

HIGH COURT OF TRIPURA
_A_G_A_R_T_A_L_A_

WA. No.110 of 2025

1. The State of Tripura, represented by its Secretary, Finance Department, Govt. of Tripura, P.O. Secretariat, P.S. New Capital Complex, District: West Tripura, PIN-799010.
2. The Commissioner of Taxes, Govt. of Tripura, P.N. Complex, Gurkhabasti, P.O. Kunjaban, P.S. NCC, District: West Tripura, PIN-799006.
3. The Superintendent of Taxes, Charge IV, P.O. Agartala, P.S. West Agartala, District: West Tripura, PIN-799001.

.....Appellants

_V_E_R_S_U_S_

1. Sri Haripada Ray, son of late Manoranjan Ray, resident of Ramnagar Road No.9, P.O. Ramnagar, P.S. West Agartala, District: West Tripura, PIN-799002, aged about 51 years.

.....Respondent

For Appellant(s)	:	Mr. S.M. Chakraborty, AG Mr. D. Sarma, Addl. G.A. Mrs. P. Chakraborty, Advocate.
For Respondent(s)	:	Mr. A. Bhaumik, Advocate. Mr. S. Chakma, Advocate.
Date of hearing and delivery of judgment and order	:	18.02.2026
Whether fit for reporting	:	NO

HON'BLE JUSTICE DR. T. AMARNATH GOUD
HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA
_F_I_N_A_L_O_R_D_E_R_

Heard Mr. S. M. Chakraborty, learned A.G. assisted by Mr. D. Sarma, learned Addl. G.A. appearing for the petitioners also heard Mr. A. Bhaumik, learned counsel appearing for the respondent.

[2] This is an appeal filed under Chapter-VIII Rule-B (A) of the High Court of Tripura Rules, 2023, preferred against the impugned judgment and order dated 06.08.2025 passed in WP(C) No.726 of 2024 by the learned Single Judge.

[3] The appellants have sought for the following reliefs:

- a) Admit appeal & call for records.
- b) Pass order setting aside the judgment & order dated 06.08.2025 passed by the Hon'ble Single Judge in WP(C) No.726 of 2024.

c) Pass order staying the operation of the judgment & order dated 06.08.2025 passed by the Hon'ble Single Judge in WP(C) No.726 of 2024.

d) Pass any other order or orders as deem fit and proper having regard to the facts & circumstances of the case.”

[4] The facts in brief are that the an assessment order had been passed in respect to the dealer, M.P. Khaitan, by the Superintendent of Taxes, Charge-IV, Agartala. However, the dealer dissatisfied with the assessment order and filed a Revision petition before the Revisional Authority under the Tripura Value Added Tax Act, 2004. Along with the revision petition, the dealer deposited the required amount i.e. Rs.2,00,06,981/- as required for filing Revision petition. After hearing the parties, the Revisional Authority, i.e., the Commissioner of Taxes, issued order in Revision Case No. 01 to 06/Ch-IV/2013 on 07.02.2014. The Authority directed the Superintendent of Taxes, Charge IV, Agartala, to conduct a fresh assessment for the disputed years, i.e., 2006-07 to 2011-12, within a specified period. On 28.03.2015 an order with heading "Assessment Order" was passed by the Superintendent of Taxes, Charge-IV, Agartala only in respect to the year 2006-07 and copy was served to the dealer M.P.Khaitan.

[5] In 2023, following the dealer's application, a refund was initiated by the process Superintendent of Taxes, Charge-IV, Agartala. This process involved deducting of Rs. 30,67,168/- which was raised by order dated 13.03.2015 of the Superintendent of Taxes, Charge-IV, Agartala, pertaining to the year 2006-07. In March 2024, the Superintendent of Taxes, Charge-IV, Agartala issued a notice, requesting payment of Rs.47,38,775/- as interest owed. This amount was connected to a previous demand of Rs.30,67,168/- raised for the year 2006-07 by the same authority through an order dated 28.03.2015, under Section-36 of the Tripura Value Added Tax Act, 2004. Upon receiving the notice, the dealer obtained a copy of the aforementioned order from the Superintendent of Taxes, Charge-IV, Agartala. On 09.04.2024 the dealer namely M.P.Khaitan made an application before the Commissioner of Taxes, Government of Tripura with a subject heading of “willful distortion of public records by the Superintendent of Taxes, Charge-IV, Agartala.”

[6] By this letter, it is assailed that the dealer have been provided a mutilated copy of the assessment order dated 28.03.2015, in which the tempering has been made in the letter '36' in the place of '31', specifically, it has been noted that the number '36' appears in place of '31', suggesting an alteration or tampering

of the original document. In support of this claim, the dealer has submitted an undamaged copy of the same assessment order, dated 28.03.2015, in which no such tampering or overwriting is present. It is important to state here that the impact of exercising power in this case under section 31 and 36 would be different, for this reason such tempering affects immensely to the authority.

[7] Immediately, the Commissioner of Taxes issued an order to conduct an enquiry, and the report in respect to that enquiry was submitted on 30.04.2024. The report indicted four officials, namely, Sri Suman Das, Superintendent of Taxes, Charge-IV, Agartala; Sri Amal Krishana Bhowmik and Sri Sudeb Chandra Bhowmik, both inspectors of Taxes of that Charge and Sri Haripada Ray, Assistant Commissioner of Taxes, posted at Agartala Kar Bhawan and in charge of that establishment under the Department of Taxes, Government of Tripura involved in the process of distortion. Thereafter, show-cause notice was issued and after receiving reply, authority issued suspension order; afterward Disciplinary Proceeding was initiated against the erring officials including the writ petitioner, the respondent herein.

[8] At this stage, there remains no reason for taking inference that the distortion took place before the year 2017, when the writ petitioner was in the post of Inspector of Taxes. The entire issue is to be examined by the process of departmental proceeding. After hearing the parties, the learned Single Judge allowed the writ petition and observed as under:

“14.2. I have perused the said citations of the Hon’ble Apex Court. There is no dispute on record that excepting very rare and exceptional cases there is no scope to interfere with the departmental proceeding. The citations referred by Learned Advocate General at the time of hearing are no doubt very much relevant but those citations cannot be applied in this case at this stage since the departmental proceeding has not yet been commenced fully save and except issuing of show cause notice and delivery of articles of charge. Learned Advocate General also submitted that there is no scope to exercise the writ jurisdiction at this stage but it appears to this Court that Learned Advocate General could not place any satisfactory argument/defense to refute the submission made by Learned Counsel for the petitioner and it appears to this Court that this is a very exceptional case where this Court can exercise the power of writ jurisdiction to grant relief to the petitioner.

15. In view of the above, the writ petition filed by the petitioner is allowed and thus, disposed of.

The order of suspension dated 26.07.2024 and the subsequent order dated 23.10.2024 are accordingly stands revoked. The consequential memo dated

07.09.2024 issued by the respondent authority also stands set aside and quashed.”

[9] Having been contrary on this point, the appellant-State has preferred this writ appeal against the impugned order passed by the learned Single Judge.

[10] Mr. S. M. Chakraborty, learned A.G. assisted by Mr. D. Sarma, learned Addl. G.A. appearing for the appellants has submitted that the learned Single Judge should have dismissed the writ petition for want of any lawful cause of action. The learned Single Judge should not have allowed the writ petition on merits as the writ petition is premature in the face of it and frivolous in absence of any impugned order. The learned Single Judge can interfere with a departmental proceeding only when there is statutory violation but at this stage, since the departmental proceeding has already been initiated and is still pending for disposal, the present petitioner was having the liberty or scope to substantiate his contention before the inquiring authority as referred in the writ petition. By filing the writ petition, the petitioner cannot curtail the authority of the disciplinary authority to proceed with the proceeding on the basis of the charge already framed.

[11] It is not the case of the petitioner that no scope was given to him and it is also not the case of the petitioner, the respondent herein, that the departmental proceeding was initiated by an incompetent person. There was also no allegation on the part of the petitioner that the proceeding is contemplated by appointing an inquiring authority who is incompetent to proceed with the matter. The order of suspension is an appealable order, so without approaching to the appellate forum the petitioner had got no scope to approach this Court for the purported relief.

[12] It has been further contended that while disposing of the writ petition, the learned Single Judge decided the matter under the mistaken belief that the alleged distortion occurred during the period when the petitioner held the post of Inspector of Taxes, though it is a pure question of fact requiring evidence. The learned Single Judge should have considered that during the pendency of any departmental proceeding, the Court does not have the jurisdiction to interfere with or examine its merits. In paragraph-13 of the judgment, the Court observed that the departmental proceeding had not fully commenced, only the memorandum and articles of charge had been served to the petitioner, and the inquiry authority was likely preparing to record witness statements shortly.

[13] This observation indicates that the proceeding had already been initiated by the competent authority. Once a departmental proceeding has commenced, the Court is barred from assessing its merits. The learned Single Judge should have considered that a writ Court is not the appropriate forum for the petitioner to present defenses or clarifications regarding the charges leveled against him. The disciplinary proceedings were initiated by the respondent authority following the thorough examination of the facts. There is no factual basis for the conclusion that he distortion occurred during the petitioner's tenure as Inspector of Taxed, especially when the internal inquiry report implicated the petitioner along with other officials.

[14] Learned Advocate General again submitted that at this stage there is no scope to entertain the writ petition filed by the petitioner, the respondent herein. It was submitted that since the departmental proceeding is still pending for adjudication before the inquiring authority so, the questions as raised by the respondent may be well placed to the respective inquiring authority and if thereafter, the respondent feels to be dissatisfied with the order of the inquiring authority in that case scope shall be there to the respondent to approach this Court.

[15] Mr. Bhaumik appearing on behalf of the respondent has first of all drawn the attention of this Court referring Annexure-13 to the writ petition i.e. the memo dated 07.09.2024 issued by the Secretary, Finance Department, Govt. of Tripura (Disciplinary Authority) wherein it was informed that the disciplinary authority intended to conduct an inquiry against the petitioner under Rule-14 of the CCS (CC&A) Rules, 1965 enclosing statement of articles of charge against the respondent and submitted that on perusal of articles of charge it can be found that no separate articles of charge was formulated by the disciplinary authority against the respondent excepting a detailed canvass of the allegation set forth by the prosecution-State. In the articles of charge framed against the respondent it is specifically mentioned that:

“whereas, the alleged distortion of public records by the Superintendent of Taxes, Charge-IV, Agartala by way of overwriting „36“ on „31“ in the assessment order dated 28.03.2015 for the year 2006-07 had taken place during processing of the refund application on 10.01.2023.”

[16] It was further submitted that by order dated 26.07.2024 the respondent was placed under suspension. On 22.08.2012 one assessment order was

passed by Mr. P. Roy, the then Superintendent of Taxes Charge-IV, Agartala, against the dealer M/s M.P. Khaitan, quoting the provision of Section-31(4) of the TVAT Act, 2004. Challenging the said assessment order, the dealer M/s M.P. Khaitan preferred revision petition after filing statutory deposit before the Commissioner of Taxes. The Commissioner of Taxes being the revisional authority vide order dated 19.02.2014 remanded the matter back to the Superintendent of Taxes, Charge-IV setting aside the assessment orders for the year 2006-07, 2007-08, 2008-09, 2009-10, 2010-11 & 2011-12 dated 22.08.2012 with a further direction to complete the reassessment within 30.04.2014.

[17] Thereafter, another assessment order was passed on 28.03.2015 under Rule-21(3) of The Tripura Value Added Tax Rules (for short, TVAT Rules) by Mr. M. Sengupta, another Superintendent of Taxes, Charge-IV, Agartala in which assessment was made under Section-36 of the TVAT Act, 2004. In the said assessment order Section-36 was overwritten by ink and at the time of passing assessment order under Section-36 of the TVAT Act, 2004. It was also stated that in the second page of the assessment order Section-36 was also overwritten by ink by the assessing officer stating that the assessment was taken up under Section-36 of the TVAT Act, 2004.

[18] Learned counsel thereafter drawn the attention of this Court referring the provisions of Section-31 and 36 of TVAT Act, 2004 and submitted that although in both the provisions it is written that the Commissioner of Taxes has the power to assess but the said power is delegated to the Superintendent of Taxes although there is no dispute in this regard. It has been further contended that the assessing, appellate or revisional authority on the basis of an application or *suo moto* also, within 3(three) years from the date of any order passed can rectify any error apparent on the face of the record.

[19] It is further submitted that at the time of passing assessment order in pursuance of the direction of the revisional authority dated 19.02.2014, the Superintendent of Taxes being the assessing authority had the scope to rectify any error and *prima facie* it is on record that the figure “6” was overwritten by ink. The earlier assessment order dated 22.08.2012 was shown to have been passed under Section-31(4) of the TVAT Act. Learned Counsel thereafter submitted that when the assessment orders dated 22.08.2012 and subsequent order dated 28.03.2015 were passed the respondent herein, was holding the post of Inspector of Taxes and

as such, on that relevant point of time as a Superintendent of Taxes he had no authority or scope to pass any assessment order but surprisingly the department concerned tried to implicate him as the assessing officer in both the occasions which is nothing but a frivolous, vexatious allegation of the department just to damage his service career.

[20] It has been referred that the order dated 18.03.2002 issued by the then Commissioner of Taxes by which the respondent was appointed to the post of Inspector of Taxes and the subsequent order dated 15.09.2017 by which he was promoted to the post of Superintendent of Taxes w.e.f. 02.02.2017. Further, vide notification dated 20.06.2023 issued by the Under Secretary, Finance Department, Govt. of Tripura, the respondent was appointed to the post of Asstt. Commissioner of Taxes on *Ad-hoc* promotion. Referring those documents learned counsel for the further submitted that on the alleged date of passing the assessment orders when the respondent was not holding the post of Superintendent of Taxes in that case how the department without any basis falsely implicated him in this departmental proceeding. It is submitted that the respondent is suffering from mental agony and harassment for this reason. On bare perusal of both the assessment orders, it will be crystal clear that both the orders were passed by two different officers not by the present respondent but with an ulterior motive and on the basis of a fake communication submitted by one Sanjay Khaitan on behalf of M/s M.P. Khaitan to the Commissioner of Taxes on 09.04.2024, the respondent was given show-cause notice and later on he has been entangled with the departmental proceeding as stated above. Furthermore, referring to Annexure-8 i.e. the communication dated 21.03.2024, learned counsel drawn the attention of this Court that in para 3 of the said communication it is stated that they have not received any assessment order which was passed on 28.03.2015 but surprisingly at the time of passing assessment order the representative of the concerned dealer was present. So, how it can be agitated by them that no copy of order was served upon them or they had no knowledge.

[21] Learned counsel has again drawn the attention of this Court referring the notice dated 13.03.2024 issued by the Superintendent of State Tax, Charge-IV, Agartala wherein, it was specifically stated that the assessment order was passed under Section-36 of TVAT Act, 2004 and M/s M.P. Khaitan was asked to make payment of Rs.47,38,775/- as interest on delayed payment but by this time the

interest has been paid by the dealer itself. Again, learned counsel for the respondent referred the communication dated 11.04.2016 submitted by Mr. M. Sengupta, the then Superintendent of Taxes, Charge-IV, Agartala to the Joint Commissioner of Taxes, Govt. of Tripura regarding the inspection report on the receipt and expenditure accounts for the period from 10/2014 to 11/2015 wherein it was clearly stated that the fresh assessment order was passed under Section-36 of the TVAT Act, 2004 when the dealer submitted a prayer requesting adjustment of said dues of Rs.30,67,168/- from the pre-requisite money of Rs.2,00,06,981/- which was statutorily deposited at the time of revision case.

[22] Upon hearing the learned counsel appearing for the parties and having gone through the material evidence on record as well as the observation made by the learned Single Judge, this Court is of the view that on bare perusal of the articles of charge *prima facie* it appears that the main allegation of the appellants against the respondent is that he has distorted public records by way of overwriting Section 36 over Section 31 in the assessment order dated 28.03.2015 for the year 2006-07 in course of processing of refund application on 10.01.2023. However, on perusal of assessment order dated 22.08.2012 and subsequent assessment order dated 28.03.2015 it is crystal clear that both the orders were passed by two different persons. One was passed by Mr. P. Roy, Superintendent of Taxes, Charge-IV and i.e. subsequent assessment order dated 28.03.2015 was issued by one Mr. M Sengupta, Superintendent of Taxes, Charge-IV, Agartala. Further, on perusal of order dated 18.03.2002 it appears that by that order the respondent was appointed as Inspector of Taxes and on perusal of order dated 15.09.2017 issued by Commissioner of Taxes, it appears that he was promoted to the post of Superintendent of Taxes w.e.f. 02.02.2017.

[23] So, when assessment order dated 22.08.2012 was issued that time the respondent was not the Superintendent of Taxes of the respective charge and when the subsequent assessment order dated 28.03.2015 was passed by Mr. M. Sengupta, another Superintendent of Taxes, Charge-IV that time the present respondent was also holding the post of Inspector of Taxes. So, it is very much surprising as to how the appellants have issued memo dated 07.09.2024 to the respondent when the respondent was in no way attached to the respective charge as alleged by the appellants.

[24] Learned Advocate General appearing on behalf of the appellants has submitted that the Court can only interfere when there is statutory violation but at this stage since the departmental proceeding has initiated and is still pending for disposal, the respondent would have the liberty or scope to substantiate his contention before the inquiring authority. It was further submitted that it is not the case of the respondent that there was no scope given to him and it is also not the case of the respondent that the departmental proceeding was initiated by an incompetent person. There was also no allegation on the part of the respondent that the proceeding is contemplated by appointing an inquiring authority who is incompetent to proceed with the matter.

[25] After overall discussions, we are of the opinion that the appeal may be disposed of by modifying the order of the learned Single Judge and insofar as the departmental proceedings are concerned, the inquiry authority shall conclude the same as expeditiously as possible preferably on or before 31st August, 2026. It is needless to observe that the writ petitioner, the respondent herein, to cooperate with the inquiry proceedings. It is further observed that the inquiry authority shall act in all fairness, during the course of inquiry. Since, the order of the learned Single Judge has been complied with subject to the outcome of the writ appeal by revoking the suspension order of the writ petitioner and he has already taken the charge as Asst. Commissioner of Taxes, he shall continue to be in service till further orders are passed in accordance with law by the concerned authority and accordingly, the same is ordered.

[26] With the above observation/modification, the present appeal stands disposed of. As a sequel, miscellaneous application(s), pending if any, shall also stand closed.

S. DATTA PURKAYASTHA, J

DR.T. AMARNATH GOUD, J

A. Ghosh

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