

**HIGH COURT OF TRIPURA  
AGARTALA**

WP(C) No.142 of 2015

Mahabir Tea Estate (Pvt.) Ltd., P.O. Bamancherra, Sub-Division and P.S. Kamalpur, District- Dhalai Tripura, Pin-799286. Having its Head Office at P-36 India Exchange Place, 4<sup>th</sup> Floor Room No.56-A, Kolkata-700001, represented by its General Manager.

----- Petitioner(s)

Versus

1. The State of Tripura through the Secretary to the Government of Tripura, Department of Finance, New Secretariat Complex, Agartala-799010, Tripura.
2. The Commissioner of Taxes, Government of Tripura, Pandit Nehru Complex, P.O. Kunjaban, Agartala-799006, Tripura.
3. The Superintendent of Taxes, Ambassa, P.O. Jaharnagar, Dhalai, Tripura.
4. The Officer In-charge, Kamalpur Police Station, P.O. Kamalpur, District- Dhalai, Tripura.

-----Respondent(s)

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For Petitioner(s)	:	Mr. S.M. Chakraborty, Sr. Advocate, Ms. P. Sen, Advocate.
For Respondent(s)	:	Mr. A. Nandi, Advocate.

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**HON'BLE THE CHIEF JUSTICE MR. SANJAY KAROL  
HON'BLE MR. JUSTICE ARINDAM LODH**

**Order**

**30/11/2018**

Petitioner has prayed for the following reliefs :

- i) Admit the petition.
- ii) Issue Rule NISI upon the respondents Nos.1 to 3 directing them to show cause as to why a writ of Certiorari shall not be issued cancelling/quashing the notice dated 11.03.2015 (Annexure-P/2), notice dated 25.03.2015 (Annexure-P/4) and the impugned order of assessment (Annexure-P/8) along with demand notice (Annexure-P/8a, P/8b, P/8c, P/8d and P/8e.

AND

iii) As to why all the records of the assessment proceeding shall not be produced before this Hon'ble Court for examination.

AND

iv) As to why a Writ of Mandamus shall not be issued directing the respondent No.3 to extend all help and co-operation to the respondent No.4 for completion of the investigation of the case registered as FIR No.23/15 on 18.03.2015 under Section-467/468/471 and 473 IPC (Annexure-P/7 Colly)

AND

v) After hearing the petition be pleased to issue writ in the light of the prayers made above and make the Rule absolute.

vi) In the interim pass order staying all operations of the impugned order of assessment (Annexure-P/7) and demand notice issued with reference to that (Annexure-P/8a to P/8e) till disposal of the writ petition.

vi) Any other appropriate order or direction as this Hon'ble Court deem fit and proper may kindly be passed.

**[2]** After the matter was heard for some time, Shri S.M. Chakraborty, learned senior counsel states that the petitioner shall be content if the matter is remanded back to the assessing authority for consideration afresh considering that no fair opportunity of hearing was afforded to the writ petitioner. In support, he points out that the order of assessment, purportedly passed on 28<sup>th</sup> March, 2015 was in fact prepared on 9<sup>th</sup> February, 2015 which we have noticed from the impugned order (Annexure-P/8).

**[3]** Before us, it is not the case of revenue that it is a typographical error. We notice that the show cause notice was

issued on 25<sup>th</sup> March, 2015 and thus, petitioner was also not afforded adequate opportunity of representing its case.

**[4]** Shri A. Nandi, learned counsel for the respondents, has no objection to the same and as such, given our thoughtful consideration, we allow the present petition in the following mutually agreed terms :

(a) Impugned order dated 9<sup>th</sup> February, 2015/28<sup>th</sup> March, 2015 is quashed and set aside and the matter remanded back to the assessing officer for consideration afresh.

(b) The petitioner undertakes to fully cooperate and not take any unnecessary adjournments.

(c) All questions of fact and law, on merits, are left open to be considered and decided by the authority.

(d) Additionally, if so desired, petitioner may also request for affording opportunity of hearing.

(e) The authority shall positively pass the order in the aforesaid terms, by assigning reasons and copy thereof shall also be supplied to the writ petitioner.

(f) Liberty is reserved to the writ petitioner to independently approach the Court for assailing the order, if so required and desired on the same and subsequent cause of action, in accordance with law.

**(ARINDAM LODH), J**

**(SANJAY KAROL), CJ**