

**HIGH COURT OF TRIPURA
AGARTALA
CRP 34 of 2024
IA No.01/2024 in CRP 35 of 2024
IA No.01/2024 in CRP 36 of 2024**

M/S Sree Maa Laxmi Agencies

.....Petitioner/Applicant(s);

Versus

The State of Tripura & others

.....Respondent(s).

For Petitioner/Applicant(s) : Mr. Biplabendu Roy, Advocate.

For Respondent(s) : Mr. P. Gautam, Advocate.

**HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH
HON'BLE MR. JUSTICE ARINDAM LODH**

Order

24/07/2024

Heard Mr. Biplabendu Roy, learned counsel for the petitioner and
Mr. P. Gautam, learned counsel for the respondents-State.

2. All these civil revision petitions have been preferred under Section 72 of the TVAT Act, 2004 challenging the common impugned revisional order dated 06.02.2024 [Annexure-12 to CRP No.34/2024] whereby the common reassessment order dated 14.05.2019 passed by the Assessing Officer upon remand in a previous revisional order dated 16.08.2016 concerning the financial years 2006-07, 2007-08 and 2008-09 have been set aside and the matter has been remanded to the Assessing Authority for reassessment.

3. Petitioner, being aggrieved, has challenged the common impugned order in these civil revision petitions *inter alia* on the grounds that:

(i) The assessment proceedings for the financial year 2006-07 were barred on grounds of limitation in view of Section 33 of the TVAT Act having been undertaken on 15/18.11.2012 i.e. after five years.

(ii) The assessment order and reassessment order are based upon audit reports which are presumptuous in nature. The Assessing Authority even after remand vide its reassessment order dated 14.05.2019 has not formed an independent opinion on the basis of the audit objection and simply relied upon it to hold the petitioner liable for payment of outstanding tax dues, penalty and interest.

(iii) The learned Assessing Authority in the previous exercise has also proceeded to impose penalty without a proper show cause notice in terms of Section 45(6) of the TVAT Act, 2004.

4. Mr. Biplabendu Roy, learned counsel for the petitioner, submits that the impugned revisional order dated 06.02.2024 has not dealt with these issues by rendering specific findings. In that way, the revisional order is non-speaking and suffers from proper application of mind. It is further submitted that the litigation has been continuing for the last twelve years. Petitioner has been made to suffer on that account. Therefore, he has been compelled to approach this Court in the present revision petitions under Section 72 of the TVAT Act, 2004. This Court may, therefore, set aside the impugned revisional order and also the reassessment order passed against the petitioner for the respective financial years as above.

5. Mr. P. Gautam, learned counsel for the respondents-State, submits that as on date the matter has been left open for decision of the Assessing Authority on all points which have been raised by him in view of the specific order recorded by the revisional authority in the impugned order dated 06.02.2024. The contention of the petitioner has been duly referred to and on

being satisfied thereupon, the impugned reassessment order dated 14.05.2019 concerning the financial years 2006-07, 2007-08 and 2008-09 has been set aside and the matter has been remanded for reassessment to the Superintendent of Taxes, Charge-IV, Agartala. Therefore, the petitioner should not have any grievance to approach this Court for a determination on these legal and factual issues involving the adjudication on merits of the audit objection and also on grounds of violation of principles of natural justice at the reassessment stage. He further submits that the learned Assessing Authority would be obliged to deal with all such points of law and on merits being addressed by the petitioner. Therefore, the instant revision petitions may be disposed of with suitable observations.

6. We have considered the submission of learned counsel for the parties and taken note of the brief facts which are relevant for deciding the cases at this stage. True it is that the proceedings for assessment in respect of financial years 2006-07, 2007-08 and 2008-09 have protracted over twelve years since the first common assessment order passed on 15.11.2012. As it appears from the narrative recorded hereinabove, the reassessment order dated 14.05.2019 passed on a previous remand by the revisional authority vide order dated 16.08.2016 has once again been set aside taking into account all the grounds urged by the petitioner by the impugned order dated 06.02.2024 and once again the matter has been remanded for reassessment. As such, the issues being canvassed before this Court are not open in that sense. The Assessing Authority has to apply its mind to all the grounds both of law and facts being raised by the petitioner in respect of each of the financial years in question.

Since a ground of limitation has been taken so far as the assessment proceedings of the financial year 2006-07 is concerned, the Assessing Authority shall determine the question of limitation first upon hearing the assessee and only if he is satisfied that the assessment exercise carried out for the financial year 2006-07 is not barred by limitation in terms of Section 33 of the TVAT Act, he would proceed to determine other grounds raised on merits so far as that financial year is concerned. So far as the other financial years are concerned, the Assessing Authority will deal with each of the grounds on law and on merits raised by the petitioner while passing a reassessment order. Since the assessment proceedings has lingered for about twelve years by now, we deem it proper to direct the Assessing Authority to conclude the exercise within a period of three months from the date of receipt of copy of this order. Needless to say the petitioner/assessee shall cooperate in the reassessment exercise without fail. With these observations, all the three instant revision petitions are disposed of. Let it be made clear that we have not gone into the merits of the contention of the parties.

7. IA No.01/2024 preferred in CRP No.35/2024 and IA No.01/2024 filed in CRP No.36/2024 are also disposed of.

8. Pending application(s), if any, shall stand disposed of.

(ARINDAM LODH), J

(APARESH KUMAR SINGH), CJ

Pijush/

MUNNA SAHA

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