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

WP(C) 431 OF 2014

Sri Subhash Chandra Paul,
S/O. Late Suresh Chandra Paul,
Resident of Kulai bazar,
P.O. & P.S. Ambassa,
District:- Dhalai.

...... **Petitioner**.

– V e r s u s –

1. The State of Tripura,
represented by the Secretary to the
Government of Tripura, Revenue Department,
Capital Complex,
P.O. Kunjaban,
P.S. East Agartala,
District: West Tripura.
2. The Commissioner of Taxes,
Government of Tripura,
P.N. Complex, Gurkhabasti,
P.O. Kunjaban, P.S. West Agartala,
District: West Tripura.
3. The Superintendent of Taxes,
Ambassa Charge,
Government of Tripura,
PO & PS: Ambassa, Dhalai, Tripura.

..... **Respondents.**

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

For the petitioner	: Mr. A.K. Bhowmik, Sr. Advocate, Ms. A. Banik, Advocate.
For the respondents	: Mr. S. Chakraborty, Addl. G.A.
Date of hearing	: 13.01.2015.
Date of judgment	: 02.02.2015.
Whether fit for reporting	: **NO**.

JUDGMENT & ORDER

(Deepak Gupta, C.J.)

By means of this writ petition, the petitioner has challenged the assessment order dated 24-12-2012 and demand notice issued by memo No.726 dated 24-12-2012 and further demand notices issued on 28-08-2014.

2. Since the petitioner had challenged the order dated 24-12-2012 after almost two years, on 03-11-2014 we had issued notice in the following terms:-

> *"Issue notice, returnable for 25th November, 2014.*
>
> *As Mr. S. Chakraborty, learned Addl. GA waives service of notice on behalf of the respondents, no formal notice need be issued.*
>
> *At this stage, we are confining notice only to the allegation of the petitioner that the Assessment Order dated 24.12.2012 was never served upon him and he has obtained copy of the same only after the recovery notices were issued.*
>
> *The Revenue Department shall only file reply with regard to these allegations by means of a short affidavit on or before 25th November, 2014.*
>
> *The record, if any, or service of the Assessment Order upon the petitioner shall be produced before us on the next date."*

3. Thereafter, the revenue filed reply affidavit and in para-3.2 of the affidavit, it was stated that notice of demand was sent to the petitioner along with another letter for recovery of the amount vide entries No.726 and 727 and the registers in which the

entries were entered were produced before us on 01-12-2014. We had on 01-12-2014 directed that this letter be placed on record and the same has also now been placed on record. The petitioner along with the writ petition has annexed the order dated 24-12-2012 and in the petition he has stated that after he received the notice in August, 2014, the petitioner collected the order dated 24-12-2012 from the office of the respondents. From the file of the respondents, we find that there is no application by the petitioner for supply of copy. The petitioner also could not produce any document showing that he had applied for copy of the order dated 24-12-2012.

4. Therefore, we are unable to accept the statement of the petitioner that he was not aware of the order dated 24-12-2012. This appears to be an afterthought. He could not have filed the copy of the order dated 24-12-2012 unless he had received a copy of the same.

5. It was urged that the petitioner may have unofficially obtained such a copy. We cannot approve of any such system of unofficially obtaining copies of the assessment orders. The assessment order as well as the letter dated 24-12-2012 was correctly addressed to the petitioner. They have been entered in the register and shown to have been dispatched. We shall presume that the government functionaries have acted in accordance with the rules and keeping in view the fact that we are unable to accept the submission of the petitioner that he unofficially obtained the

copy of the assessment order, we cannot entertain this petition at this belated stage, especially when the petitioner has not challenged the order before the appellate authority.

6. We are also of the view that the petitioner is not telling us the truth. We had called for the record of assessment and from such record, we find that the petitioner was served notice on 08-11-2012 informing him that the case is fixed for hearing on 20-11-2012. The petitioner did not care to appear. Again, a notice was served upon him on 22-11-2012 and the case was fixed for hearing on 05-12-2012. The petitioner sent a letter that since he had challenged the assessment for the previous years in appeal, the matter should be adjourned and not be heard. Again a notice was served upon him on 06-12-2012 and the case was fixed on 17-12-2012 but that day the matter was adjourned because the Assessing Officer was busy. Thereafter, another notice was served upon the petitioner on 18-12-2012 informing him that he should appear on 22-12-2012. The petitioner did not appear and again sent a similar letter.

7. A party to legal or quasi-judicial proceedings should be careful about his rights. The petitioner knew of the dates and he could not presume that merely because he is requesting, his prayer for deferment of the assessment proceedings would be allowed. In case, the assessee knowing fully well that dates are being fixed does not care to appear before the Assessing Officer, he does so at his own risk and cost. The petitioner was fully aware of the

proceedings and we are also of the view that the order dated 24-12-2012 was served upon him. He should even himself have made some effort to find out what was the result of the hearing which was to take place on 22-12-2012.

8. Lastly, it was contended by Sri A.K. Bhowmik, learned Sr. Counsel for the petitioner, that the demand runs into more than a crore of rupees and the petitioner is a small businessman and would be doomed if he has to pay this amount.

9. We cannot accept this prayer in view of what we have held above. Further we find that this stand of the petitioner that he is a poor person is also incorrect. From the record, we find that on 27-11-2012, the petitioner made a prayer to the Superintendent of Taxes that he would be dumping about 1000 cubic meters of unsized damaged and disputed timbers from the godown in his house since he required the space for the marriage of his daughter. The Superintendent of Taxes deputed certain officials to go to the godown of the petitioner and their report reveals that there was a huge amount of timber and the petitioner was asked to produce valid documents such as invoices, permits in form 26, TP copies, sales memos etc. to show that these timbers have been validly imported but the petitioner failed to produce any such documents. The Assessing Authority has valued the timber at Rs.12,000/- per cubic meter whereas the assessee claims that the value is Rs.3,000/- per cubic meter. Even if the valuation of the petitioner is accepted, the value of 1000 cubic meters works out to Rs.3

crores. If the petitioner can dump wood worth Rs.3 crores, we cannot believe that he is a poor person.

10. We are clearly of the view that the petitioner has not come to Court with clean hands and, therefore, he is not entitled to any discretionary relief from this Court and accordingly, the petition is dismissed. No costs.

JUDGE **CHIEF JUSTICE**