

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH
NEW DELHI.

R.A.No.84/97

IN

O.A.No.1119/96

New Delhi: dated this the 6th day of ~~April~~^{May}, 1997.

HON'BLE MR.S.R.ADIGE, MEMBER(A)

HON'BLE DR.A.VEDAVALLI, MEMBER(J)

Shri R.Kapur,
S/o Late Shri R.S.Kapur,

Director General
(Special Investigation)
Income Tax (Retired)

R/o 70, Pashchimi Marg,
Vasant Vihar,

New Delhi - 110 057

.....Applicant.

(In person)

Versus

Director of Inspection,
Research, Statistics,
Publications and Public Relations
(Income Tax),

Mayur Bhawan,

6th Floor,

Behind Super Bazar,
Indira Chowk,

New Delhi - 110 001

..... Respondents.

(By Advocate: Shri R. S. Agarwal).

JUDGMENT

BY HON'BLE MR.S.R.ADIGE MEMBER(J).

Heard.

2. By judgment dated 29.8.91 in O A No.399/87, respondents(Dte. of Inspection, Income Tax & Dte. of Estates) were given liberty to make adjustments of excess recoveries made from applicant towards any amount due, or which may become due, against applicant for any period as per FR 45A (iv) (c) (ii) (8) and SR-317-8-22. The Hon'ble Supreme Court by their order dated 29.9.94 in Civil Appeal No.6342/94 (which applicant filed against that judgment) while

enhancing the rate of interest from 10% to 18% on the delayed release of DCRG observed

Of course this shall be without prejudice to the right of respondent to recover damages under FR 48-A (that should perhaps have read FR 45-A).

It bears notice that before the Hon'ble Supreme Court also the Director of Inspection, Income Tax as well as Director of Estates were respondents, even if as contended by applicant in the RA neither respondent entered appearance.

3. In O.A. No. 1119/96 respondent (Director of Inspection, Income Tax) has taken the stand that deduction of Rs. 64,507/- has been made as per advice of Dte. of Estates, as contained in their letter dated 23.11.94. That letter carries an enclosure which calculate the dues position as per Court's order dated 25.7.84 which totals Rs. 64,057/- in respect of the premises in question, and in the remarks column of that enclosure also, reference has been made to a Court order. As neither in their reply, nor during preliminary hearing was the Directorate of Inspection, Income Tax's counsel able to clarify which Court Orders were referred to, ^{or} ~~on~~ the basis of the calculations contained in that enclosure, we had considered it necessary that the Dte. of Estates be impleaded as a party to appear and explain the contents of that enclosure to us.

4. Applicant, during preliminary hearing of the OA as well as in the RA has adverted to his litigation with the Dte. of Estates, including orders passed under the P.P. (EUO) Act for recovery of Rs. 51,644/- which applicant claims was set aside by the District Judge on 12.1.1993 (copy of judgment not filed). As the Dte. of Inspection

28

Income Tax have taken the stand that they are acting pursuant to the instructions of the Dte. of Estates dated 23.11.94; and the enclosure appended with that letter refers to various dues claimed by Dte. of Estates pursuant to Court orders, and the applicant himself has separately been litigating with the Dte. of Estates in the Court of the Estates Officer under the P.P. (EUO) Act and before the District Judge, manifestly it is in our view, certainly necessary to hear the Dte. of Estates, so that their version is also before us. While doing so, we are in no way offending Sec. 11 CPC upon which applicant places reliance, because we do not intend to try a suit which has already been adjudicated upon. Our desire is to ascertain the version of the Dte. of Estates also so that the entire factual position is before us, because we are not bound to accept the contention of the applicant alone in respect of that factual position - the Dte. of Inspection Income Tax having informed us that they are only acting as per instructions of Dte. of Estates.

5. For the above reasons, we are unable to hold that the grounds taken by applicant in the RA bring our order dated 14.2.97 within the scope and ambit of Section 22(3)(F) A.T. Act read with Order 47 Rule 1 CPC under which alone any judgment/order/decision of the Tribunal can be reviewed.

6. The R.A. is rejected.

A. Veda Valli
(Dr. A. VEDAVALLI)
Member (J)

S. R. Adige
(S. R. ADIGE)
Member (A)

/Ug/