

(21)

Central Administrative Tribunal
Principal Bench

RA 237/99
in
OA 2238/98

New Delhi this the 6 th day of December, 1999

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

Pawan Kumar,
S/o Shri Narain Singh,
Intelligence Officer,
Directorate of Intelligence,
Headquarters,
Delhi.

Applicant.

Versus

1. Commissioner,
Office of Commissioner of Central Excise,
Delhi-1 C.R. Building,
I.P. Estate, N.Delhi.
2. Deputy Commissioner (P&V),
Office of Commissioner of Central Excise,
Delhi-1 C.R. Building,
I.P. Estate, N.Delhi.
3. Dy. Director (Administration),
Directorate of Intelligence,
Headquarters, N.Delhi.

Réspondents.

O R D E R (By circulation)

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

The review applicant has filed RA 237/99 praying for recall/review of the impugned order dated 12.10.1999 in OA 2238/98 and to quash the order dated 12.11.1998 which had been impugned in that O.A.

2. I have carefully considered the Review Application. The Review Application has recounted the facts and details of the O.A. in which the impugned order has been passed. In Para 12 of the Review Application, reference has been made to a mistake occurring in Paragraph 3 of the order dated 12.10.1999 in which in one place, instead of referring

18

OA 1578/98, a typographical error has occurred which has been referred to as "OA 1578/092." A perusal of the impugned order, and in particular Paragraph 3, shows that a typographical error has occurred in the 15th line, ~~of Paragraph 3 of the impugned order~~, namely, it should be read as "OA 1578/98" as has been referred to in at least two other places in the same paragraph. The error pointed out by the applicant is, however, not of a substantial nature to warrant recall of the impugned order on this ground. However, the error occurring in the 15th line of Paragraph 3 of the order dated 12.10.1999 should be read as OA 1578/98 (instead of OA 1578/092).

3. The applicant has taken about a dozen grounds in Paragraph 17 of the Review Application in which he has emphasised that the Tribunal had failed to appreciate the facts and arguments of the learned counsel for the parties while passing the impugned order. He has referred to the various contentions raised by the learned counsel for the respondents and has reiterated his arguments to show that the decision of the respondents is not only arbitrary but without application of mind, mala fide and so on, which had already been argued by the learned counsel in OA 2238/98. It has also been submitted that the Tribunal had proceeded on wrong and incorrect facts and thus failed to appreciate certain contentions. In the Review Application, the applicant has tried to show that the Tribunal has given an erroneous decision and has failed to appreciate certain facts and contentions put forward by him in the O.A. and hence the prayer for review of that order.

4. It is settled law that a review is by no means an appeal whereby an erroneous decision is reheard and corrected, but lies only for patent error (See. Thungabhadra

Industries Ltd. Vs. The Government of Andhra Pradesh, AIR 1964 SC 1372). The applicant has nowhere stated that he has filed this RA on the discovery of new material which after exercise of due diligence he was unable to place before the Tribunal when the O.A. was argued or show any other sufficient grounds which justifies review of the impugned order dated 12.10.1999, as provided under Order 47 Rule 1 CPC read with Section 22(3)(f) of the Administrative Tribunals Act, 1985. The power of review may be exercised on the discovery of new and important matter of evidence which, after the exercise of due diligence was not within the knowledge of the person seeking the review or could not be produced by him at the time when the order was made; it may also be exercised where some mistake or error apparent on the face of the record is found. (See. A.T. Sharma Vs. A.P. Sharma & Ors., AIR 1979 SC 1047). None of these grounds are present in this case.

5. In Parson Devi & Ors. Vs. Sumitri Devi & Ors. (JT 1997(8) SC 480), the Supreme Court has held as follows:

"An error which is not self evident and has to be detected by a process of reasoning, can hardly be said to be an error on the face of the record justifying the court to exercise its power of review under Order 47 Rule 1 CPC. In exercise of the jurisdiction under Order 47 Rule 1 CPC it is not permissible for an erroneous decision to be 'reheard and corrected'."

6. In the facts and circumstances of the case and having regard to the settled position of law, as there is no error apparent on the face of the record or any other sufficient ground, as provided in Order 47 Rule 1 CPC read with Section 22(3)(f) of the Administrative Tribunals Act, 1985, RA 237/98 is accordingly rejected.



(Smt. Lakshmi Swaminathan)
Member(J)

'SRD'