THE HIGH COURT OF TRIPURA
A G A R T A L A

WP(C) 331 of 2008

1. **Shri Matilal Das,**
   S/O Nishi Kanta Das, Resident of Amarpur, P.S. Birganj, District-South Tripura.

2. **Shri Ajoy Dasgupta,**
   S/O Naresh Chandra Dasgupta, Resident of Amarpur, P.S. Birganj, District-South Tripura.

3. **Shri Badal Majumder,**
   S/O Suresh Majumder, Resident of Amarpur Town, P.S. Birganj, District-South Tripura.

4. **Shri Abhijit Chakraborty,**
   S/O Bagala Prasanna Chakraborty, Resident of Amarpur Town, P.S. Birganj, District-South Tripura.

.............Petitioners

Versus

1. **The State of Tripura,**
   Represented by the Secretary to the Government of India, Finance Department, Agartala.

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

3. **The Superintendent of Taxes,**
   Udaipur, South Tripura.

4. **The District Magistrate & Collector,**
   South Tripura, Udaipur.

5. **The Certificate Officer,**
   Under Section 61(2) of the Tripura Land Revenue and Land Reforms Act, 1960, Office of the Sub-Divisional Magistrate, Amarpur, South Tripura.

……………Respondents

B E F O R E
THE HON'BLE MR. JUSTICE U.B. SAHA

For the Petitioners	: Mr. B Banerji, Advocate
For the respondents	: Mr. DC Nath, Standing Counsel Dept. of Finance, Govt. of Tripura
Date of hearing and delivery of Judgement & Order	: **27.03.2015.**
Whether fit for reporting	: **YES/NO**

JUDGMENT & ORDER (ORAL)

The instant writ petition is filed by the petitioners for issuing a writ of prohibition prohibiting the respondent-Revenue from realizing any amount on account of the outstanding sale tax from their salary on the basis of the letter of the Sub-Divisional Magistrate, Amarpur, South Tripura.

2. Heard Mr. B Banerji, learned counsel for the petitioners as well as Mr. DC Nath, learned standing counsel for the Department of Finance, Govt. of Tripura.

3. Pleaded case of the petitioners is that the petitioners are at present working as Assistant Teacher under the Directorate of School Education and after their appointment as Teacher, they received a notice in connection with the Certificate Case No. 02/Sale Tax/AMP from the Certificate officer, respondent No. 5 herein, asking them to make payment of outstanding dues of sale tax amounting to Rs. 1,86,306/- along with 25% interest within seven days of receipt of that notice.

4. The petitioners appeared before the Certificate Officer, respondent No. 5, and challenged the validity of the proceedings but despite the challenge, the Certificate Officer addressed a letter to the Inspector of Schools, Amarpur and Sabroom on 03.06.1994 for realizing a sum of Rs. 16,936 from each of the petitioners at monthly installment of Rs. 1,000/- from their salary. Against the order of the Certificate Officer, respondent No. 5, the petitioners approached the Sub-Divisional Officer who has requested the Inspector of Schools to realize a sum of Rs. 500/- per month from the salary of each of the petitioners in connection with the aforesaid certificate case. Hence, this writ petition.

5. On the other hand, respondents by way of filing counter affidavit contended that the petitioners were carrying on business in the name and style of M/S Reliable Brick Kiln Industrial Co-operative Society Ltd., Bampur, Amarpur registered under the Tripura Sales Tax Act, 1976 (TST Act, 1976) and Tripura Sales Tax Rules, 1976 made thereunder w.e.f. 01.10.1982 being the R/C No. AMP/ST/22/82. Subsequently, the said certificate of registration was cancelled. The said society consisted of 11 members out of which four members are service holders under the Directorate of School Education, i.e. the present petitioners. The said firm has dues as per Assessment Order dated 22.09.1986 and Re-assessment order dated 30.11.1988 passed by the Superintendent of Taxes under Section 11 of the TST Act, 1976 to the tune of Rs. 10,632.65 for the Assessment years 1983-84, Rs. 25,114.00 for the Assessment years 1985-86, Rs. 37,936.00 for the Assessment years 1986-87 and Rs. 19,471.00 for Assessment years 1987-88, in total (Rs.

93,153.65 + 25% interest calculated up to 19.04.1989 = Rs. 8,168.00), Grand Total- Rs.1,01,321.65.

6. After exhausting all the formalities and finding no other alternative the matter was referred to the Sub-Divisional Officer, Amarpur for realization of the sale tax dues amounting to Rs. 93,153.65 from the dealer of M/S Reliable Brick Kiln Industrial Co-operative Society Ltd., with interest @ 25% w.e.f. 09.01.1989 till the date of payment.

7. Finally the Certificate Case was started and in the certificate case liabilities were determined in respect of the dues with interest amounting to Rs. 1,86,306/- (up to 22.03.1994) and further interest @ 25% as per assessment of the said firm, and directed the Inspector of Schools, Amarpur/Sabroom, South Tripura to deduct @ Rs. 1000/- per month from the salary of the petitioners against the dues equally to the extent of Rs. 16,936/- in total Rs. 67,744/- (Rs. 1,86,306.00 divided by 11 = Rs. 16,936.00).

8. By an order dated 23.09.1994, the District Magistrate & Collector, South Tripura (Annexure 3 to the writ petition) modified the order of the Certificate Officer by reducing the amount to Rs. 500/- per month to be recovered from the salary of the certificate debtors with immediate effect instead of Rs. 1,000/-.

9. Mr. Banerji, learned counsel for the petitioners in his usual fairness submits that the petitioners are liable to pay the sale tax dues as ordered by the Certificate Officer and modified by the DM &

Collector, South Tripura, Udaipur but as all the petitioners are Jr. Basic Teachers, it would be proper to modify the order of the DM & Collector, South Tripura, Udaipur so that the petitioners can clear the dues.

10. Mr. Nath, learned standing counsel submits that he has no objection if the order passed by the DM & Collector, South Tripura, Udaipur is modified to the extent of Rs. 300/- instead of Rs. 500/- per month. This Court appreciates the submission of Mr. Nath and accordingly, the Inspector of Schools, Amarpur, South Tripura is directed to recover the amount @ Rs. 300/- per month from the salary of each of the petitioners till the tax dues amounting to Rs. 16,936/- is cleared and after deduction of the said amount the Inspector of Schools, Amarpur, South Tripura shall remit the same to the Commissioner of Taxes, Govt. of Tripura, respondent No. 2 herein, in every month.

11. With the aforesaid order, the instant writ petition is disposed of. Interim order, if any, passed earlier stands vacated.

12. This order is passed as agreed to by the learned counsel for the parties.

JUDGE

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