

**HIGH COURT OF TRIPURA
AGARTALA
WP(C)No.313 of 2021**

M/S Rahaman Trade International

.....Petitioner(s)

Versus

The State of Tripura and Others

.....Respondent(s)

For Petitioner(s) : Mr. A. Pal, Adv.

For Respondent(s) : Mr. D. Bhattacharya, G.A.
Mr. S. Saha, Adv.

Date of hearing of

Judgment & Order : 24.01.2023

**HON'BLE THE CHIEF JUSTICE (ACTING)
HON'BLE MR. JUSTICE ARINDAM LODH**

Judgment & Order(Oral)

Heard Mr. A. Pal, learned counsel appearing for the petitioner as well as Mr. D. Bhattacharya, learned G.A. appearing for the respondents.

2. By means of this writ petition the petitioner has alleged non-payment of the taxable liability, in spite of issuance of various notices, an assessment proceeding under Section 31(4) of the TVAT Act was initiated against the petitioner, in furtherance whereof, the Superintendent of Taxes, Government of Tripura, Charge-VI, Agartala assessed the taxable liability of the petitioner on 27.02.2013. In furtherance of the said illegal and unlawful assessment order, the respondent No.3 issued demand notices.

3. On 12.11.2019 a proceeding was initiated against the petitioner before the Certificate Officer bearing No.34/Taxes/cert/15. On

receipt of the notice dated 12.11.2019, the petitioner came to know that the impugned assessment order and demand notices as previously no notices under Section 31(1) or 31(4) of TVAT Act was served upon the petitioner which is a gross violation of the principles of natural justice. The connected writ petition has been filed on 19.04.2021 challenging the impugned assessment order dated 27.02.2013 consequent demand notices, the certificate proceeding bearing No.34/Taxes/cert/15 and the notice dated 12.11.2019 issued under Section 62 of TLR & LR Act, 1960.

4. Mr. D. Bhattacharya, learned G.A. appearing for the respondents has submitted that there are provisions for appeal and revision in Chapter XI of the TVAT Act, 2014. So far as the appeal is concerned, any order under the Act is applicable under Section 69 before the appellate authority. But in the instant case, the petitioner filed a petition directly before the Hon'ble High Court which is not allowed as per provision of TVAT Act, 2004. Any person aggrieved by any order passed by the Assessing authority may file an appeal to the appellate authority as prescribed under Section 69 of the TVAT Act and after exerting the appeal or revision under Section 70 and Section 71 the petitioner may file a revision petition under Section 72 of the TVAT Act. In the present case, the petitioner has directly approached before the Hon'ble High Court without taking resort from the appellate forum available under the TVAT Act, which is totally contrary to the prevailing law.

5. According to Bhattacharya, learned G.A., the question regarding non-issuance of notice is completely incorrect as in the counter affidavit we have clearly stated that the notice has been issued to the registered dealer with his address. Rule 18 of the TVAT Rules speaks that the registered dealer must have filed a return. But in this case the petitioner has not filed the Return.

6. Having heard the counsel for the parties, we are of the considered opinion that the impugned assessment and the demand notice which are impugned herein are set aside only on the ground that the same are passed without serving any statutory notice upon the petitioner and this court feels that this is a gross violation of the principles of natural justice and accordingly, the same is set aside. However, liberty is given to the respondent authority to serve notice upon the petitioner and take appropriate steps in accordance with law.

In terms of the above, this petition is allowed and disposed of.

JUDGE

CHIEF JUSTICE (ACTING)

