THE HIGH COURT OF TRIPURA
AGARTALA

W.A. 33 of 2010 in
C.R. NO. 464 OF 1996

M/S. Bhagabati Bricks Industries, a sole proprietory Firm Owned by Sri Satya Narayan Dey, son of Late Upendra Chandra Dey, resident of New Town Road, Udaipur, P.O. & P.S. Radhakishorepur, District – South Tripura.

………… *Appellant*

- Vs. –

1. The State of Tripura, Agartala, Represented by the Chief Secretary to the Government of Tripura, Agartala.

2. The Additional Commissioner of Taxes, Government of Tripura, Agartala.

3. The Superintendent of Taxes, Government of Tripura, Udaipur, P.O. & P.S. Radhakishorepur, South Tripura.

……..… *Respondents*

BEFORE

HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

HON'BLE MR. JUSTICE S.C. DAS

For the appellant	:	Mr. B. Das, Sr. Advocate. Mr. D.C. Saha, Advocate.
For the respondent	:	Mr. S. Chakraborty, Addl. GA.
Date of hearing	:	17.12.2014.
Delivery of Judgment & order	:	14.01.2014.
Whether fit for reporting	:	NO

JUDGMENT & ORDER

(Deepak Gupta, CJ.)

This writ appeal is directed against the Judgment dated 10.03.2006 whereby the writ petition filed by the petitioner was dismissed on merits in the absence of the learned counsel for the petitioner. Since there is no decision on merits, we have heard arguments on the merits of the case itself.

2. The appellant-petitioner (hereinafter referred to as 'the assessee') is a manufacturer of bricks. Notice was issued to the assessee for production of the necessary Books of Accounts for the assessment years 1989-90, 1990-91, 1991-92, 1992-93 and 1993-94. Sri Satya Narayan Dey, proprietor of the brick field appeared before the assessing officer on 19.09.1994 and produced certain books of accounts such as green bricks production register, loading register and form XVIIIA for the years 1989-90, 1991-92 and 1992-93. No records whatsoever were produced in respect of the financial years 1990-91 and 1993-94. It is recorded in the assessment order that the assessee stated that the entire record was lying with his manager and he would produce the same on 22.09.1992 at 11 a.m. However, none appeared on this date. Another message was sent to the assessee to prepare the books of accounts on or before 30.09.1994, but he did not do so. Thereafter, the assessment was made on best judgment basis.

3. Sri B. Das, learned senior counsel submits that even the assessment made on best judgment basis must be made on the basis of some record and in the absence of any record, no assessment can be made.

4. From the order of the assessment also, we find that the Inspector of Taxes visited the brick kiln on various occasions in 1989-90, 1991 etc. Relying upon the documents produced such as the green bricks production register, loading registers, form XVIIIA etc. the learned assessing officer has made the assessment for all the assessment year. He has given his reasons for making the assessment and determining the permit. It cannot be said that this assessment is without any basis whatsoever.

5. It is the owner of the brick kiln who was in possession of all the books of accounts. The assessee cannot urge that because he (the assessee) has not produced the books of account the assessing officer should not make assessment on best judgment basis. From the record, it is apparent that the asessee had not even filed returns for various periods, but when the taxation inspectors visited the spot they found huge amounts of coal and firewood lying which obviously had to be used for the purpose of production of the bricks. The assessing officer has passed a reasoned order. In appeal, none had appeared before the appellate authority. Thereafter, even in the writ petition, none

appeared and now the appellant cannot be heard to argue that there is no record available with the department and therefore, no assessment could have been made.

6. In this view of the matter, we find no merit in this appeal, which is accordingly dismissed.

JUDGE **CHIEF JUSTICE**

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