

**HIGH COURT OF TRIPURA
AGARTALA**

CRP No.41/2021

Gemini Distilleries (Tripura) Private Limited, Bodhjunggur Industrial Growth Center, Agartala, West Tripura-799008, Represented by its Managing Director Sri Anirban Saha.

----Petitioner(s)

Versus

1. The State of Tripura, Represented by the Secretary to the Govt. of Tripura, Department of Finance, Civil Secretariat, P.O. Agartala Secretariat, PIN-799010, Tripura.

2. The Commissioner of Taxes, Government of Tripura, Gorkhabasti, P.N. Complex, P.O.-Kunjaban, Agartala-799006, Tripura.

3. Superintendent of Taxes, Charge-VIII, Government of Tripura, Kar Bhavan, Palace Compound, Agartala-799001, West Tripura.

-----Respondent(s)

For Petitioner(s) : Mr. S.M. Chakraborty, Sr. Advocate,
Mrs. P. Chakraborty, Advocate.

For Respondent(s) : Mr. K. De, Addl. G.A.

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

Date of hearing and judgment : **11th January, 2023.**

Whether fit for reporting : **NO.**

JUDGMENT & ORDER (ORAL)

Heard Mr. S.M. Chakraborty, learned senior counsel assisted by Mrs. P. Chakraborty appearing for the petitioner. Also heard Mr. K. De,

learned Additional Government Advocate appearing for the respondents-State.

2. This revision petition under Section 72 of the Tripura Value Added Tax Act, 2004 (TVAT Act, for short) is directed against the order dated 12.02.2021 passed by the Commissioner of Taxes, Government of Tripura, in Revision Case No.01/CH-VIII/2020 whereby the Revisional Authority has upheld the order of assessment dated 29.10.2019 passed by the Superintendent of Taxes, Charge-VIII for computation of tax for the assessment year 2014-15.

3. In the present revision petition, petitioner has prayed for the following reliefs:

- "i) Admit the petition,
- ii) Issue notice upon the respondents,
- iii) After hearing the petition be pleased to set aside the impugned order of Assessment dated 29.10.2019 (Annexure-1) and order of the respondent No.2 dated 12.02.2021 (Annexure-4) with a direction upon the said respondents to accept the audited accounts of the petitioner as valid, correct and conclusive.
- iv) In the interim pass order staying all the operations of the impugned order of assessment dated 29.10.2019 (Annexure-1) till disposal of the Revision petition."

4. Brief facts of the case is that the petitioner is a registered dealer under the TVAT Act, 2004. Respondent No.3, the Superintendent of Taxes, Charge-VIII, being the Assessing Authority passed an order of assessment dated 29.10.2019 under Section 31(1) of the TVAT Act for computation of tax for the assessment year 2014-15 which is totally illegal, irregular and unsustainable in the eye of law which was rendered without consideration of evidence on record. Being dissatisfied, the petitioner filed a revision petition before the respondent No.2, the Commissioner of Taxes, Government of Tripura. But the respondent No.2 dismissed the revision petition being Revision Case No.01/CH-VIII/2020 filed by the petitioner upholding the order of the assessing authority without applying his mind to the facts and circumstances involved in the said petition. Aggrieved thereby, the petitioner has filed the present revision petition for setting aside the impugned order of assessment dated 29.10.2019 and also the order of the Revisional authority dated 12.02.2021. Hence, this case.

5. Mr. S.M. Chakraborty, learned senior counsel appearing on behalf of the petitioner, contends that the Revisional authority, i.e. the Commissioner of Taxes, Government of Tripura (respondent No.2 herein) without appreciating the documents on record and application of mind passed a hyper-technical order rejecting the revision petition of the

petitioner. Learned senior counsel has also proposed for remanding the matter (Revision Case No.01/CH-VIII/2020) back to the Revisional authority for deciding afresh and thereby prays for setting aside the impugned order dated 12.02.2021 passed by the Commissioner of Taxes, Government of Tripura, respondent No.2 herein.

Mr. K. De, learned Addl. Government Advocate, has fairly supported the proposal given by the learned senior counsel for the petitioner.

6. Having heard the submissions of learned counsel of both sides and also considering the proposal advanced, we are of the opinion that the Commissioner of Taxes, respondent No.2, has not properly appreciated the documents on record and could have more vigilant while passing the order and as such, it would be appropriate to remand the matter back for fresh consideration.

7. Accordingly, the present revision petition is allowed and the impugned order dated 12.02.2021 passed by the Revisional authority, i.e. Commissioner of Taxes, Government of Tripura, in Revision Case No.01/CH-VIII/2020 is hereby set aside and the same is remanded back to the Revisional authority for fresh consideration. The Revisional authority, respondent No.2, shall decide the same as early as possible, preferably

within a period of three months from today in accordance with law by passing a reasoned order.

8. With the above observations and directions, the revision petition stands allowed and disposed of.

Pending application(s), if any, also stands disposed of.

(ARINDAM LODH), J

CHIEF JUSTICE (ACTING)

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