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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O. A. No.260/00640 of 2015

Cuttack this the 30th day of September, 2015

CORAM

HON'BLE MR. A.K. PATNAIK, MEMBER (J)
HON'BLE MR. R.C.MISRA, MEMBER (A)

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Dilip Kumar Mallick, aged about 41 years, Inspector of Income Tax, S/o. Late Gouranga Charan Mallick, O/o the Joint Commissioner of Income Tax, (ITAT), Aayakar Bhawan, Shelter Chhak, Cuttack, Dist-Cuttack, Odisha, Permanent resident of Bidyadarpur, P.O. Nuapada, Via-Tarapur, P.S-Tritol, Dist-Jagatsinghpur, Odisha.

...Applicant

(Advocates: M/s. P.C. Sethi, S. Patnaik)

VERSUS

Union of India represented through

1. Secretary (Revenue), Ministry of Finance, North Block, New Delhi-1.
2. Central Board of Direct Taxes represented through its Chairman, Ministry of Finance, Department of Revenue, North Block, New Delhi-1.
3. The Principal Chief Commissioner of Income Tax, Aayakar Bhawan Rajaswa Vihar, Bhubaneswar-7, Dist-Khordha, Odisha.
4. The Commissioner of Income Tax (ITAT & Audit), Aayakar Bhawan Rajaswa Vihar, Bhubaneswar-7, Dist-Khordha, Odisha.
5. The Joint Commissioner of Income Tax (ITAT), Aayakar Bhawan Shelter Chhak, Cuttack, Odisha.
6. The Dy. Commissioner of Income Tax (Hqs.) (Admn. & Vig.), O/o Principal Chief Commissioner of Income Tax, Aayakar Bhawan Rajaswa Vihar, Bhubaneswar-7, Dist-Khordha, Odisha.
7. The Addl. Commissioner of Income Tax (Hqs.) (Admn. & Vig.), O/o- Principal Chief Commissioner of Income Tax (CCA), Aayakar Bhawan Rajaswa Vihar, Bhubaneswar-7, Dist-Khordha, Odisha.

... Respondents

(Advocate: Mr. B.P. Nayak)

ORDER (ORAL)

A.K.PATNAIK, MEMBER (J):

Heard Mr. P.C. Sethi, Ld. Counsel appearing for the Applicant and Mr. B.P. Nayak, Ld. ACGSC appearing for the Respondents, on whom a copy of this O.A. has already been served, and perused the materials placed on record.

[Signature]

2. The facts of the case are that the applicant is presently working as Inspector of Income Tax. He has filed this O.A. under Section 19 of the Administrative Tribunal Act, 1985 inter alia challenging the memorandum issued by Respondent No.5 on 09.09.2015 (Annexure-A/22), as according to him, the matter which has given rise to issuance of the said Memorandum is the point of consideration before the Respondent No.2 vide his representation dated 03.09.2015 (Annexure-A/20). Therefore, it has been submitted that the memorandum so issued is contrary to law. Mr. Sethi, Ld. Counsel for the applicant submitted that till date the said representation is pending for consideration. In view of this, applicant has filed this Original Application with the following prayers:-

- (i) To declare the memorandum issued by the Respondent No.5 under Annexure-A/22 is premature and illegal.
- (ii) To declare the issuance of memorandum by the Respondent No.5 under Annexure-A/22 is illegal being issued in violation to the order of the Respondent No.3 under Annexure-A/9.
- (iii) To declare the issuance of memorandum by the Respondent No.5 under Annexure-A/22 is illegal when the impugned issue is pending before the Respondent No.4.
- (iv) To declare the issuance of memorandum by the Respondent No.5 under Annexure-A/22 is illegal when the impugned issue is pending before the Respondent No.2.
- (v) To declare the issuance of memorandum by the Respondent No.5 under Annexure-A/22 is illegal as the necessary witness has not been listed in the impugned memorandum.
- (vi) To declare the issuance of memorandum by the Respondent No.5 under Annexure-A/22 is illegal as necessary documents that are material to the impugned case has not been listed.

3. Having considered the rival submission, we find that as the grievance of the applicant is pending before Respondent No.2, we do not feel it proper to keep this matter pending. Accordingly, we dispose of this O.A. by directing Respondent No.2 that if representation dated



03.09.2015 (Annexure-A/20) preferred by the applicant is still pending for consideration, Respondent No.2 is hereby directed to consider and dispose of the same as per Rules and communicate the result thereof to the applicant by way of a reasoned order within a period of three months from the date of receipt of copy of this order. However, we do not express any opinion on the merit of the matter and the points raised by the applicant in his representation are kept open for the authorities to consider the same as per rules, regulations and law in force. If, in the meantime, the said representation has already been disposed of, then the result thereof be communicated to the applicant within a period of four weeks' from the date of receipt of a copy of this order.

Though we are not staying the order dated 09.09.2015 (Annexure-A/22), we make it clear that till disposal of the representation, no further adverse action shall be taken against the applicant.

4. With the aforesaid observation and direction this O.A. is disposed of at the stage of admission itself. No costs.

5. On the prayer made by Mr. Sethi, Ld. Counsel for the applicants, copy of this order, along with paper books, be sent to Respondent No.2 by Speed Post at the cost of the applicant for which he undertakes to file the postal requisites by 05.10.2015.


(R.C.MISRA)
Member (Admn.)


(A.K.PATNAIK)
Member (Judicial)