

**HIGH COURT OF TRIPURA**  
**AGARTALA**

WP(C) No.494/2021

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East India InfoTech Pvt. Ltd.

..... *Petitioner(s)*.

Vs.

The State of Tripura and Ors.

..... *Respondent(s)*.

For Petitioner(s) : Mr. B N Majumder, Sr. Advocate,  
Mr. Rajib Saha, Advocate,  
Mr. D J Saha, Advocate,  
Mr. B Paul, Advocate.

For Respondent(s) : Mr. P K Dhar, Sr. Govt. Advocate,  
Mr. R G Chakraborty, Advocate.

**HON'BLE THE CHIEF JUSTICE MR. AKIL KURESHI**  
**HON'BLE JUSTICE MR. S G CHATTOPADHYAY**

**\_O\_R\_D\_E\_R\_**

**28/7/2021**

*(Akil Kureshi, CJ).*

Heard learned senior counsel Mr. B N Majumder for the petitioner and learned senior Govt. Advocate Mr. P K Dhar, appearing on advance copy, for final disposal of the petitions.

These petitions arise in common background. For convenience, facts may be recorded from WP(C) No.494/2021.

Petitioner is a private limited company and has challenged the action of the respondent No.3 of seizing and detaining an ambulance van which the petitioner had purchased for its own business purpose and was being transported by road from Bilaspur, Chattisgarh to Agartala. Two more ambulances of the petitioner were similarly detained by the respondent No.3, on the same day i.e. 20<sup>th</sup> July 2021 at Churaibari check post, on the ground that the vehicles did not carry e-way bills. Case of the petitioner is that the vehicles are purchased not for resale but for the own use and business purpose of the petitioner and in which case, there was no necessity of regenerating an e-way bill. The petitioner contends that all applicable taxes on these inter-State sales have been paid. Detention and seizure of the vehicles are thus without jurisdiction. The petitioner has produced documents in support of these averments.

On the other hand, learned senior Government Advocate Mr. P K Dhar submitted that the petitioner has alternative remedy. The respondent No.3 has issued a notice, on 21<sup>st</sup> July 2021, upon the petitioner why unpaid taxes with penalties not be recovered. The petitioner has not filed reply to the show case notice. The petitioner, therefore, be relegated to the departmental authority.

When the respondent No.3 has issued a show cause notice for completing the assessment for levying tax with or without penalty, let the

petitioner file reply to such show cause notices. It would be open for the Assessing Officer to carry out the assessment, in accordance with law, after considering the reply of the petitioner. However, considering the prime defence of the petitioner that he is not a registered dealer nor is he dealing in purchase and sale of vehicles and the ambulances have been purchased by the petitioner only for its own use and purpose since the petitioner wants to start a business of providing ambulance service, it would not be appropriate to allow further detention of the vehicles. Pending final assessment and subject to certain conditions these vehicles can be released. Even otherwise, the authorities under General Sales Tax(GST) Act have sufficient powers for provisional release of detained goods.

Under the circumstances, the petitions are disposed of with following directions :

- (i) It would be open for the petitioner to file reply to the show cause notices dated 21<sup>st</sup> July 2021 by **10<sup>th</sup> August 2021**.
- (ii) The Assessing Officer shall thereupon pass order in relation to these show cause notices, in accordance with law, after considering the replies of the petitioner. If the petitioner requests for personal hearing of the authorised representative, the same may also be granted.
- (iii) In the meantime, the vehicles shall be released as soon as the petitioner furnishes unconditional Bank guarantee to the tune of 25% of the possible tax and penalties, as

indicated in the show cause notices and furnishing a bond for the remaining 75% of the values.

Pending application(s), if any, also stands disposed of.

**( S G CHATTOPADHYAY, J ) ( AKIL KURESHI, CJ )**

HIGH COURT OF TRIPURA



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