CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

RA No. 46/95
in
O.A. 232/94,

and

R.A. No. 30/95
in
O.A. No. 231/94

New Delhi this the 24th day of August, 1995.

Hon'ble Shri N.V. Krishnan, Vice Chairman(A).

Hon'ble Dr. A. Vedavalli, Member(J).

RA 46/95

A.S. Bisht,
S/o late Shri R.S. Bisht,
R/o 302, I.T. Colony,
Pitam Pura,
Delhi. ..Review Applicant.

By Advocate Shri D.R. Gupta.

Versus

1. Chief Commissioner of Income-Tax,
C.R. Building,
New Delhi.

2. Dy. Commissioner of Income-Tax,
HQ Admn. II,
New Delhi. ..Respondents.

By Advocate Shri R.S. Aggarwal.

RA 30/95

1. Veer Singh
S/o Shri Fateh Singh,
R/o 275-II, I.T. Colony,
Pitam Pura,
Delhi-110034.

2. C.S. Rawat,
S/o Shri Inder Singh Rawat,
R/o 338-II, I.T. Colony,
Pitam Pura,
Delhi-110034. ..Review Applicants.

By Advocate Shri D.R. Gupta.

Versus

1. Chief Commissioner of Income-Tax,
C.R. Building,
New Delhi.

2. Dy. Commissioner of Income-Tax,
HQ. Admn. II,
New Delhi. ..Respondents.

By Advocate Shri R.S. Aggarwal.

ORDER (ORAL)

Hon'ble Shri N.V. Krishnan.

O.A. No. 231/94 and O.A. No. 232/94 were disposed of by a common order dated 5.12.1994. The O.As were dismissed. This order was passed in the presence of the counsel of both the parties.

2. The applicants in both the cases seek a review of the above order. It is pointed out that in para 4 of that order, the Bench has observed that though counter affidavits have been filed, no rejoinder affidavits have been filed, and that it has no option but to proceed on the assumption that the contents of the counter affidavits are correct.

3. It is pointed out in the Review Application that the applicants had filed M.As 3052/94 and 3053/94 in the respective O.As wherein they had requested for the production of certain relevant records and made a prayer that the applicants may be permitted to file the rejoinder to the counter reply after the record is produced by the respondents and inspected by the applicants. It is submitted that no order was passed on this request made in the M.As and it is for this reason that the rejoinder was not filed. The Tribunal, on the basis of this circumstance came to the conclusion that, by implication, the applicants could not rebut what has been stated in the counter affidavit.

4. We have heard the parties. The learned counsel for the respondents pointed out that, as a matter of fact, the Tribunal has referred to the M.As also in the order dated 5.12.1994. It was mentioned in the order that the M.As relate to production of certain documents and the Bench felt that it would be a sheer exercise in futility to send for the documents. Accordingly, the M.As were rejected.

5. In answer to our query whether the learned counsel for the applicants brought to the notice of the Tribunal that there was a further prayer in the MAs to grant permission to file rejoinder after perusing the records, it is pointed out by the learned counsel for the applicant that in para 2 of the RA it is mentioned that the attention of the Tribunal was drawn to the pending M.As.

6. We have considered the matter. No doubt, the Tribunal did consider the M.As and rejected them for the reasons mentioned in para 7 of the order. However, as the Tribunal felt that it would be a sheer exercise in futility to send for the documents, the applicants should have been given an opportunity to file a rejoinder after taking that decision. This was not done. In our view, this is an error apparent on the face of the record and accordingly the original order is liable to be recalled. We order accordingly.

7. Let the matter be placed before the appropriate Bench for final hearing of the O.As subject to part heard cases. R.As are disposed of accordingly.

24.8.95

(DR. A. VEDAVALLI)
MEMBER(J)

(N.V. KRISHNAN)
VICE CHAIRMAN(A)

'SRD'