

O.A.: 77/96

1/08.02.96

Hon'ble Mr. N.Sahu, Member (A)

.....

Shri D.P.Sinha, learned counsel for the applicant initiated the arguments in this case. This application is directed against Memo F.NO. CIT/Vig/II-3/94-95/628, dated 12th December, 1995, of the Commissioner of Income-Tax, Patna, issuing chargesheet against the applicant under Rule 14 of CCS (CCA) Rules, 1965, proposing enquiry for imposing major penalty. The applicant seeks relief of quashing the impugned chargesheet issued, as at Annexure-A/21. There are other reliefs claimed which are ancillary to the main relief. The applicant has also claimed an interim relief that the chargesheet issued to the applicant for disproportionate assets should be prime facie treated as groundless and illegal. ^{As the interim relief claimed is also the main relief} ~~It is appropriate, therefore,~~ to hear the respondents' counsel before admitting this case and considering the question of Interim Relief.

2. Shri J.N.Pandey, learned Sr. Standing Counsel will take notice through Shri S.K.Bariar, who is present in the Court. Two copies of the O.A. be served on Shri Bariar.

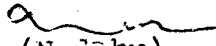
The case is listed for hearing on admission on 22.02.1996.

Let a copy of this order be handed over to the learned counsel for the parties.

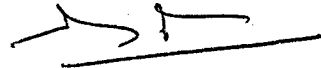
SKJ

2./ 29.2.96

Hon'ble Mr. K.D. Saha, Member (S)


(N.Sahu)
Member (A)

Adjourned to 15.4.96 for hearing on admission.



(K.D. Saha)
Member (A)

To be listed
on 18/3/96
as per order
of Hon'ble
Commissioner
of Income Tax
Patna
in file

3/18.3.1996

Hon'ble Mr. K.D.Saha, Member (A)

As prayed for by Shri J.N.Pandey, Sr.
Standing Counsel, four weeks time is allowed
to file reply to the show-cause on the question
of interim order. List this case on 22.4.1996 for
hearing on admission.


(K.D. Saha)
Member (A)

MPS.


4./ 22.4.96. Counsel for the applicant : Shri D.P. Sinha.
Counsel for the respondents: Shri J.N. Pandey.

Heard Shri D.P. Sinha, the learned counsel for
the applicant. He seeks two day's time. Shri J.N. Pandey
Sr. Standing Counsel also states that W/S in the matter
is ready and will be filed shortly. Let W/S be also
filed before that date so that it may be taken into
consideration. An advanced copy of the W/S should be
served on the learned counsel for the applicant. List
this case on 26.4.96 for admission.

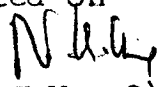
/CBS/

5/26.04.96

Counsel for the applicant : Shri D.P.Sinha.
Counsel for the respondents : None.


(N.K. Verma)
Member (A)

Shri D.P.Sinha, learned counsel for the applicant
states that the W/s in the matter has not been filed
as per the orders passed on 22.04.1996. He prays for
an adjournment. Let this matter be listed on
07.06.1996.


(N.K. Verma)
Member (A)


6./ 7.6.96.

Counsel for the applicant : Shri D.P. Sinha.

Counsel for the respondents: Shri R.K. Choubey.

Shri D.P. Sinha, the learned counsel for the applicant brings to my notice that W/S in the matter has not been filed in spite of repeated orders passed by this Bench on the previous occasion. Shri R.K. Choubey, the learned counsel for the respondents stated that W/S in the matter has been sent for vetting to the department on 19.4.96 and so far the same has not been received back. The attitude of the respondents is very clear by this kind of procrastination in dealing with the matter of the applicant who is coming before this Court for seeking relief against his grievances. The applicant came to this Court on 6.2.96. Notices on behalf of the respondents was taken by the learned Sr. Standing Counsel. Thereafter, on all the dates the respondents have prayed for time to file W/S. This Court will not countenance with this kind of evasive action on the part of the respondents in not filing proper reply to the notices served through this Court, thereby causing unbearable hardship to the applicant who came to the Tribunal with the hope that their problems will be solved within six months. I hereby direct that the respondents No. 2 and 3 shall appear before this Court on the next date with explanation for not filing W/S in time. Let this case be fixed for hearing on 9.7.96.

/CBS/


(N.K. Verma)
Member (A)

7./ 9.7.96.

Counsel for the applicant : Shri B.P. Sinha.

Counsel for the respondents: Shri J.N. Pandey.

Shri J.N. Pandey, the learned Sr. Standing Counsel for the respondents files W/S and the Commissioner of Income Tax, Shri Bhasker Sen is present in the Court. However, the Chief Commissioner of Income Tax, the respondent No. 2 did not appear in the Court. Shri Sen reported that the Chief Commissioner, Shri V.K. Mishra was called to Delhi for Board's meeting, although the notice for personal appearance was served on him prior to the date he was called to Delhi. In this matter, he could have conveyed to the Board about the Court's order of personal appearance. However, he had chosen to stay away to avoid his appearance before the Court. He is directed to present himself before the Court on 15th of July, 96.

2. Shri B.P. Sinha, the learned counsel for the applicant stated that he would need some time to file rejoinder. He is directed to file rejoinder well in advance of the date of hearing. Let this case be fixed for hearing on 15.7.96.

N.K. Verma
(N.K. Verma)
Member (A)

*W/S filed on behalf of the respondents
M.K. Sinha
9/7/96
Rejoinder to the W/S filed on behalf of the applicant
M.K. Sinha
12/7/96
/CBS/*

OA -77/96 (MA 152/96)

8./ 15.7.96.

Counsel for the applicant : Shri D.P. Sinha.

Counsel for the respondents: Shri J.N. Pandey.

Heard Shri J.N. Pandey, the learned Sr. Standing Counsel for the respondents. ~~xx~~ MA has been filed today by which the Chief Commissioner of Income Tax has shown his inability to present himself in Court because of the fact that he has proceeded on earned leave with previous date and he is out of station. Shri Pandey also brought to my notice that the Chief Commissioner of Income Tax was not served the Court's order to be present before the Tribunal on 9.7.96. Hence he had no knowledge of the Court's direction in this regard. There was no wilful disobedience when he went to Delhi to attend Board's meeting and thereafter proceeded on earned leave. In view of the submissions, the personal appearance of the Chief Commissioner of Income Tax does not appear to be necessary and he is exempted. However, as a Chief of the Income Tax Department at Patna, he shall ensure that even if he is not connected with the processing of disciplinary matter or any other aspect of the work of the applicant in his department, he being over all incharge has to see that the Court's direction are complied with properly.

2. The MA is disposed of in the light of the observation made hereinabove.

OA - 77/96

Heard Shri D.P. Sinha, the learned counsel for the applicant and Shri J.N. Pandey, the learned Sr. Standing

Contd...6/-

Counsel for the Union of India respondents. The applicant in this OA has sought quashing of the charge-sheet issued to him as at Annexure A/21 and certain other benefits like treatment of the period of suspension as spent on duty. As interim measure he has prayed for staying the operation of the chargesheet. Shri Sinha brought to my notice that the chargesheet relates to the acts of omission and commission of irregularities during the period from 30.7.66 to 31.12.86 when he was working in different capacity from U.D.C. to Income Tax Officer. It is alleged that during this period the applicant had acquired wealth which were disproportionate to his known source of income. He also states that the matter in regard to this was inquired into by the then ^{Chief} Commissioner and Commissioner of Income Tax who had both found no substance in this allegation and had not proceeded with the matter. Subsequently, he was suspended on 31.7.92 and his suspension was revoked on 12.3.93. Chargesheet has been issued only on 19.12.95 after a lapse of more than two years. This chargesheet is, therefore, motivated by malicious action on the part of the then Chief Commissioner Shri M.N. Tiwary who again activated the file against the applicant and got chargesheet issued by the Commissioner.

2. After having heard Shri Sinha, I find that this is a fit case for adjudication as chargesheet has been issued on the acts of omission and commission on the part of the

OA - 77/96

applicant which were committed during the period 1966 to 1986 during ^{the} span of 20 years. Admit. Let respondents file detailed reply in the matter with a copy to the applicant's counsel for filing rejoinder, if any, as per rules. Let it be listed before the ^{Dy.} Registrar on 16.8.96 for completion of pleadings and for placing the matter before the D.B. as and when the same is available.

/CBS/

N. K. Verma
(N.K. Verma)
Member (A)

9./27.8.96

Counsel for the applicant present. Pleadings in this case ~~are~~ are complet. Put up before the Hon'ble ~~Division Bench~~ Division Bench as and when is available.

27/8/96
Dy. Registrar.

10/24.9.1996

Counsel for the applicant : Mr.D.P.Sinha

Counsel for the respondents : Mr.R.K.Choubey

On the request made on behalf of Mr. J.N.Pandey, Sr. Standing Counsel, the case is adjourned to 4.10.1996 for hearing.

K. D. Saha
(K. D. Saha)
Member (A)

V. N. Mehrotra
(V. N. Mehrotra)
Vice-Chairman

MPS.

11/4.10.1996

Counsel for the applicant : Mr.D.P.Sinha

Adjourned to 29.10.1996 for
hearing.

MPS.

(K.D.Saha)
Member (A)

(V.N.Mehrotra)
Vice-Chairman

12

29.10.96

CM

Counsel for the applicant... Shri D.P.Sinha
Counsel for the respondents..Shri R.K.Choudhary

Adjourned to 8.11.96 for hearing.

(D.Purkayastha)
Member (J)

(K.D. Saha)
Member (A)

13/8.11.1996

The case has already
been admitted vide order
No 8 dtd 15.7.96.

29/11/96

MPS.

On the request made on behalf of the
learned counsel for the applicant, the case
is adjourned to 2.12.1996 for admission.

(K.D. Saha)
Member (A)

(V.N.Mehrotra)
Vice-Chairman


DA 77/96

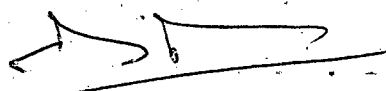
14

2.12.96

CM

Adjourned to 6.12.96 for hearing.


(D. Purkayastha)
Member (J)

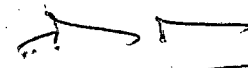

(K.D. Saha)
Member (A)

15/6.12.96

List on 9.12.96 for hearing.

SKS

(D. Purkayastha)
Member (J)


(K.D. Saha)
Member (A)

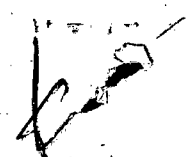
16

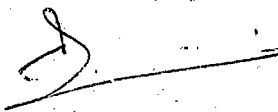
9.12.96

CM

Counsel for the applicant.. Shri D.P. Sin
Counsel for the respondents.. Shri J.N. Pandey

List this case for hearing on 10.1.97
within first three cases.


(D. Purkayastha)
Member (J)



(K.D. Saha)
Member (A)

O.A.: 77/96

17/10.01.97

Adjourned to 11.02.1997 for hearing as he is not sitting today.

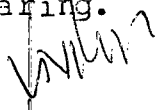
SKJ


(V.N. Mehrotra)
Vice-Chairman

18/11.02.97

Adjourned to 22.04.1997 for hearing.

SKJ



(V.N. Mehrotra)
Vice-Chairman

19

22.4.97

List on 8.7.97 for hearing.


CM


(V.N. Mehrotra)
Vice-Chairman

20/08.07.97

List on 27.08.1997 for hearing.

SKJ

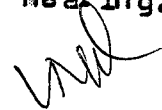

(V.N. Mehrotra)
Vice-Chairman

21

27.8.97

List on 28-10-97 for hearing.

EM



(V.N. Mehrotra)
Vice-Chairman

22

28.10.97

List on 7.1.98 for hearing.

CM


(V.K. Menrotra)
Vice-Chairman

23./ 7.1.98.

List it on 3.3.98 for hearing.

/CBS/

ml
(V.N. Mehrotra)
Vice-chairman

24./ 3.3.98.

None for the applicant.

Shri J.N. Pandey, the Sr. Standing Counsel for the respondents.

List it on 25.5.98 for hearing.

/CBS/

ml
(L.R.K. Prasad)
Member (A)

ml
(V.N. Mehrotra)
Vice-chairman

25/ 25.5.98.

List it on 25.8.98 for hearing.

/CBS/

ml
(V.N. Mehrotra)
Vice-chairman

6/25.8.1998

Shri D.P.Sinha, learned counsel for the applicant.

Shri J.N.Pandey, learned counsel for the respondents.

The learned counsel for the applicant states that the application has become infructuous due to subsequent development. The applicant does not want to continue this O.A. *and he disposed of accordingly* ~~and we dispose of this O.A.~~

The O.A. is disposed of on the statement by the learned counsel for the applicant.

ml
(L.R.K. Prasad)
Member (A)

ml
(V.N. Mehrotra)
Vice-Chairman