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Central Administrative Tribunal, Principal Bench, New Delhi

O.A.No.1045/2004

Hon'ble Mr.Justice V.S. Aggarwal, Chairman
Hon'ble Mr.S.A. Singh, Member(A)

New Delhi, this the 11th day of October, 2004

S.N. Bhargava,
S/o Shri J.N. Bhargava,
Chief Commissioner of Income Tax (Retd.), Aged 61 years
304, Fancy Society,
19, Vasundhara Enclave,
Delhi-96

....Applicant

(Appeared in person)

Versus

1. Union of India,
Through the Secretary,
Ministry of Finance,
North Block,
New Delhi
2. Chief Commissioner of Income Tax ,
C.R. Building, New Delhi.
3. Zonal Accounts Officer,
Central Board of Direct Taxes,
N-Block, Vikas Bhawan,
New Delhi.
4. Zonal Accounts Officer,
CBDT, Bhopal

....Respondents

(By Advocate: Shri V.P. Uppal)

Order(Oral)

Justice V.S. Aggarwal, Chairman

By virtue of the present application, the applicant seeks quashing of the order of 8.1.2004 and also the order of 14.11.2003 besides certain earlier orders. He seeks that respondents should reimburse the LTC amount of Rs.63,460/- with interest and penal interest should be awarded to him for withholding the amount illegally.



2. The petition has been contested.

3. During the course of submissions, the applicant raised various pleas to assail the impugned order dated 8.1.2004. We are not delving into them because the applicant urged that while passing the impugned order, the principles of natural justice have been ignored. No opportunity of hearing has been given nor any show cause notice was served before passing the said order.

4. The principle of natural justice is well settled. When an order affects civil rights of the other person, it should only be passed after giving him a notice to show cause and considering his reply in accordance with law.


5. Admittedly, in the present case, no notice to show cause has been served on the applicant. When no notice has been served and a sum of Rs.63,460/- which was of LTC amount and House Building Advance has been deducted with interest, it is in the fitness of things that notice to show cause should have been issued to the applicant and thereafter considering his reply, the proper order which should be a speaking order should have been passed.


6. The applicant states that he has since superannuated on 30.9.2002 and, therefore, the decision should be taken at the earliest because his dues have been withheld.

7. Keeping in view the aforesaid, we quash the impugned order of 8.1.2004 and direct that a notice of show cause should be served ^{if deemed proper} on the applicant preferably within two weeks from the receipt of the certified copy of the present order. The applicant would submit his reply thereto within two

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weeks and a decision thereafter should be taken by the respondents within two months considering the said reply including the applicant's prayer for House Building Advance, with penal interest. We make it clear that nothing said herein is an expression of opinion on the merits of the matter and pertaining to the other pleas of the applicant. O.A. is disposed of.


(S.A. Singh)
Member(A)


(V.S. Aggarwal)
Chairman

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