

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 247/96

Date of Decision: 6.10.97

Shri G.G.A. Naidu

Applicant.

Shri S.C. Naidu.

Advocate for
Applicant.

Versus

The Chief Commissioner of Income Tax Respondent(s)
Aaykar Bhavan, M.K. Road, Mumbai
and anr.

Shri V.G.Rege.


Advocate for
Respondent(s)

CORAM:

Hon'ble Shri. Justice R.G. Vaidyanatha, Vice Chairman

Hon'ble Shri. Shri P.P. Srivastava, Member (A)

- (1) To be referred to the Reporter or not? *no*
- (2) Whether it needs to be circulated to other Benches of the Tribunal? *no*


(R.G. Vaidyanatha)
Vice Chairman

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH 'GULESTAN' BUILDING NO:6
PRESCOT ROAD, MUMBAI:1

Original Application No. 247/96

Monday the 6th day of October 1997.

CORAM: Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman
Hon'ble S hri P.P. Srivastava, Member (A)

G.G.A. Naidu
Srinivas Nilayam
107/1, Ramdas Peth
Nagpur.

... Applicant.

By Advocate Shri S.C. Naidu.

V/s.

The Chief Commissioner of
Income Tax
Aaykar Bhavan,
M.K. Road,
Mumbai.

The Enquiry Officer,
Aaykar Bhavan.
Room No. 450
M.K. Road,
Mumbai.

... Respondents.

By Advocate Shri V.G. Rege.

O R D E R (ORAL)

¶ Per Shri Justice R.G.Vaidyanatha, Vice Chairman ¶

This is an O.A. under Section 19 of the
Administrative Tribunals Act. Respondents have opposed
the application. Heard both the sides.


2. The applicant approached this Court for
quashing the charge sheet dated 5.1.90 and enquiry
proceedings in pursuance of the charge sheet dated 5.1.90.

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3. The learned counsel for the applicant attacked the charge sheet and the enquiry proceedings on many grounds.

The first ground is that the charge sheet is barred by time. According to the respondents, the applicant passed some irregular and illegal order of assessment during February and July 1986. Though the applicant retired on 30.9.86, as per Rule 9 of the Pension Rules, charge sheet can be issued within four years from the date of such irregular and illegal assessment order. Since the charge sheet was issued in January 1990 and pertains to irregular and illegal assessment orders issued during February and July 1986, it cannot be said that the charge sheet was barred by limitation. It is seen that 62 assessment orders are subject matter of the Departmental enquiry. It is open to the applicant to participate in the enquiry and the department to proceed with the enquiry and the Enquiry Officer to pass appropriate order.

4. Then it was argued that undue delay in conducting the enquiry will vitiate the enquiry proceedings. But it depends on the facts and circumstances of each case. Though the charge sheet was issued in 1990, it is seen that the applicant himself was not participating in the enquiry, when the enquiry was conducted. An Enquiry Officer was appointed to conduct the enquiry. Then she submitted

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the enquiry report. It was noticed by the disciplinary authority that the enquiry was void ab-initio and remitted the matter. Hence the delay has occurred and therefore we find in the facts and circumstances of the case the delay is not sufficient to vitiate the proceedings particularly in view of gravity of charge namely about alleged 62 irregular and illegal assessment orders passed by the applicant. Therefore we are not inclined to agree on the ground of delay the enquiry is vitiated.

5. As far as order of remand is concerned it was brought to our notice that the Enquiry Officer was appointed on 30.3.92, but she had conducted the enquiry before the order of appointment. The disciplinary authority remitted the matter to the Enquiry Officer to conduct fresh enquiry according to law.

Some contentions were urged on the merits of the case which we are not considering at this stage.

6. After hearing, we are not impressed by the applicant's case that the charge sheet deserves to be quashed. There are also delay and laches on the part of the applicant in approaching the Tribunal. The remand order was intimated to applicant as back as July 1993, but the applicant has come with the present application in March 1996. This delay and laches on the part of the applicant is sufficient ground not to

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grant any relief to him in this case.

In the interest of justice the respondents are required to expedite the enquiry and the applicant to fully co-operate with the enquiry proceedings for early disposal.

A grievance was made on behalf of the applicant that the Gratuity has not been sanctioned till now, though no enquiry was pending on the date of his retirement. The applicant has not made any prayer regarding the gratuity. If the applicant is entitled to gratuity amount as per law, then he should make representation to the competent authority for sanction of gratuity. If such a representation is made the competent authority to consider the same according to law and pass appropriate orders.

7. In the result, the application is disposed of at the admission stage with a direction to the respondents to expedite the departmental enquiry and complete the enquiry preferably within a period of six months from today. The applicant is also directed to fully co-operate with the enquiry proceedings. If due to reasons beyond the control of the Enquiry Officer, the enquiry could not be completed within six months, liberty is given to the respondents to approach this Tribunal for seeking extension of time by giving reasons.

All contentions and also points including limitation and delay are left open.

The respondents shall furnish the documents sought for by the applicant for the purpose of defence as permissible under the law.

Ad-interim order passed earlier in this case is vacated.



(P.P. Srivastava)
Member (A)



(R.G. Vaidyanatha.)
Vice Chairman

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