

# CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

**O.A. NO.** 233/1989

~~TAX NO.~~

DATE OF DECISION 14-6-1994

Shri V.S.Mehta, Petitioner

Mr. Y.N. Oza, Advocate for the Petitioner (s)

Versus

Union of India & Ors. Respondent s

Mr. Akil Kureshi, Advocate for the Respondent (s)



CORAM

The Hon'ble Mr. K. Ramamoorthy, Admn. Member.

The Hon'ble Mr. Dr. R.K.Sayena, Judicial Member.

*True Copy  
Y.N. Oza  
Advocate*

Shri V.S.Mehta,  
Ex-Inspector of Central Excise,  
Ahmedabad.

.... Applicant.

Versus.

1. Union of India,  
Notice to be served through  
Secretary, Ministry of  
Finance, Revenue Department,  
North Block,  
New Delhi - 1.
2. Shri S.K. Kohli, or  
his successor in office,  
Collector of Central Excise & Customs,  
Ahmedabad Collectorate,  
Customs House,  
Ahmedabad - 9.

..... Respondents.

Advocates: Mr. Y.N. Oza for the applicant.

Mr. Akil Kureshi for the respondents.

ORAL ORDER

O.A.No. 233/1989

Date: 14-6-1994.



Per: Hon'ble Mr.K.Ramamcorthy, Admn. Member.

Neither the applicant nor his counsel  
present. The case is dismissed for default.

Sd-

(Dr.R.K.Saxena)  
Member (J)

Sd-

(K.Ramamcorthy)  
Member (A)

Prepared by : *KG Bhatt*  
17/6/94  
Compared by :  
CC/7

etc.

*CP Shetty*  
Order (A)  
Central Administrative Tribunal  
Ahmedabad Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
AHMEDABAD BENCH, AHMEDABAD

O.A./T.A./M.A./R.A./C.A. No. 536 / 94 in MA / 535 / 94 in OA / 233 / 89

MR. V. S. MONTG  
APPLICANT (S)

MR. Y. N. D38  
COUNSEL

VERSUS

U. D. I. 2 00  
RESPONDENT (S)

MR. ABHI KULLESHI  
COUNSEL

Date	Office Report	ORDER
	Condonation of Delay	$\frac{D10}{26-10-84}$

in. D. No. 445/94

Filed by Mr. Y.N. Ozga  
Learned Advocate for Petitioner  
with second set & ...  
copies copy served, not served, to  
other side

29/7/94 Dy. Registrar C.A.T.(I)  
Ahmed Bench

Before the Central Administrative Tribunal  
Ahmedabad Bench

Ahmedabad  
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D/O  
26/7/94

Misc. Application No. 536 of 1994  
In  
Misc. Application No. 535 of 1994  
In  
O.A. No. 233 of 1989

V.S.Mehta,  
Ex-Inspector of Central Excise,  
Ahmedabad. ... Applicant

Versus

(1) Union of India,  
To be served through-  
Secretary,  
Ministry of Finance,  
Revenue Department,  
North Block,  
New Delhi-1.

Copy to  
Shri A.S. Qureshi  
Adv.

Received on  
28/7/94  
at

(2) Shri S.K.Kohil, Or

his successor in office,  
Collector of Central Excise & Customs,  
Customs House,  
Ahmedabad-9.

... Respondents

Most Respectfully Sheweth:-

1. That the Misc.Application has been filed in O.A.No.233 of 1989 for restoration of the O.A. However, despite the best efforts at the end of the advocate concerned, the advocate for the applicant could not get a copy of the order dismissing the matter for default.
2. That the aforesaid O.A.has been dismissed for default on 14.6.1994 and immediately on the very day, the advocate for the applicant approached for restoration of the matter. However, the advocate was informed that since the order has already been signed, a separate application for restoration will be required to be filed. The advocate for the applicant instructed his Clerk to obtain a copy of the order next day. But after 2 to 3 attempts made by the clerk of the advocate, the department of the Tribunal informed that ~~xx~~ as the copy of the order has

-3-

been sent by registered post which appears to have been sent on 28-6-1994, no copy can be given to him. The advocate for the applicant also insisted to get a copy. However, the Clerk of the advocate could not get the copy and, therefore, the advocate for the applicant could not file M.A. earlier despite clearcut knowledge about the matter having been dismissed for default.

3. Thereafter, the advocate for the applicant awaited for the copy of the order which received somewhere in the 2nd week of July 1994. However, the advocate for the applicant fell sick and he could not attend nor his colleagues could attend because it was not known to them for about 10 days and, therefore, there has been delay of 14 days in filing the M.A. for restoration of O.A.

4. Thus, it is a bonafide mistake. Otherwise, in this very matter, the advocate for the applicant has always remained present which can be learnt by asking the other side. Unfortunately on 14-6-1994, the advocate for the applicant could not learn that the matter was listed for hearing and could not remain present. Therefore, the interest of justice requires that the delay of 14 days be condoned.

5. It is submitted that despite the best efforts

made by the advocate for the applicant,  
the applicant's address and whereabouts is  
not known and, therefore, the filing of affi-  
davit and his signature may kindly be dispensed  
with.

6. The applicant, therefore, prays that-

(a) Be pleased to condone the delay of 14 days  
occurred in filing the M.A. for restoration  
of O.A. 233 of 1989;

(b) be pleased *dispense with verification  
or affidavit.*

And for this act of kindness the applicant shall  
as in duty bound for ever pray.

Ahmedabad,  
July 29, 1994

*JS* (Yatin N. Oza)  
Advocate for the applicant

Drafted by:

JS Yadav, Advocate

Submitted.

Application has been scrutinized and <sup>not</sup> found to be in order. Affidavit  
not filed. Advocate has prayed in the application to dispense with filing  
of affidavit. If approved, we may give regular No. 2 place before Hon'ble  
Bench for necessary order.

*30-09-94*

*3/10*  
(S.G.)

DRG)