

RESERVED

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**ALLAHABAD BENCH**  
**ALLAHABAD**

Dated : This the 15<sup>th</sup> day of January 2009.

**Original Application No. 914 of 2007**

**Hon'ble Mrs. Manjulika Gautam, Member (A)**

Waseem Arshad, S/o Sri Arshad Ali Azmi, R/o Type-J, Flat No. 6,  
Luxmanbagh, Income-tax Officer's Colony, Swarup Nagar, Kanpur.

... Applicant ✓

By Adv: Sri H. Kumar and Sri J.J. Munir

**V E R S U S**

1. Union of India through Secretary, Ministry of Finance Department of Revenue, Central Board of Direct Taxes, Govt. of India, New Delhi.
2. Chief Commissioner of Income Tax, Kanpur.
3. Director General of Income Tax (Vigilance), New Delhi.

... Respondents

By Adv: Sri S. Singh

**ORDER**

This OA has been filed by the applicant who was posted as Deputy Commissioner of Income Tax Circle 25 (1) Mumbai in the year 2000. One Mrs. Anita B. Sidhwani, an Income Tax assessee sold a flat in Bandra Mumbai for a declared sale consideration of Rs. 72 lacs vide agreement dated 05.06.2000 and thereafter applied for certification under Section 230 A (1) of the Income Tax Act on 14.06.2000. The applicant issued a show cause notice to the assessee on 08.12.2000 informing her that Rs. 72 lacs was inadequate consideration for the property and why the transfer should not be treated as void. The applicant on the same date issued another letter to the assessee to produce a probate of her will. These letters were



treated as an act of harassment by the assessee and she made a written complaint to Chief Commissioner of Income Tax on 29.01.2001 that undue delay was done in the matter of issue of certificate under Section 230 (A). The applicant was asked vide letter dated 17.04.2003 issued by Additional Direction Income Tax to give his comments on six points. The applicant was of the view that he had exercised bonafide powers while making the queries regarding the property but he was served with the charge sheet memo dated 17.11.2003 by the respondent No. 1. He submitted his reply dated 16.01.2004 and after due procedure vide impugned order dated 14.06.2006 the Disciplinary Authority respondent No. 1 after obtaining concurrence of UPSC imposed upon the applicant the penalty of withholding one increment for a period of one year without cumulative effect. The OA is filed in response to this order.

2. The applicant also preferred an appeal against the order on 30.08.2006 but later came to know that as the impugned order was passed in the name of the President of India, no appeal lay.

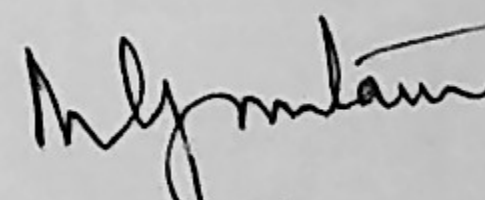
3. The learned counsel for the applicant has argued vehemently that in view of the facts stated by the applicant that the action taken by him was done in the interest of Revenue, the impugned order which he called a perverse order was passed by the Disciplinary Authority. He has also laid stress on the fact that subsequently the case of Mrs. Sidhwani was taken up for scrutiny.

4. The case of the respondents, however, is that under the Provision of Section 230 (A) of the Income Tax Act, the duty of the applicant was to ensure that the assessed has paid all liability under the Income Tax Act,



and that all arrangements have been made for the payment in the transaction. In the case of Mrs. Sidhwani there was only a liability of Rs. 9,409/- which she was willing to pay. It was not required from the applicant to adjudicate on the validity of the transfer or the probate of the will. As per rules a decision on an application under Section 230 (A) of the Income Tax Act has to be taken within 60 days, whereas the applicant kept the matter pending for 230 days. At the same time no mala fide intention is apparent but the rules have been violated by the applicant. The view held by the Disciplinary Authority is that the applicant had at no time demanded illegal gratification or showed any mala fide intention but showed scant regard for law and procedure and exercised powers beyond his jurisdiction. Accordingly, after taking the advise from the UPSC the punishment of withholding one year's increment without cumulative effect has been awarded.

5. Having heard counsel for the parties and perused the material on file I am of the opinion that the procedure followed by the respondents has been as per rules and law and reasonable opportunity has been accorded to the applicant to make his submission. Therefore there seems to be no reason for interfering in the matter. The OA is accordingly dismissed. No order as to costs.

  
Member (A)

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