

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Chief Justice T.S. Sivagnanam

And

The Hon'ble Justice Chaitali Chatterjee (Das)

WP.TT 16 of 2025

Sujit Roy

vs.

Appropriate Assessing Authority, Barrackpore Charge, & ors.

For the Petitioner : Mr. Anil Kumar Dugar, Adv.
Mr. Ashoke Kumar Sharma, Adv.
Mrs. Suman Sahani, Adv.

For the Respondents : Mr. T.M. Siddiqui, A.G.P.
Mr. Nilotpal Chatterjee, Adv.
Mr. Tanoy Chakraborty, Adv.
Mrs. Sumita Shaw
Mr. Saptak Sanyal, Adv.

Heard on : 2nd July, 2025.

Judgment on : 2nd July, 2025.

T.S. Sivagnanam, C.J.:

- 1) This petition has been filed by the petitioner-dealer challenging the order passed by the West Bengal Taxation Tribunal, Bidhannagar, Kolkata, in RN-53 of 2024 dated 2nd May, 2025. The petitioner is not aggrieved by the substantive part of the order passed by the Tribunal. Since, the learned Tribunal has accepted the petitioner's case and held that no notice of initiation of the assessment proceeding, the assessment order or the notice

demand were issued to the petitioner prior to the assessment proceeding and after the demand was raised the department attempted to serve the assessment order. Having held so the learned Tribunal granted liberty to the department to initiate fresh assessment proceeding. This in our view, could not have done so since the entire proceeding culminating in an order of assessment followed by a demand is non-est in the eye of law. In such circumstances, the question of granting liberty to the department to initiate fresh proceeding is bad in law.

- 2) Accordingly, the petition is partly allowed and that portion of the direction by which the learned Tribunal directed the respondent department to initiate fresh proceeding is quashed and the other directions issued by the learned Tribunal are upheld.
- 3) Urgent photostat certified copy of this judgment, if applied for, be delivered to the learned advocates appearing for the parties upon compliance of all formalities.

(T. S. Sivagnanam, C.J.)

I agree.

[Chaitali Chatterjee (Das), J.]