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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O. A. NO. 857 OF 2013

Cuttack, this the 17th day of December, 2013

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HON'BLE MR. A.K. PATNAIK, MEMBER (JUDL.)

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Shri Ashok Ratilal Mahida, aged about 46 years,
S/o. Ratilal Mahijibhai Mahida,
At present: Qtr. No.-Type-V/01 (Old),
C.R. Colony, Rajaswa Vihar, Vani Vihar,
P.S. Sahidnagar, Bhubaneswar-751007, District: Khurda, Odisha
At present working as Additional Commissioner
Of Central Excise, Customs and Service Tax,
Bhubaneswar-I Commissionerat, O/o-the Chief Commissioner of
Central Excise, Customs and Service Tax, Central Revenue Building,
Rajaswa Vihar, Bhubaneswar, District: Khurda, PIN—751 007

.....Applicant

Advocate(s).... M/s. J.M. Pattnaik, C. Panigrahi

VERSUS

Union of India represented through

1. The Revenue Secretary,
Govt. of India, Ministry of Finance,
Department of Revenue, North Block, New Delhi.
2. The Under Secretary to Government of India,
Central Board of Excise and Customs,
Department of Revenue, Ministry of Finance,
Hudco Vishala Building, Bhikaji Cama Place, New Delhi.
3. The Director General of Vigilance and Chief Gigilance
Officer (CVO), Customs & Central Excise,
3rd Floor, Hotel Samrat, Kautilya Marg,
Chanakyapuri, New Delhi-110021.
4. Chief Commissioner of Central Excise,
Customs and Service Tax,
Central Revenue Building, Rajaswa Vihar,
Bhubaneswar, District: Khurda, PIN—751 007
5. Sri Kishan Singh, Inquiry Officer and Chief
Commissioner, Central Excise, Customs & Service Tax,
Vadodara Zone, Vadodara, Gujarat.
6. The Chairperson, Central Board of Excise & Customs,
Department of Revenue, Ministry of Finance, North Block,
New Delhi-110001

..... Respondents

Advocate(s)..... Ms. S. Mohapatra,

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ORDER (Oral)

A.K. PATNAIK, MEMBER (JUDL.)

The main grievance of the applicant in this OA is that the allegations which are the subject matter of the charge sheet dated 27.6.2008/Disciplinary Proceedings were at the first instance enquired into by a Committee set up by the Department under the chairmanship of Shri Sanjay Rathi, Joint Commissioner, Central Excise, Ahmedabad-II and (CBI enquiry who after making a detailed enquiry submitted its report/charge sheet before the appropriate Court of Law.) Though the said Committee Report and the charge sheet filed by the CBI were within the possession/knowledge of the Respondent-Department, the same could not be cited in the RUD by the Respondent- Department and further, though the applicant has specifically prayed before the IO to take into consideration the said report/documents, no heed was paid by the IO on the same. It has been stated by the applicant that no final order has been passed by the Disciplinary Authority after receipt of the report of the IO and also passed on the representation dated 19.10.2012 submitted by him on the above aspects to the Respondent No.6. He apprehends that the Disciplinary Authority may issue final order on the Disciplinary Authority without taking into consideration the points raised by him in the said representation dated 19.10.2012 and if it is done then he would be highly prejudiced. Hence in this OA, the prayers of the applicant are that to quash the charge sheet dated 27.6.2008, report of the IO communicated vide letter dated 07.08.2012, copy of letter of rejection dated 11.9.2012 and/or to direct the Respondents to re-enquiry into the matter afresh by giving reasonable opportunity in compliance with principles of natural justice to the applicant to put forth his

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grievance taking into consideration the DBI charge sheet as well as Rath Committee Report.

2. Copy of this OA has been served on Ms.S.Mohapatra, Learned Additional CGSC for the Union of India. Ms. Mohapatra has fairly submitted that he has no instruction about the present status of the Disciplinary Proceedings initiated against the applicant and if any such representation dated 19.10.2012 has been preferred by the applicant, then the status thereof. However, she has submitted that according to the applicant no final order has been passed in the Disciplinary Proceedings and, therefore, this OA at this stage is not at all maintainable. By reiterating the stand taken in the OA, Mr.J.M.Patnaik, Learned Counsel for the Applicant submitted that once final order is issued in the DA, the points raised by him in the OA would be redundant and if any punishment is imposed the same would be in gross violation of the principles of natural justice. Further contention of Mr.Patnaik is that the report of the Rath Committee and charge sheet filed by the CBI have cascading effect on the enquiry and had the same not been kept away by the Department and/or had the same been taken into consideration during the enquiry, the IO could not have reached the conclusion as has been reached in the report submitted to the DA.


3. Be that as it may, I find that the applicant has raised some grievance with regard to the initiation of disciplinary proceedings and conducting the enquiry by the IO and therefore, natural justice demands/he has a right to know the result thereof so that he cannot complain in future that his grievance was not considered which is against the principles of

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natural justice/provisions enshrined in Article 14 & 16 of the Constitution of India.

4. In view of the above, without expressing any opinion on the merit of the matter, this OA is disposed of with direction to the Respondent No.6 to consider the representation dated 19.10.2012, if the same has been preferred by the applicant and is still pending with him and communicate the result thereof, in a well reasoned order to the Applicant within a period of 30(thirty) days from the date of receipt of copy of this order. Until then the Respondents are directed not to pass any final order in the Disciplinary Proceedings initiated against the Applicant. Ordered accordingly.

5. As prayed for by Mr.J.M.Patnaik, Learned Counsel for the Applicant, copy of this order be sent to Respondent No.6, by speed post, for compliance, at the cost of the applicant; for which Mr.Patnaik, undertakes for furnish the postal requisite within two days hence.


(A.K.Patnaik)
Member (Judicial)