

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

3

C.A.7/74/89 in

~~O.A.No.~~ /O.A./110/88

~~T.A.No.~~

DATE OF DECISION 07/10/1992

Shri A.D.Makwana

Petitioner

Mr.M.R.Anand

Advocate for the Petitioner(s)

Versus

Union of India & others

Respondent

Mr.R.P.Bhatt

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. N.V.Krishnan
Vice Chairman

The Hon'ble Mr. R.C.Bhatt
Member (J)

1. Whether Reporters of local papers may be allowed to see the Judgement ? ✓
2. To be referred to the Reporter or not ? >
3. Whether their Lordships wish to see the fair copy of the Judgement ? >
4. Whether it needs to be circulated to other Benches of the Tribunal ? >

.....2.....

Ambalal D. Makwana,
Income Tax Officer,
Circle III, Ward -B,
C.U. Shah Building,
Ashram Road,
Ahmedabad .
(Advocate : Mr. M. R. Anand)

W

.....Applicant

VERSUS

1. Union of India,
Notice to be served through
the Secretary, Ministry of Finance,
Central Secretariate,
New Delhi.
2. Chief Commissioner of
Income - tax (Gujarat),
Income - tax Officer,
Ashram Road,
Ahmedabad-9.

respondents

(Advocate : Mr. R. P. Bhatt)

ORAL ORDER

C.A./74/89 in

O.A./110/88

Date : 07/10/1992

Per : Hon'ble Mr. N. V. Krishnan
Vice Chairman

The applicant has filed this
application to take action against the respondents
under the Contempt of Court Act, for their failure

to comply with the direction given in the order dated 19/11/1988 in O.A./110/88. The Original Application related to a representation regarding the adverse remarks communicated to the applicant. It was disposed of with the following direction.

" To the authority^x which is empowered and which is higher than the Commissioner of Income Tax is remitted the case to dispose of the representation made by the petitioner against impugned communication of adverse remarks and in doing so the principles laid down in the judgments cited to the extent applicable be borne in mind by the respondent authorities. We direct that the orders disposing of the representation by the competent authority be passed within three months of the date of this order. The adverse remarks communicated to the petitioner ^x be not taken into account until the disposal of the representation. With this observation and direction the case is disposed of.

2. The applicant's representation was disposed of by the Annexure A/2 ^x letter dated 30/06/1989. The applicant requested on 16/10/1989, the second respondent, the Chief Commissioner Income Tax, Ahmedabad, to pass a speaking order according to the Tribunal's direction. The applicant was informed by the Annexure A/9 letter dated 23/10/1989 that there was no direction ^{of} the Tribunal, that ~~there~~ ^{is to} a speaking order, be passed. In these circumstances, this Contempt Application has been filed.

(10)

3. The respondents have filed a reply stating that the original order has been fully complied with. ^u An additional reply was filed on 12/04/1991 enclosing the note ^u dated 08/03/1989 of the Chief Commissioner of Income Tax, by which the second respondent disposed of the representation. That note certainly contained ^u more elaborate ~~withdrawn~~ ^{information} than the Annexure A/2 order communicate to the applicant.

4. It is now settled that ~~even if~~ a ~~xxx~~ speaking order may not be issued so long as the reasons for disposing of a representation in a particular manner ~~are~~ contained in the file. Therefore, we saw the original records. They did not contain any more ^u information ~~there~~ ^{than} has been disclosed already in these proceedings. There is no reference to the judgment of ~~the~~ Tribunal in the order dated 08/03/1989 of the second respondent. ^u ~~He~~ ^{Had}, he referred to that judgment, he would have found that he was to consider whether the judgments referred to therein ~~xxx~~ were applicable ^u and ~~relevant~~ ^{relevant}. There is no discussion on this subject. ^u We are, therefore, satisfied that the Original order has not been ~~xxxxxx~~ properly complied with, ~~xxx~~ though this does not appear to be wilful.

5. The learned counsel for the respondents submits that the Officer who passed the Annexure A/2 order and recorded the note dated 08/03/1989 is not at ~~xxx~~ present the Chief Commissioner of Income Tax, Perhaps, he may have retired. In the circumstances, we quash the Annexure A/2 letter dated 03/06/1989 issued to the applicant and direct the Officer now working as the Chief Commissioner of Income Tax, to consider the representation of the applicant ^u ~~drawn~~ ^{afresh} strictly

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CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD.

Cont. Appl.
No. 10.A./T.A./ 74 /1989. in OA/110

Shri D.D. Mukawane

Applicant(s).

Versus

Mr. M.R. Dhand

Adv. for the
petitioner(s).

Union of India & Ors.

Respondent(s)

Mr. R.P. Bhatt

Adv. for the
Respondent(s).

NO. DATE.

ORDERS.

Cont. Appl.

(Copy served)

22/1/90 F.O. *DC, AO
Answer
14/1/90*

7/2 F.O. RPAD record from Resp no 2 (2/2/90)

26/2/90 F.O. *DC AO*

9/3/90 F.O. *DC AO*

~~22/3/90 F.O.~~ *DC AO*

3/4/90 F.O. *DC AO*

20/3/81 F.O. *DC AO*

DC AO

4/4/91

20/4 F.O.

*B.
Order of
Honble V.C.*

SR.NO.	DATE.	ORDERS.
	19/4	Reply filed by Mr. R.P. Bharti advoc. for respondent -
	11/06/91	Go
	13/7	Go
	20/6	Reply on affidavit filed by Mr. R.P. Bharti advoc. for appo.
	28/7	Go

Cont.Appln.No.74/89

in

OA/110/88

(9)


Coram : Hon'ble Mr. P.H. Trivedi : Vice Chairman

22/1/1990

Heard Mr.M.R.Anand, learned advocate for the petitioner, who states that he is informed that a DPC will meet in a very short period and if the adverse remarks retained on the record of the officer is considered by it, the petitioner's chance of promotion will be adversely affected. The petitioner has not been able to get any redressal from the departmental authorities in pursuance of the observations made by the Tribunal in its judgment of 9/12/88. Mr.M.R.Bhatt for Mr.R.P.Bhatt, learned advocate for the respondents stated that the fact that the remarks have been suitably modified shows there is an application of mind, that there is neither ~~retention~~ ^{deletion} nor requirement to pass speaking order of the disposal of the representation and that the judgment of the Tribunal referred to did not require to the respondents to give any such speaking order. For these reasons it is clear that there is no contempt. After hearing the learned advocates, the respondents are directed to file their reply on why a notice should not be issued for contempt giving details of the manner in which ⁱⁿ the implementation of the Court's observations have been ^{Complied with} carried out. The petitioner had been protected in terms of the observation of the Tribunal in the order dated 9/12/1988. In the light of the apprehension of the petitioner that the DPC on considering the adverse remarks retained may cause any adverse consequence to the petitioner, It is brought to the pointed attention of the respondents that until this Tribunal is satisfied that the petitioner's representation

: 2 :

has been disposed of in accordance with the directions and observations in the judgment, There is basis for the apprehension of the petitioner and the respondents should keep this aspect in view before any decision of such a nature is taken by them. The case be posted on 7/2/1990 for orders.


(P.H.Trivedi)
Vice Chairman

a.a.bhatt

C.A./74/89

in

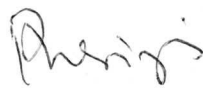
O.A./110/88



Coram : Hon'ble Mr. P.H. Trivedi : Vice Chairman

7/2/1990

Mr.M.R.Bhatt for Mr.R.P.Bhatt, learned
advocate for the respondents files written reply.
Be taken on record. Learned advocate for the petitioner is
allowed two weeks time to file rejoinder. The case is
adjourned. Registry to post the case accordingly.


(P.H.Trivedi)
Vice Chairman

a.a.bhatt

Cont.Appln.No.74/89

in

O.A./110/88

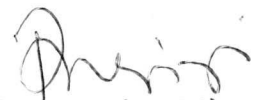


Coram : Hon'ble Mr. P.H. Trivedi

: Vice Chairman

26/2/1990

Mr.Anil Raval for Mr.M.R.Anand, learned advocate for the petitioner files his rejoinder, the same may be taken on record. Mr.M.R.Bhatt for Mr.R.P.Bhatt, learned advocates for the respondents present. Mr.Anil Raval requests for ^{one week's} time. Allowed. The case is adjourned. Registry to fix the case for orders.



(P.H.Trivedi)
Vice Chairman

a.a.bhatt

C.A./74/89

in

O.A./110/88



CORAM : Hon'ble Mr. P.H. Trivedi .. Vice Chairman

9.3.1990

Mr. N.S. Shevde, for Mr. R.P. Bhatt, learned advocate for the respondents requests for time. Mr. Anil Raval for Mr. M.R. Anand, learned advocate for the petitioner has no objection. Allowed. Registry to post the case accordingly.

A handwritten signature, likely of P.H. Trivedi, written in cursive.

(P H Trivedi)
Vice Chairman

*Mogera

C.A./74/89

in

O.A./110/88

CORAM : Hon'ble Mr. P.H. Trivedi .. Vice Chairman

Hon'ble Mr. A.V. Haridasan.. Judicial Member

3.4.1990

Neither party nor its advocate present. The
case is adjourned.

(A V Haridasan)
Judicial Member

(P H Trivedi)
Vice Chairman

*Mogera

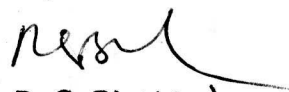
C.A./74/89
in
O.A./110/89


CORAM : Hon'ble Mr. P.H. Trivedi
Hon'ble Mr. R.C. Bhatt

.. Vice Chairman
.. Judicial Member

20.3.1991

Neither petitioner nor advocate for the petitioner
and respondents present. The case be posted after 15 days.


(R C Bhatt)
Judicial Member


(P H Trivedi)
Vice Chairman

*Mogera