

# THE HIGH COURT OF TRIPURA AGARTALA

W.P(C) No.177 of 2015,  
W.P(C) No.178 of 2015,  
W.P(C) No.179 of 2015,  
W.P(C) No.180 of 2015,  
W.P(C) No.181 of 2015,  
W.P(C) No.182 of 2015,  
W.P(C) No.183 of 2015,  
W.P(C) No.184 of 2015,

W.P (C) No.177 of 2015 :

Sri Ashish Kumar Dey,  
S/O Late Sunil Ch. Dey  
Of Shivbari Road,  
P.O. & P.S. Dharmanagar,  
District - North Tripura.

..... *Petitioner.*

By Advocates : Mr. Somik Deb, Adv.,  
Mr. S. Bhattacharjee, Adv.,

- *Versus* -

1. The State of Tripura,  
Represented by the  
Commissioner-cum-Secretary,  
Food, Civil Supply and Consumer Affairs  
Department having office at New Capital  
Complex, P.O. Kunjaban, District-West  
Tripura, PIN-799006.
2. The Director,  
Food, Civil Supplies and Consumer Affairs  
Department, Government of Tripura,  
having its office at Gurkhabasti,  
P.O. Kunjaban, P.S. West Agartala,  
District-West Tripura, PIN-799004.
3. The Deputy Director,  
Food, Civil Supplies and Consumer Affairs  
Department, Government of Tripura,  
having office at Dharmanagar,

P.O. Dharmanagar, P.S. Dharmanagar,  
District-North Tripura.

4. **Commissioner of Taxes,**  
Government of Tripura, having its Office  
at Pandit Jawaharlal Neheru Complex,  
Gurkhabasti, P.O. Kunjaban, Agartala,  
District: West Tripura.

..... *Respondents.*

**By Advocate : Mr. D.C. Nath, Adv.**

**W.P (C) No.178 of 2015 :**

**Sri Ashish Kumar Dey,**  
S/O Late Sunil Ch. Dey  
Of Shivbari Road,  
P.O. & P.S. Dharmanagar, District - North Tripura.

..... *Petitioner.*

**By Advocates : Mr. Somik Deb, Adv.,  
Mr. S. Bhattacharjee, Adv.**

*- Versus -*

1. **The State of Tripura,**  
Represented by the  
Commissioner-cum-Secretary,  
Food, Civil Supply and Consumer Affairs  
Department, having office at New  
Capital Complex, P.O. Kunjaban,  
District-West Tripura, PIN-799006.
2. **The Director,**  
Food, Civil Supplies and Consumer Affairs  
Department, Government of Tripura,  
having its office at Gurkhabasti,  
P.O. Kunjaban, P.S. West Agartala,  
District-West Tripura, PIN-799004.
3. **The Deputy Director,**  
Food, Civil Supply and Consumer Affairs  
Department, Government of Tripura,  
having office at Dharmanagar, P.O.  
Dharmanagar, P.S. Dharmanagar,  
District-North Tripura.
4. **Commissioner of Taxes,**  
Government of Tripura, having its Office  
at Pandit Jawaharlal Nehru Complex,

Gurkhabasti, P.O. Kunjaban, Agartala,  
District: West Tripura.

..... *Respondents.*

**By Advocate : Mr. D.C. Nath, Adv.**

**W.P (C) No.179 of 2015:**

Sri Ashish Kumar Dey,  
S/O Late Sunil Ch. Dey  
Of Shivbari Road,  
P.O. & P.S. Dharmanagar, District - North Tripura.

..... *Petitioner.*

**By Advocates : Mr. Somik Deb, Adv.,  
Mr. S. Bhattacharjee, Adv.**

*- Versus -*

1. **The State of Tripura,**  
Represented by the  
Commissioner-cum-Secretary,  
Food, Civil Supply and Consumer Affairs  
Department having office at New Capital  
Complex, P.O. Kunjaban, District-West  
Tripura, PIN-799006.
2. **The Director,**  
Food, Civil Supplies and Consumer Affairs  
Department, Government of Tripura,  
having its office at Gurkhabasti, P.O.  
Kunjaban, P.S. West Agartala, District-  
West Tripura, PIN-799004.
3. **The Deputy Director,**  
Food, Civil Supply and Consumer Affairs  
Department, Government of Tripura,  
having its office at Dharmanagar, P.O.  
Dharmanagar, P.S. Dharmanagar,  
District-North Tripura.
4. **Commissioner of Taxes,**  
Government of Tripura, having its Office  
at Pandit Jawaharlal Neheru Complex,  
Gurkhabasti, P.O. Kunjaban, Agartala,  
District: West Tripura.

..... *Respondents.*

**By Advocates : Dr. D.C. Nath, Adv.**

**W.P (C) No.180 of 2015 :**

**Sri Ashish Kumar Dey,  
S/O Late Sunil Ch. Dey  
Of Shivbari Road, P.O. & P.S. Dharmanagar,  
District - North Tripura.**

..... *Petitioner.*

**By Advocates : Mr. Somik Deb, Adv.,  
Mr. S. Bhattacharjee, Adv.**

*- Versus -*

- 1. The State of Tripura,  
Represented by the  
Commissioner-cum-Secretary,  
Food, Civil Supply and Consumer Affairs  
Department having office at New Capital  
Complex, P.O. Kunjaban, District-West  
Tripura, PIN-799006.**
- 2. The Director,  
Food, Civil Supplies and Consumer Affairs  
Department, Government of Tripura,  
having its office at Gurkhabasti, P.O.  
Kunjaban, P.S. West Agartala, District-  
West Tripura, PIN-799004.**
- 3. The Deputy Director,  
Food, Civil Supply and Consumer Affairs  
Department, Government of Tripura,  
having its office at Dharmanagar, P.O.  
Dharmanagar, P.S. Dharmanagar,  
District-North Tripura.**
- 4. Commissioner of Taxes,  
Government of Tripura, having its Office  
at Pandit Jawaharlal Neheru Complex,  
Gurkhabasti, P.O. Kunjaban, Agartala,  
District: West Tripura.**

..... *Respondents.*

**By Advocates : Mr. D.C. Nath, Adv.**

**W.P (C) No.181 of 2015**

Sri Ashish Kumar Dey,  
S/O Late Sunil Ch. Dey  
Of Shivbari Road,  
P.O. & P.S. Dharmanagar, District - North Tripura.

..... *Petitioner.*

**By Advocates : Mr. Somik Deb, Adv.,  
Mr. S. Bhattacharjee, Adv.**

*- Versus -*

1. **The State of Tripura,**  
Represented by the  
Commissioner-cum-Secretary,  
Food, Civil Supplies and Consumer Affairs  
Department having office at New Capital  
Complex, P.O. Kunjaban, District-West  
Tripura, PIN-799006.
2. **The Director,**  
Food, Civil Supplies and Consumer Affairs  
Department, Government of Tripura,  
having its office at Gurkhabasti, P.O.  
Kunjaban, P.S. West Agartala, District-  
West Tripura, PIN-799004.
3. **The Deputy Director,**  
Food, Civil Supply and Consumer Affairs  
Department, Government of Tripura,  
having office at Dharmanagar, P.O.  
Dharmanagar, P.S. Dharmanagar,  
District-North Tripura.
4. **Commissioner of Taxes,**  
Government of Tripura, having its Office  
at Pandit Jawaharlal Nehru Complex,  
Gurkhabasti, P.O. Kunjaban, Agartala,  
District: West Tripura.

..... *Respondents.*

**By Advocates : Mr.D.C. Nath, Adv.**

**W.P (C) No.182 of 2015 :**

Sri Ashish Kumar Dey,  
S/O. Late Sunil Ch. Dey  
Of Shivbari Road,  
P.O. & P.S. Dharmanagar, District - North Tripura.

..... *Petitioner.*

**By Advocates : Mr. Somik Deb, Adv.,  
Mr. S. Bhattacharjee, Adv.**

*- Versus -*

1. **The State of Tripura,**  
Represented by the  
Commissioner-cum-Secretary,  
Food, Civil Supply and Consumer Affairs  
Department, having office at New  
Capital Complex, P.O. Kunjaban,  
District-West Tripura, PIN-799006.
2. **The Director,**  
Food, Civil Supplies and Consumer Affairs  
Department, Government of Tripura,  
having its office at Gurkhabasti, P.O.  
Kunjaban, P.S. West Agartala, District-  
West Tripura, PIN-799004.
3. **The Deputy Director,**  
Food, Civil Supply and Consumer Affairs  
Department, Government of Tripura,  
having office at Dharmanagar, P.O.  
Dharmanagar, P.S. Dharmanagar,  
District-North Tripura.
4. **Commissioner of Taxes,**  
Government of Tripura, having its Office  
at Pandit Jawaharlal Nehru Complex,  
Gurkhabasti, P.O. Kunjaban, Agartala,  
District: West Tripura.

..... *Respondents.*

**By Advocates : Mr. D.C. Nath, Adv.**

**W.P (C) No.183 of 2015 :**

**Sri Ashish Kumar Dey,**  
S/O. Late Sunil Ch. Dey  
Of Shivbari Road,  
P.O. & P.S. Dharmanagar, District - North Tripura.

..... *Petitioner.*

**By Advocates : Mr. Somik Deb, Adv.,  
Mr. S. Bhattacharjee, Adv.**

*- Versus -*

1. **The State of Tripura,**  
Represented by the  
Commissioner-cum-Secretary,  
Food, Civil Supply and Consumer Affairs  
Department having office at New Capital  
Complex, P.O. Kunjaban, District-West  
Tripura, PIN-799006.
2. **The Director,**  
Food, Civil Supplies and Consumer Affairs  
Department, Government of Tripura,  
having its office at Gurkhabasti, P.O.  
Kunjaban, P.S. West Agartala, District-  
West Tripura, PIN-799004.
3. **The Deputy Director,**  
Food, Civil Supply and Consumer Affairs  
Department, Government of Tripura,  
having office at Dharmanagar, P.O.  
Dharmanagar, P.S. Dharmanagar,  
District-North Tripura.
4. **Commissioner of Taxes,**  
Government of Tripura, having its Office  
at Pandit Jawaharlal Nehru Complex,  
Gurkhabasti, P.O. Kunjaban, Agartala,  
District: West Tripura.

..... *Respondents.*

**By Advocates : Mr. D.C. Nath, Adv.**

**W.P (C) No.184 of 2015**

**Sri Ashish Kumar Dey,**  
S/O. Late Sunil Ch. Dey  
Of Shivbari Road,  
P.O. & P.S. Dharmanagar, District - North Tripura.

..... *Petitioner.*

**By Advocates : Mr. Somik Deb, Adv.,  
Mr.S. Bhattacharjee, Adv.**

*- Versus -*

1. **The State of Tripura,**  
Represented by the  
Commissioner-cum-Secretary,  
Food, Civil Supply and Consumer Affairs  
Department having office at New Capital  
Complex, P.O. Kunjaban, District-West  
Tripura, PIN-799006.

2. **The Director,**  
Food, Civil Supplies and Consumer Affairs  
Department, Government of Tripura,  
having its office at Gurkhabasti, P.O.  
Kunjaban, P.S. West Agartala, District-  
West Tripura, PIN-799004.
3. **The Deputy Director,**  
Food, Civil Supply and Consumer Affairs  
Department, Government of Tripura,  
having office at Dharmanagar, P.O.  
Dharmanagar, P.S. Dharmanagar,  
District-North Tripura.
4. **Commissioner of Taxes,**  
Government of Tripura, having its Office  
at Pandit Jawaharlal Neheru Complex,  
Gurkhabasti, P.O. Kunjaban, Agartala,  
District: West Tripura.

..... *Respondents.*

By Advocate : Mr. D.C. Nath, Adv.

\_B\_E\_F\_O\_R\_E\_

**THE HON'BLE CHIEF JUSTICE MR. DEEPAK GUPTA**  
**HON'BLE MR. JUSTICE U.B. SAHA**

Date of hearing and : 03.09.2015  
delivery of judgment.

Whether fit for reporting : No.

**JUDGMENT & ORDER(ORAL)**

( Deepak Gupta, CJ )

All these petitions are being disposed of by a common judgment since identical point of law is involved in all these cases.

2. The case of the petitioners is that they were carrying food supplies on behalf of the Department of Food & Civil Supplies, Government of Tripura and therefore, the work being done by them of transporting these food items does not fall within the ambit of the

word sale. According to the petitioners, their case is squarely covered by the judgment of this Court in W.P. (C) No.127 of 2013 decided on 07.01.2014 whereby this Court held that such transactions do not fall within the ambit of the phrase “*transfer of property in goods*”.

3. The Commissioner of Taxes has filed a reply and has clearly admitted that the case of the petitioners is squarely covered by this judgment. Para 7 of the reply reads as follows:-

***“7. That it is stated that since the case of the Petitioner is covered by the common Judgment & Order dated 07.01.2014 passed in WP(C) 127 of 2013 and so on, I have taken the said representation with a view to take appropriate action in accordance with the Judgment & Order dated 07.01.2014 after hearing and scrutiny of records and nothing else. Therefore, orders dated 24.06.2015 and 14.07.2015 were passed directing the Petitioner to appear before me to hear his case in order to pass necessary order in this regard and nothing else.”***

4. We could have disposed of the matter ourselves but we are of the view that the Commissioner himself should pass appropriate orders. We, therefore, dispose of the writ petitions with the following directions:-

That the petitioner shall appear before the Commissioner of Taxes personally or through counsel on 26<sup>th</sup> September, 2015 at 11.00 a.m. On the said day, the Commissioner shall dispose of their applications for

refund and shall issue orders that the amount shall be refunded along with statutory interest latest by 31<sup>st</sup> December, 2015. In case, the amount is not refunded by 31<sup>st</sup> December, 2015 then the interest shall be payable @ 12% per annum from the date of filing of the writ petitions.

JUDGE

CHIEF JUSTICE

*sima*