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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O. A. NO. 260/000083 OF 2014
Cuttack, this the 18th day of February, 2014

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

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Chandan Kumar Ghadei,
Aged about 45 years,
Son of Late Ram Chandra Ghadei,
A permanent resident of Village/GP/Town-Sananairi,
PS- Banpur, Dist- Khurda, Odisha
At present working as Inspector of Income Tax,
Office of the ITO, TDS, Cuttack.

.....Applicant

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

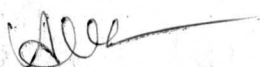
VERSUS

Union of India represented through

1. Secretary (Revenue),
Ministry of Finance, Department of Revenue,
Central Secretariat, New Delhi-110001.
2. Chairman,
Central Board of Direct Taxes,
Ministry of Finance, Department of Revenue,
North Block, New Delhi-110001.
3. Chief Commissioner of Income Tax,
Odisha Region, Ayakara Bhawan,
Bhubaneswar, Dist-Khurda.
4. Assistant Commissioner of Income Tax (Hqrs) (Admn.),
Office of the Chief Commissioner of Income Tax,
Ayakara Bhawan, Rajaswa Vihar,
Bhubaneswar- 751007.
5. Commissioner of Income Tax (TDS),
Ayakara Bhawan, Annex Building,
Rajaswa Vihar, Bhubaneswar- 751007.
6. ITO, TDS,
Office of the Commissioner of Income Tax,
Shelter Chhak, Cuttack.
7. Deputy Commissioner of Income Tax (PR&W),
Office of the Chief Commissioner of Income Tax,
Bhubaneswar.

..... Respondents

Advocate(s)..... Mr. P.R.J.Dash



ORDER (ORAL)A.K.PATNAIK, MEMBER (JUDL.):

Copy of this OA has been served on Mr. P.R.J.Dash, Ld. Addl. Central Govt. Standing Counsel appearing on behalf of the Respondents, who accepts notice for all the Respondents in this OA. Registry is directed to serve notice, in terms of sub rule 4 of Rule 11 of the CAT (Procedure) Rules, 1987 for onward transmission. Heard Mr. J.M.Pattnaik, Learned Counsel for the Applicant, and Mr. P.R.J.Dash, Ld. Addl. CGSC appearing for the Respondents, and perused the materials placed on record.

2. This O.A. has been filed by the applicant challenging the order imposing damage rate of Rs. 72, 447/- for occupying the quarters, in question, unauthorizedly. In this connection, Mr. Pattnaik, Ld. Counsel for the applicant, drew my attention to the representation/appeal dated 22.11.2013 preferred by the applicant and submitted that in response to the said representation orders have been communicated to the applicant vide order dated 20.01.2014 as well as 29.01.2014 rejecting the prayer made by him. On the other hand, Mr. P.R.J.Dash, Ld. Addl. Central Govt. Standing Counsel appearing on behalf of Respondents, seeks some time to obtain instruction.

3. Having considered the submissions, perused the records especially the representations submitted by the applicant vis-à-vis the order of rejection. I find that the applicant has raised many points in support of his relief but the Respondents turned down the prayer of the applicant in a cryptic order. Progress is achieved when there is good governance and good governance depends on how law is implemented. The word 'consider' is of




great significance. The dictionary meaning of the same is 'to think over' 'to regard as' or 'deem to be'. Hence there is a clear connotation to the effect that there must be active application of mind. In other words, the term 'consider' postulates consideration of all relevant aspects of a matter. Thus formation of opinion by the authority should reflect intense application of mind with reference to the points raised and material available on record. The order of the authority itself should reveal such application of mind. The object underlying the rules of natural justice is to prevent miscarriage of justice and secure fair play in action. The expanding horizon of the principles of natural justice provides for requirement to record reasons as it is now regarded as one of the principles of natural justice and it is trite law that even where the requirement to record reasons is expressly or by necessary implication dispensed with, the authority must record reasons for its decision (Ref. **S.N. Mukherjee v. Union of India**, AIR 1990 SC 1984). Further it is trite law that an order which is not valid from the beginning cannot be revalidated by the reason subsequently provided in the counter. Since in the instant case rejection of representation appears to be without any reason thereby meeting/answering all the points raised by the applicant in his representation I do not see any reason to keep this matter pending by way of inviting counter. Hence, without expressing any opinion on the merit of the matter, this OA is disposed of at this admission stage by quashing the order under Annexures-A/5 and A/6 and remitting the matter back to Respondent No.3 to consider the representation/appeal preferred by the applicant on 22.11.2013 and communicate the result thereof to the applicant by way of the reasoned and speaking order keeping in mind the rules and regulations in force within a period of 60 days from today, i.e. by



18.04.2014. It is further directed that no coercive action will be taken against the applicant so far as calculation of damage rate is concerned till 30.04.2014. No costs.

4. Copy of this order be transmitted to Respondent No. 3 by Speed Post at the cost of the applicant, for which Mr. Pattnaik, Ld. Counsel for the applicant, undertakes to file the postal requisites by 20.02.2014. Copy of this order be also made over to the Ld. Counsel appearing for both the sides.


(A.K.PATNAIK)
MEMBER(Judl.)

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