. Since there is no representation on behalf of LTTE and, admittedly, Mr. Vaiko does not represent LTTE, the submission made by him is untenable, and is, thus, rejected.

116. There is no rebuttal to the deposition of PW-2 that PFLT is an organization formed by LTTE and is its political wing. LTTE has not come forward to file any objection/reply/written statement, despite extensive publicity given to the setting up of the Tribunal and the hearings scheduled before it, through print as well as electronic media. Therefore, the evidence produced by the Central Government and Government of Tamil Nadu remains practically unrebutted, unchallenged and undisputed. In fact, even Mr. Vaiko admitted that PFLT was at one time formed by LTTE. LTTE has not come forward to claim that it has no connection with PFLT and it does not subscribe to the Constitution of this organization filed by the Government.

117. It may be noted that neither has the evidence led by and on behalf of the State of Tamil Nadu and the Union of India been controverted, nor is there anything on record to contradict the same. Thus, in the absence of rebuttal of evidence adduced by way of the statements made by various witnesses examined by and on behalf of the Union of India and the State of Tamil Nadu, as also the documentary evidence, which has been submitted in support of their respective testimonies and the evidence by way of affidavit(s), there is no reason to either disbelieve or ignore the same.

118. From the evidence adduced before this Tribunal, it is apparent that LTTE continues to operate in India and has connection in respect of several incidents occurred during the relevant period, the details of which have been deposed by the witnesses and the same are summarized as under:

S. No.	Date of incident	Description of the incident	Details of action taken by the administration
1.	05.05.2014	Six Sri Lankan Tamils arrived at Arichalmunai seashore, Ramanathapuram District through plastic boat at wee hours, without any travel documents. These people were traced to having links with LTTE	Case no. Cr. No. 27/2014 registered u/s 14 of the Foreigners Act, 1946 under rule 3(a) r/w 6(a) of the Passports (Entry into India) Rules, 1950 at Dhanushkodi PS
2.	05.05.2014	Four more Sri Lankan Tamils also arrived at the same site	Case no. Cr. No. 28/2014 registered u/s 14 of the Foreigners Act, 1946 under rule 3(a) r/w 6(a) of the Passports (Entry into India) Rules, 1950 at Dhanushkodi PS
3.	25.02.2014	Printed pamphlet, purportedly brought out by 'Tamil Nadu Viduthalai Padai' (Tamil Nadu Liberation Army) were strewn near the residence of the Union Minister Tr. Chidambaram at Managiri, Nachiapuram PS, Sivagangai district.	Case no. 10/2014 registered u/s 153(A)(1) IPC on 25.02.2014 at Nachiapuram PS
4.	11.02.2014	An iron pipe bomb and a maza cold drink plastic bottle containing 1500 ml petrol were seized at the back side of the Reliance Super Market building, Uthangudi, Madurai district. Sixteen pamphlets brought out in the name of Tamil Nadu Liberation Army, a banned organization strewn near the SOC, were also recovered. In the course of investigation, explosives were recovered from various accused persons in the case as recently as on 28.03.2014.	Case no. 47/2014 u/s 4 and 5 of Explosive Substances Act 1908 has been registered on 11.02.2014 at Madurai District Othakadai PS.
5.	04.02.2014	An iron bomb was planted and caused explosion at the farm house of Tr. Chidambaram at 4 am. At the site of the incident some pamphlets supporting the ideology of TNLA were thrown.	Case registered u/s 120 B r/w 124 A IPC, sec. 3(a) and 5(a) of the Explosive Substances Act, 1908 and 15 r/w 16(b), 18 and 20 of the Unlawful Activities (Prevention) Act, 1967
6.	29.01.2014	An iron bomb was planted under the car which belonged to the then Union Minister Tr. Narayanaswamy at Puducherry	Case no. Cr. No. 25/2014 registered at Odiyansalai PS
7.	24.11.2013 to	Members of Pro-Tamil/Pro LTTE organisations, inmates of Chengalpattu and	

	27.11.2013	Trichy Special camps and Sri Lankan Tamil Refugees of various settlements celebrated 59th birth day of LTTE leader Prabhakaran and Heroes week from 24.11.2013 to 27.11.2013 by conducting public meetings, indoor-meeting, blood donation camps, exhibiting wall-posters/distributing sweets/pamphlet, erecting flex banners, paying homage, hoisting flags, lighting candles etc. all over the State.	
8.	08.11.2013	An inscription, 6'X5' in size, containing the engravings of Charles Antony and Balachandran, sons of LTTE leader Prabhakarn was unveiled.	

119. Learned counsel for the State of Tamil Nadu heavily relied upon the confessional statement made by the accused Chidambaram, [who was convicted and sentenced to undergo life imprisonment u/s 120 (B) IPC r/w Sec 3(3) of TADA Act, 1987, to undergo life imprisonment u/s 120 (B) IPC r/w Sec 4 (1) of TADA Act 1987 and to undergo RI for 10 years u/s 120 (B) IPC r/w Sec 5 of the Explosive Substances Act, 1908], as recorded by the learned Trial Court in its judgment, which has been filed as Annexure B-5 along with the affidavit of evidence of PW-2, and the same has been exhibited as Ex.PW-2/5. The contention was that LTTE's objective is to achieve the separate independent liberation of Tamils. The relevant portion thereof reads as under:

> "We, every day, before go to the training, used to take the following oath, "I will fight giving my heart, life and everything and fight firmly for the separate independent liberation of Tamils, which is the moto of our revolutionary movement; I hereby take oath that I will accept the guidance of our Chief V. Prabhakaran and will act truly and confidentially for him. Tamil Eelam thirsty in the thirsty of the Tigers."

120. The testimonies of the witnesses, i.e., PW-1 to PW-5 have also established that the members, supporters, sympathizers of LTTE are still indulging in unlawful activities. Each and every incident cited by the witnesses (which, in order to avoid repetition are not detailed out here once again), only establish this aspect.

121. It has, thus, been established that one of the aims and objectives of PFLT is to protect and preserve the geographical identity and integrity of the *'traditional homelands of Tamils and Muslims'*. The State of Tamil Nadu has traditionally been considered to be the homeland of Tamil and, therefore, the ultimate objective of LTTE is to integrate traditional Tamil areas of India with the Tamil speaking areas of Sri Lanka and such an act constitutes 'unlawful activity' within the meaning of Section 2(o) of the Act, being intended to bring about cession of a part of the territory of India. Since LTTE has not come forward to appear before this Tribunal to contest the stand taken by the Government with respect to the aims and objectives of LTTE/PFLT, there is no reason to disbelieve the interpretation given by the Government to the objectives set out in the Constitution of PFLT, which is a part and parcel of LTTE. Further, nothing prevented LTTE from coming forward to the Tribunal and take a categorical stand that it does not subscribe to any such objective which is aimed at cession of a part of the territory of India and does not advocate integration of one or more parts of India with the Tamil speaking parts of Sri Lanka.

122. Since one of the objectives of LTTE is cession a part of the territory of India, it becomes an 'unlawful association' within the meaning of Section 2(p) of the Act and the Central Government, therefore, had sufficient cause for declaring the LTTE to be an unlawful association on this ground alone.

123. As submitted by Mr. Vaiko, there can be no quarrel about the proposition that speeches made in the public meeting by citizens of India or demonstrations or other activities by the political or other organizations cannot be termed as 'unlawful activity' under the provisions of the Act. However, sufficient material has been placed on record to show that there has been nexus between LTTE and PFLT and the incidents deposed about by the witnesses constitute 'unlawful activity' within the meaning of the Act, more particularly Section 2(o) quoted hereinbefore.

124. Section 2(m) of the Act defines 'Terrorist Organization' to mean an organization listed in the Schedule or an organization operating under the same name as an organization so listed, and admittedly, LTTE is one of the organizations listed in the Schedule meaning thereby that it is a terrorist organization within the meaning of the Act. Section 35(1)(c) of the Act empowers the Government to remove an organization from the Schedule. Section 36 provides for an application being made to the Central Government to exercise its powers to remove an organization from the Schedule and such an application can be made either by the organization or by any person affected by the inclusion of the organization in the Schedule as a 'terrorist organization'. In case such an application is rejected, the applicant may seek a review by the Review Committee to be constituted by the Central Government under Section 37(1) of the Act. However, no application has so far been made by the LTTE or by any person affected by its inclusion in the Schedule, for removing the name of the organization from the list. Consequently, the LTTE continues to be a 'terrorist organization'.

CONCLUSION

125. The Tribunal has gone through the documentary evidence placed on record, the affidavits and oral evidence adduced by the Union of India and the State of Tamil Nadu. The Tribunal has also examined the secret documents which were filed in sealed covers by PW-1 and PW-2 (Mark Z and Z1).

126. The evidence led on behalf of the Central Government and the State of Tamil Nadu has not been controverted. There is nothing on record to contradict it. There is no reason to disbelieve the statements made by the witnesses and the documentary evidence which has been submitted in support of the oral testimonies and the affidavits by way of evidence.

127. After considering the entire evidence and all the material placed on the record, the Tribunal is of the considered view that there was sufficient cause for declaring the Liberation Tigers of Tamil Eelam (LTTE) to be unlawful. Consequently, the Tribunal confirms the declaration made by the Central Government in the Notification No. S.O. 1272(E), dated 14.05.2014 issued under Section 3(1) of the Unlawful Activities (Prevention) Act, 1967.

(JUSTICE G.P. MITTAL)

UNLAWFUL ACTIVITIES (PREVENTION) TRIBUNAL

11.11.2014

[F. No. I-11034/1/2014-IS-I]

M. A. GANAPATHY, Jt. Secy.

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