

IN THE

TRAL ADMINISTRATIVE TRIBUNAL
CIPAL BENCH NEW DELHI

(2)

O.A.No. 927/92

Date of Decision: 10-04-92

K. Ramesh

.. Applicant(s)

Shri K.N.Balagopal

.. Counsel for the applicants

Vs

Union of India through the .. Respondents
Secretary, Department of
Revenue, Ministry of Finance and others
None for respondents .. Counsel for respondent(s)

CORAM

Hon'ble Mr.S.P.Mukerji - Vice Chairman

Hon'ble Mr. T.S.Oberoi -- Member(J)

1. Whether Reporters of local papers may be allowed to see the Judgment?
2. To be referred to the Reporter or not?

JUDGMENT

(Delivered by Hon'ble Mr.S.P.Mukerji, Vice Chairman)

In this application received on 26.3.92, the applicant an Income-Tax Officer has challenged the disciplinary proceedings pending against him ^{arising} ~~assuming~~ out of some order passed by him on an income-tax case. From the application it appears that while he was working as Income-Tax Officer in Bombay he had recommended re-opening of the assessment of a Diamond Exporter for the year 1981-82 and 1982-83 under ~~Sec.~~ 263 of the Income-Tax Act. The assessee applied on 31.3.86 for having his case assessed under ^{the} Amnesty scheme and the applicant had passed orders under the said scheme on 30.5.86. This order was set aside by the Commissioner of Income-Tax on 3.3.87 under Section 263 of the Income-Tax

(2)

(3)

Act. The case was remanded back to the Assistant Commissioner, Income-Tax for reassessment but in appeal the Commissioner of Income-Tax deleted the addition made by the Assistant Commissioner on 25.1.90. The powers exercised by the Commissioner of Income-Tax under Section 263 of the Income-Tax Act was set aside in favour of the assessee on 25.11.91. However, in the meantime on 20.6.88 a memo was served on the petitioner seeking his explanation on the order passed by him under the Amnesty scheme. The applicant replied and requested the Vigilence authorities to examine the statement of the CBI. Despite this the applicant was charge-sheeted on 30.10.89 and the case is still pending. The applicant has challenged the disciplinary proceedings on the ground of delay ~~that~~ as also on the basis ~~by~~ ^{that} the appellate order was passed by the Income-Tax Appellate Tribunal dated 25.11.91 at Annexure-B ~~setting~~ ⁱⁿ ~~as~~ aside the order of the Commissioner of Income-Tax under Section 263 of the Income-Tax Act.

2. Having perused the records we are satisfied that no judicial intervention at this stage is necessary as substantial points of law and facts are involved in the conduct of the disciplinary proceedings which are underway. The order of the Income-Tax Appellate Tribunal is also ~~based~~ ^{based} ~~on~~ ⁱⁿ technical consideration and does not per se exonerate the applicant from suspicion and doubts.

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(X)

3. In the circumstances, we see no force in the application and dismiss the same under Section 19(3) of the Administrative Tribunals Act. There will be no order as to costs.

Deb 10.4.92

(T.S. OBEROI)
MEMBER (JUDICIAL)

S.P. Mukerji 10/4/92

(S.P. MUKERJI)
VICE CHAIRMAN

10-04-92

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