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**(2014) 10 TP CK 0005**

**In the Tripura High Court**

**Case No :** CRP 17 and 18 of 2012

**Rajarshi Traders VsThe Commissioner of Taxes**

**Date of Decision :** 28-10-2014

**Acts Referred:**

**Citation :** (2014) 10 TP CK 0005

**Hon'ble Judges :** Deepak Gupta, C.J;S. Talapatra, J

**Bench :** Division Bench

**Advocate :** B.N. Majumder and R. Saha, Advocate for the Appellant; S. Chakraborty, Addl. G.A, Advocate for the Respondent

## Judgement

Deepak Gupta, C.J.—Both the petitions are being disposed of by a common judgment since both the issues of fact and law involved are identical.

2. It is not disputed that the petitioner is a wholesale dealer in umbrellas and he had purchased umbrellas in West Bengal and was transporting them to Tripura. The value of the umbrellas in both the cases was shown by the assessee to be Rs. 378.50 per dozen. The Officer-in-Charge of the Churaibari Check post at the border of Tripura and Assam was not satisfied with the value declared and seized the goods and according to him, the market value of the umbrella was about Rs. 150/- per piece.

3. Aggrieved by the order of seizure and the valuation, the petitioner challenged the order of the Officer-in-Charge of the Churaibari Check post before the Commissioner of Taxes who asked for a report about the value of the seized goods from the Superintendent of Taxes, Churaibari. In this report, the wholesale market price of the seized goods was shown to be Rs. 100/- to Rs. 110/- per piece. In the said order of the Commissioner, it is also reflected that the counsel for the petitioner claimed that the goods seized were sold at Rs. 100/- per piece. However, it is not clear whether this was the wholesale price or the retail price. Be that as it may, the Commissioner of Taxes has relied upon the report also while assessing the wholesale market value of the umbrellas at Rs. 100/- per piece. The copy of such report submitted by the Superintendent of Taxes, Churaibari was not supplied to the petitioner and, therefore, the rules of natural

justice have not been complied with.

4. On this short ground, the order of the Commissioner is set aside and the matter is remanded to the Commissioner of Taxes who shall supply a copy of the report to the petitioner and shall give the petitioner as well as the Revenue (Taxation Department) an opportunity to lead evidence or produce other material before him to show what was the price of such umbrellas in the wholesale market at the relevant time.

5. In this view of the matter, both the petitions are partly allowed. The order of the learned Commissioner is set aside. The matter is remanded to him to decide the value of the umbrellas. He is directed to dispose of the matter as early as possible, and in any event not later than 31-01-2015.

6. Both the petitions are disposed of. Send down the LCRs, if any, forthwith.

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