

(3)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 397 of 1990.
~~Tax No.~~

DATE OF DECISION 12.2.1992

Jhala Dilawarsinh Dansinhji Petitioner

Mr. D.G. Trivedi for
Mr. M.B. Buch Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent

Mr. B.B. Naik Advocate for the Respondent(s)

CORAM :

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

The Hon'ble Mr.

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 ? ✗

Jhala Dilawarsinh Dansinhji,
New LIG/522/Shakti Sadan,
Anandnagar,
Bhavnagar.

.. Applicant

Versus

1. Union of India,
Through :
The Secretary,
Central Board of Excise
and Customs,
North Block,
New Delhi.

2. Collector of Central
Excise & Customs,
Centre Point Bldg.,
Karansinhji Road,
Nr. City Guest House,
Rajkot.

.. Respondents

O.A. No. 397 of 1990

ORAL - JUDGMENT

Present : Mr. D.G. Trivedi for Mr. M.B. Buch
learned advocate for the applicant
present;

None present for the respondents.

Dated : 12.2.1992

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

The applicant, Inspector of Central Excise,
Out Sector, Amreli (Gujarat), has filed this application
under section 19 of the Administrative Tribunals Act
against the impugned order of the Collector C & C.E.
Rajkot rejecting the representation made by the
applicant against the adverse remarks made against
the applicant and the rejection of the appeal of the
applicant by the Central Board of Excise & Customs.
Annexure A-1 is the communication dt. 19th July, 1990
by the Deputy Collector (P&V) Customs & Central Excise,

(5)

-- 3 --

Rajkot to the applicant informing the applicant that his appeal dt. 11th April, 1989 addressed to the Secretary, Central Board of Excise & Customs has been rejected by the Board as the Board did not find any merit in the representation. Learned advocate for the applicant has submitted before me that except this communication Annexure A-1 no copy of the order passed by the Board was annexed with that communication. He rightly submitted that apart from the fact that even an executive order passed by the officer must be a speaking ^{in order}, the fact that even a copy of the order is not forwarded to the applicant, shows total non-application of mind by the authorities concerned. He invited my attention to Annexure A-10 dt. 27th September, 1988 which is a letter by Deputy Collector (P & V) that the Collector had rejected the representation of the applicant dt. 31st May, 1988 and 1st - August, 1988 against adverse remarks communicated to the applicant vide office letter dt. 28th March, 1988. He submitted that no copy of the order passed by the Collector had been sent to the applicant but only this letter was sent to the applicant. He, therefore, submitted that apart from the fact that there should be a speaking order by the authority concerned, no order has been served to the applicant. He, therefore, rightly submitted that there is total non-application of mind by the authorities concerned

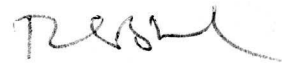
.....4..

against his representation. He submitted that the applicant was not able to know as to what was the reason for rejecting the representation of the applicant by the Collector and what was the reason for rejecting the appeal by the Board. He, therefore, submitted that the said orders should be quashed.

The adverse remarks passed for the year 1987 in the C.R. of the applicant is produced at Annexure A/6-1 dt. 20th March, 1988. He submitted that even these adverse remarks were also not proper. At this stage, the important question which arises for my consideration is as to whether the Collector had applied his mind to the representation made by the applicant against adverse remarks and whether the Board had also applied its mind before rejecting the appeal of the applicant. Learned advocate for the applicant submitted that no copy of the order passed by the Collector or by the Board had been sent to the applicant and what was sent to him was only the communication of the result and nothing more. In my opinion, this is not proper, legal and just on the part of the authorities and therefore, the said orders shall have to be quashed and the Collector, Central Excise & Customs, Rajkot shall have to be directed to pass a speaking order on the representation made by the applicant and to communicate the speaking order to the applicant also. Hence the following order.

ORDER

The application is partially allowed. The orders passed by the Board in Appeal of the applicant vide Annexure A and the order passed by the Collector communication of which is Annexure A-6/4 letter ^{are} quashed. The Collector of Central Excise & Customs, Rajkot i.e. respondent No. 2 should pass a speaking order against the representation filed by the applicant and should communicate the speaking order to the applicant. If the applicant is dis-satisfied with the order that may be passed by the Collector concerned, he would be entitled to take further proceeding according to law. No orders as to cost. Application is disposed of.



(R C Bhatt)
Member(J)

*Mogera