THE HIGH COURT OF TRIPURA
AGARTALA

WP(C) NO.168 OF 2014

Shri Swapan Lal Singha,
S/O Birendra Lal Singha,
Prop. : M/S Biswakarma Mechanical Workshop,
Siddhi Ashram,
P.O. A.D. Nagar, P.S. Amtali,
District-West Tripura.

………… *Petitioner*

- Vs –

1. The State of Tripura,
Represented through the Secretary,
Department of Revenue,
Government of Tripura,
Civil Secretariat,
Capital Complex, Agartala.

2. The Commissioner of Taxes,
Government of Tripura,
Charge-V, P.O. Agartala,
District-West Tripura.

3. The Superintendent of Taxes,
Government of Tripura,
Charge-V, P.O. Agartala,
District-West Tripura.

…………. *Respondents*

4. M/S Sekhar Ch. Paul,
Distributor, Birla Tyres,
Chittaranjan Road,
P.O. Agartala,
District-West Tripura.

5. The Branch Manager,
State Bank of India,
Agartala Bench,
P.O. Agartala,
District-West Tripura.

…………. *Pro-respondents*

BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA
HON'BLE MR. JUSTICE S.C. DAS

For the petitioner : Mr. D.C. Roy, Advocate

For respondent Nos.1 to 3 : Mr. D.C. Nath, Advocate

Date of hearing & delivery of Judgment & order	:	**02.06.2015**
Whether fit for reporting	:	**Yes** / **No** √

Yes	No
	√

JUDGMENT & ORDER (ORAL)

(Deepak Gupta, CJ.)

The petitioner by means of this petition has prayed for setting aside the Demand Notice dated 06.02.2014 issued to him and also the subsequent order of the Department.

2. In view of the decision that we propose to take we are not going into the detailed facts of the case. It would, however, be necessary to state that admittedly the petitioner is a dealer. He sells furniture and at the relevant time was also selling rubber products. During the assessment year 2008-2009, the petitioner purchased tyres, tubes and flaps, *i.e.* rubber products of the value of ₹54,17,838/- from M/s Birla Tyres, Chitta Ranjan Road, Agartala.

3. On 01.06.2009, the Income Tax authorities inspected the premises of the petitioner and found that there is no stock of tyres, tubes and flaps in his go-down, which meant that he had sold off these entire rubber products. The explanation given by the petitioner was that since he had purchased the rubber products in the local market he was under the impression that he is not liable to pay tax on these products. The assessing officer did not agree with this submission. He added 3% as profit margin, and therefore, assessed the tax payable @₹6,97,547/- and a penalty of 150% with interest, raised a total demand of ₹18,19,353/-.

4. The petitioner filed a revision petition which was not even taken up for more than a year. Thereafter notices were issued to the petitioner to appear in person but he did not appear and finally when he did appear he stated that he had filed the present petition.

5. We are clearly of the view that when a revision has been filed by the petitioner he cannot pursue this remedy of writ. Under the statute the petitioner is bound to deposit 50% of the demand raised and we find no exceptional reason in this case why the petitioner should be exempted from depositing 50%. We are saying so because the petitioner has not denied the transactions but has only stated that he was under the impression that no tax is to be paid. Whether this version of the petitioner is to be believed or not is not for us to decide and the Commissioner shall decide this after hearing the petitioner and/or his counsel.

6. In this view of the matter the writ petition is disposed of with a direction that the revision petition which is pending shall not be entertained till the petitioner deposits 50% of the amount assessed, *i.e.* a sum of ₹9,45,176.50 paise with the Commissioner or the assessing authority within a period of three months from today. In case, the petitioner fails to deposit this amount then his revision petition shall be dismissed for non-compliance of these orders and if he deposits such amount on or before 2nd September the Commissioner shall thereafter give a hearing and dispose of the revision petition latest by 30th November, 2015.

JUDGE **CHIEF JUSTICE**