

By circulation

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH
LUCKNOW

(THIS THE 8th DAY OF May, 2012)

PRESENT:

HON'BLE MR. D.C. Lakha , MEMBER-A

Review Application no. 10/2012
In
ORIGINAL APPLICATION NO. 321 OF 2008

1. Union of India through Secretary, Ministry of Finance, New Delhi
2. Chief Commissioner of Income Tax, Lucknow.

.....Applicant

By Advocate: Shri Raghvendra Mishra

Versus

Sri Sanjeev Kumar, adult, son of Sri Shyam Lal resident of 9, Shahnajaf
Road, Near Sobha Publicity, Hazratganj, Lucknow.

..... Respondents

(By Circulation)
ORDER

(DELIVERED BY:- HON'BLE MR. D.C. Lakha , MEMBER-A

This Review application under section 22(3) (f) of the A.T. Act, 1985 has been preferred seeking review of the order dated 15.4.2011 passed in O.A. No. 321/2008 alongwith M.A. 970/2012 for condonation of delay in filing Review application.

2. The Review Application is considered under circulation rules as provided for under section 17 of the C.A.T (Procedure) Rules, 1987 to deal with such applications. The facts given in the Counter reply of the O.A. concerned are also reiterated in the Review application which need not be mentioned.

3. At the outset, the order under review was passed after hearing both the parties and the O.A. was allowed. The operative part of the order under review is as under:



"In view of the above observations, I am inclined to hold that in the light of temporary status having already been given vide letter dated 14.3.2008 can not be treated as withdrawn. The applicant is entitled to be regularized w.e.f. the date his juniors have been regularized vide order dated 30.7.2008. The subsequent list of seniority dated 22.8.2008 can only be treated as tentative and there is no need to set aside this list. The respondents are expected to include the name of the applicant at the appropriate place in this list and issue the final list. "

4. In the delay condonation application, the main reason for condoning the delay, is that the revisionist had to take the legal opinion from the Counsel and in order to prepare the Review application, the revisionist had to consume some time to procure certain documents.

5. It has been held by the Hon. High Court of Andhra Pradesh at Hyderabad in the case of **G. Narsimha Rao vs. Regional Joint Director of School Education and others** (2005 (2) ALT 469 that "the Administrative Tribunals Act and Rules made there under impliedly infer that the Tribunal will not have jurisdiction to condone the delay by taking aid and assistance of either Sub-section 21 of Act of the Act or section 29 (2) of the Limitation Act. Paras 13 and 14 of the judgment of Hon. High Court in the above case (supra) are relevant and accordingly, these two paras are reproduced below:


"13. Rule 19 is couched in negative and disables the person from seeking review under Section 22(e) (f) of the Act, in case review is not filed within 30 days of the order. However, in the Act nowhere it is stated the method or manner or time limit to file such review except Rule 19. In view of the same, the power of Tribunal to condone the delay under Section 21 of the Act is applicable only to the applications filed under section 19, but the same cannot be made applicable to the review sought under section 22(3)(f). Sub-section (1) of Section 22 puts an embargo on exercise of such power by the Tribunal, namely that the power of the Tribunal shall be guided by the principles of natural justice and of any rules made by the Central Government. In the absence of any provisions prescribed for condoning the delay either in the Act or in the Rules, the Tribunal will not have jurisdiction to condone the delay in taking aid and assistance of Section 5 of the Limitation Act on the premise that Limitation Act is made applicable in view of Sub-section (2) of Section 29 of the Limitation Act. "

"14. In the view we have taken, we answer the reference holding the Administrative Tribunals Act and Rules made there under are impliedly infer that the Tribunal will not have jurisdiction to



condone the delay by taking aid and assistance of either Sub-section 21 of Act of the Act of section 29 (2) of the Limitation Act."

6. I have also seen the grounds taken in support of the Review application which have already been taken in the Counter reply by the respondents and which were considered and taken in view while disposing of the matter leading to the order under review. In the case of Meera Bhanja (Smt.) vs. Nirmala Kumar Choudhury (Smt) reported in (1995) 1 SCC 170 it has been held by the Hon. Supreme Court that "the Review petition can be entertained only on the ground of error apparent on the face of record and not on any other ground. An error apparent on the face of record must be such an error which must strike one on mere looking at the record and would not require any long drawn process of reasoning on points where there may conceivably be two opinions. Re-appraisal of the entire evidence or error would amount to exercise of appellate jurisdiction which is not permissible" by way of review application. This is the spirit of order XLVII, Rule 1 of C.P.C. as has been held in this judgment of Hon. Supreme Court. Relying upon the judgment of Hon. Supreme Court, (supra) the Review application is not maintainable and sustainable even on merits. Hence the same is rejected.


Member (A)

s.a

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copy of order
dated 8-5-12
Bhup
14-5-12