

**THE HIGH COURT OF TRIPURA
AGARTALA**

CRP 63 of 2012

M/S Omkara Transport Pvt. Ltd.

660, Sanjoy Enclave,
Opp. G.T.K., G.T. Karnal Road,
New Delhi-110033.

Represented by its lawful attorney:-

Sri Rajesh Tiwari,
S/O Late Ram Narayan Tiwari
Of Sharma Gali, Aathgaon, Gauhati (Assam).

..... Petitioner

- 1. The Commissioner of Taxes,**
Govt. of Tripura,
Pandit Nehru Complex,
Gorkhabasti, P.O. Kunjaban,
Dist.:- West Tripura.
- 2. The Superintendent of Taxes**
Vigilance Cell, P.O. Agartala,
Dist.:- West Tripura

..... Respondents

**BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA
HON'BLE MR. JUSTICE UB SAHA**

For the petitioner : Ms R Purkayastha, Advocate.

For the respondents : Mr. S Chakraborty, Addl. GA

Date of hearing and
delivery of judgment : **16.04.2015.**

Whether fit for reporting : **No.**

JUDGMENT AND ORDER (ORAL)

(Deepak Gupta, CJ)

This revision petition is directed against the order dated 05.04.2012 passed by the Commissioner of Taxes whereby he upheld the action of seizure of seized goods and imposition of tax and penalty. However, he held that the value of the seized goods may be

considered as per invoice and not as per the declaration made by the transporter.

2. The undisputed facts are that Jubilant Oil & Gas Pvt. Ltd, a company engaged in Tripura had engaged the services of the petitioner for transporting some of its equipment. It is not disputed that no entry with regard to the said goods was made when the goods entered the State of Tripura through Churaibari check post. Later, the goods were seized at Chandrapur, Agartala from the possession of one Shri Shiv Chandra Yadav. Even at that time there were no documents with the said person to show what was the value of the goods or how they had been brought into Tripura. After the goods had been seized, then an application has filed on behalf of the petitioner, M/S Omkara Transport Pvt. Ltd., praying that the seized goods be released and it was claimed that all the valid documents, i.e. invoice, consignment note, etc. etc. were with the Carrier.

3. The case set up by the transporter was that the goods had been loaded at Gurgaon and were in a truck and were bought till Guwahati in a truck. Thereafter, the truck got spoilt and these goods were shifted to Bus No. AS 01-Y-7389. The case of the petitioner is that the officials of the transport company were following the Bus in a Car. When the Bus was stopped at the Churaibari check post the officials permitted the Bus to go and the officials reached the spot and presented the documents before the Officer-in-Charge of the Churaibari Check Post. According to the petitioners, since the goods had already left Churaibari the officials at Churaibari refused to put any seal or endorsement on the said documents and, therefore, the goods reached Agartala without any documents.

4. We are unable to accept this story. There are no details given about the number of the Truck which allegedly got spoilt at Guwahati. If the officials of the transport company were travelling in a car then it is reasonably expected that they should have made an effort to reach the check post before the bus reaches the check post. A car travels at a much higher speed than a Bus. It was the duty of the officials of the transport company to ensure that they reach Churaibari check post before the Bus carrying the goods reached.

5. Even more shocking is the fact that even though, according to the petitioners, their officials were coming in a car no protest in writing was lodged at the Churaibari check post. Furthermore, even assuming for the sake of argument that the petitioners are right, that at Churaibari check post their documents were not signed then what prevented those officials of the transport company, who were in a car, from overtaking the bus and reaching Agartala before the bus reached Agartala. It is only after the bus was stopped at Chandrapur that this story was made up and these documents were not even produced immediately thereafter.

6. We have no doubt in our mind that the story put up is false. Therefore, we see no reason to interfere in the order of the Commissioner.

7. Accordingly, the revision petition is dismissed. No costs. Send down the LCR forthwith.

JUDGE

CHIEF JUSTICE