

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH  
.....

Commercial Complex(BDA),  
Indiranagar,  
Bangalore- 560 038.

Dated: 1 MAR 1988

APPLICATION NO 965 /87 (F)

W.P.No. \_\_\_\_\_

APPLICANT

Vs

RESPONDENTS

Shri M. Mani

The Collector of Central Excise, Bangalore  
& 4 Ors

To

1. Shri M. Mani  
No. 19, 7th Cross  
'B' Street  
Jayabharathnagar  
Bangalore - 560 033

2. Shri A.M. Subbayya  
Advocate  
128, III Stage  
Vinayaka Layout  
Vijayanagar  
Bangalore - 560 040

3. The Collector of Central Excise  
Central Revenue Buildings  
Queen's Road  
Bangalore - 560 001

4. The Pay & Accounts Officer  
Central Excise  
Office of the Collector of  
Central Excise  
Central Revenue Buildings  
Queen's Road  
Bangalore - 560 001

5. The Chief Controller of Accounts(AG)  
First Floor  
Central Revenue Buildings  
New Delhi - 110 002

6. The Reserve Bank of India  
Nrupatunga Road  
Bangalore

7. The Accountant General  
Karnataka  
Bangalore - 560 001

8. Shri M.S. Padmarajaiah  
Central Govt. Stng Counsel  
High Court Building  
Bangalore - 560 001

9. The Director  
District Treasury  
Govt of Karnataka  
Shriantny Road  
Bangalore.

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/~~XXXX~~

~~XXXXXX ORDER~~ passed by this Tribunal in the above said application

on 23-2-88.

Encl: as above.

for DEPUTY REGISTRAR  
(JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE

DATED THIS THE 23rd DAY OF FEBRUARY, 1988

Present: Hon'ble Shri P. Srinivasan, Member (A)

APPLICATION NO. 965/1987

Shri M. Mani,  
Superintendent of Customs  
and Central Excise,  
Bangalore.

.... Applicant

(Shri A.M. Subbayya, Advocate)

v.

1. The Collector of Central Excise,  
Central Revenues Building,  
Queen's Road,  
Bangalore.

2. The Pay and Accounts Officer,  
Central Excise,  
Central Revenues Building,  
Queen's Road,  
Bangalore.

3. The Chief Controller of Accounts,  
Accountant General,  
Central Revenues Building,  
First Floor,,  
New Delhi.

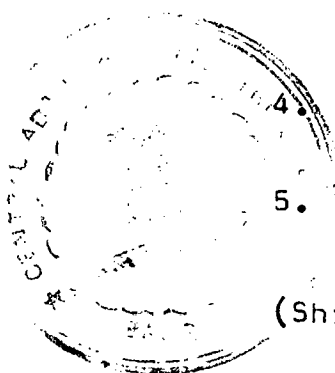
4. Reserve Bank of India,  
Bangalore.

5. Accountant General, Karnataka,  
Bangalore.

....

Respondents.

(Shri M.S. Padmarajaiah, C.G.S.S.C.)



This application having come up for hearing to-day,  
Shri P. Srinivasan, Hon'ble Member (A) made the following:

O R D E R

In this application made under Section 19 of the  
Administrative Tribunals Act, 1985, the applicant who  
is working as a Superintendent of Customs and Central  
Excise, Bangalore, prays that the orders of respondent No.1  
( 'R1' ) namely, the Collector of Central Excise, Bangalore,  
dated 21.7.1987 and 29.9.1987 denying him sanction of motor  
cycle advance be quashed.

P. J. *Use*

2. The applicant took a motor cycle advance of Rs.2,450.00 in 1978. The order sanctioning the advance is at Annexure-A (page 15 of the application). Thereafter, since the applicant could not purchase the motor cycle within the time stipulated, he was asked to recredit the amount drawn by letter dated 16.6.1978 issued to him from the office of R1. The said letter reads as under:

" OFFICE OF THE COLLECTOR OF CENTRAL EXCISE, BANGALORE-1.

C.NO.II/1/61/77 D4

Dated: 16.6.1978

To

Shri M. Mani  
Inspector of C.Ex.,  
Bangalore II Dn.

Sub:- Motor Cycle advance-Granted-Extension  
of time to purchase vehicle-reg.

...

Please refer to your letter dated 26.4.78 on the above subject.

2. The Collector is pleased to grant in your case extension of time by one month from 1.5.78 to complete the purchase of Motor Cycle/Scooter. If the transaction is already finalised by you please produce to this office with in 25.6.78 the cash receipt and other documents referred to, in this office order even No. dated 8.3.78 otherwise the amount of advance drawn by you should be recredited in one lump with interest due thereon into R.B.I. under the Head of Account "F.Loans and Advances, 766 Loans to Central Govt. servants for purchase of conveyances, Advance for purchase of Scooter" and the receipted challan sent to this office.



*P. J. [Signature]*

3. In the absence of any response from you within 25.6.78 further action will be taken for recovery of dues.

Sd/-  
(T. SANTANAM)  
CHIEF ACCOUNTS OFFICER."

The applicant recredited the amount with interest in the R.B.I. on 23.6.1978 under the Head of Account indicated in the aforesaid letter and a copy of the relevant challan receipt covering the same is at Annexure-C (Page 19 of the application). He also intimated R1 of the said payment by a letter dated 24.6.1978 attaching thereto a copy of the receipted challan for Rs.2,495-88 (including interest of Rs.45.88). The applicant subsequently applied for a fresh advance for purchase of a scooter on 30.5.1986 and this application appears at Annexure-P (page 37 of the application). In response to this application, the office of R1 issued a letter dated 2.6.1987 to the applicant in which it was stated that the return of the earlier advance made by the applicant had not been received by the PAO and that the 'challan is not traceable, as the records have been destroyed'. The Chief Controller of Accounts, CBEC, had declined to treat the amount as having been repaid on collateral evidence produced by the applicant and had not agreed with the suggestion of the PAO that the challan dated 23.6.1978 furnished by the applicant be taken into account for this purpose. Till the PAO issued a clearance certificate, the stating that the earlier



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advance had been repaid, the applicant's application for sanction of a second advance could not be considered. The applicant persisted with his request explaining that he had repaid the earlier advance on 23.6.1978 to the RBI, Bangalore under challan No. <sup>17 B.8/</sup>~~8.87~~ 46 dated 23.6.1978, a copy of which had been submitted to the CAO of the Central Excise department on 24.6.78 itself. He had been allotted a scooter and the advance was required to make payment therefor. Since the applicant <sup>He had</sup> remitted back the original advance, he requested that a fresh advance be sanctioned to him. This letter which is dated 10.6.1987 is at Annexure-R (page 40 of the application). The applicant's request was rejected by the office of R1 by letter dated 21.7.1987 which appears as Annexure-S (page 42 of the application) and again by another letter dated 29.9.87 Annexure-U (page 47 of the application). This application is directed against the above said two letters.

3. Shri A.M. Subbayya, learned Counsel for the applicant, submits that so far as the applicant was concerned, he had repaid the original advance and had furnished a challan receipt in support thereof. While recrediting the amount, he had carried out the instructions contained in letter dated 16.6.78 issued to him, namely that it should be credited under the specific Head of Account mentioned therein. It was not the respondents' case that the applicant had not paid back the amount into the RBI. All that they say is that the credit of the said amount had not been



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transferred by the RBI or by the Treasury to the account of R1. For the failure of the government machinery in transferring the credit of the amount to the account of R1, while they admit that the applicant had in fact paid the amount into RBI, the applicant should not be penalised by being refused the fresh advance sought by him.

4. Shri M.S. Padmarajaiah, learned Senior Central Government Standing Counsel, appearing for the respondents strongly refuting the contention of Shri Subbayya, submits that the absence of credit of the amount to the account of R1, relating to the repayment of the earlier advance by the applicant was a serious flaw. No doubt the RBI had admitted that the amount of Rs.2495.88 towards the repayment of the original advance had actually been paid into the RBI on 23.6.78, but since the applicant had not obtained the counter signature of his departmental officer on the challan, the credit was passed on to the Director of the Bangalore District Treasury, and not to the account of R1. The RBI is, no doubt, making all efforts to locate the credit, which by now is about 9 years old, and to credit the same to the account of R1. But till that was done, R1 was not in a position to grant advance sought for by the applicant.

5. I have considered the rival contentions very carefully. The whole controversy in this case arises out of the accounting procedure followed by Government



*[Handwritten signature]*

agencies and not as a result of any failure on the part of the applicant to pay the amount due from him. The only flaw that is attributed to the applicant is that when repaying the original advance, he did not get the counter signature of his departmental officer on the challan. It is nobody's case that the applicant did not repay the amount. The RBI which was made a party at a later stage of the proceedings, was also represented before me. An official of the RBI, who assisted Shri Padmarajaiah, confirmed that the RBI was making all attempts to see that the credit in respect of the amount repaid by the applicant was transferred to the account of R1. He also stated that it is for the Treasury to make the necessary transfer. But as stated earlier, none of the respondents deny that the applicant has repaid the amount drawn by him. A copy of the challan, which is on records, shows, the Head of Account into which payment was made, was shown as "F.Loans and Advance 766 Loans to Central Government servants for purchase of conveyance Advance for purchase of scooter." Thus there is no reason to doubt that the applicant had duly repaid the original advance as required by letter dated 16.6.78 issued to him by R1. In that letter, R1 did not specifically state that the applicant should obtain the counter signature of a departmental officer. In the ultimate analysis, this is a mere matter of form, ~~but~~ not of substance. On the evidence produced and accepted by both sides, I am satisfied

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that the applicant had, on his part, repaid the original advance to the Reserve Bank of India as an agent of Government and it was for the respondents between themselves to have the credit transferred to the account of R1. The applicant cannot be denied a fresh advance for the failure of the respondents to get the necessary credit transferred to R1. I have, therefore, no hesitation in quashing letters dated 21.7.87 and 29.9.87 appearing as Annexure-S and U, at pages 42 and 47 respectively of the application, and directing R1 to sanction the fresh scooter advance applied for by the applicant, if otherwise eligible.

6. In view of what is stated above, respondents 2 and 3 are directed to issue the necessary clearance in respect of the repayment of the earlier advance by the applicant. R1 is directed to consider the application of the applicant for a fresh scooter advance on the basis that the earlier advance has been duly repaid by him and if he is otherwise eligible for the said advance, to sanction it. Respondent-4, (RBI) is directed to take up the matter with the Director, District Treasury, Government of Karnataka and see that the credit for the amount repaid by the applicant is quickly located and transferred to the account of R1. A copy of this order be sent to the Director, District Treasury, Govt. of Karnataka, Infantry Road, Bangalore for necessary action.

7. Application is allowed. Parties to bear their own costs.



TRUE COPY

*P. H. 1/3/88*  
DEPUTY REGISTRAR (JDL)  
CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE

Sd/-  
MEMBER (A)



ಕರ್ನಾಟಕ ಸರ್ಕಾರದ

ಖಜಾನೆ ನಿರ್ದೇಶಕರ ಕಛೇರಿ.

1ನೇ ಮಹಡಿ, ಪೊಂಡಿಯನ್ ಬ್ಲಾಕ್.

ವಿಶ್ವೇಶ್ವರಯ್ಯ, ಕೇಂದ್ರ, ಡಾ. ಅಂಬೇಡ್ಕರ್ ವಿಠ್ಠಲ

ಬೆಂಗಳೂರು-560001

ದಿನಾಂಕ:- 15/4/88

21/4/88  
Bul  
18/4

ಸಂ:ಖನಿ:ಇತರೆ:2:88-89

ಗಿ.

ಉಪ ನಿರ್ದೇಶಕರು,  
ಖಜಾನೆ (ನಗರ),  
ಬೆಂಗಳೂರು.

ಮಾನ್ಯರೇ,

ವಿಷಯ:- ಆರ್ಜಿ ಸಂಖ್ಯೆ: 965:87 ಶ್ರೀ ಎಂ.  
ಮಣಿ ಮತ್ತು ಕಲೆಕ್ಟರ್ ಆಫ್  
ಸೆಂಟ್ರಲ್ ಎಕ್ಸೈಜ್, ಬೆಂಗಳೂರು  
ಇತರರ ವಿರುದ್ಧ -

ಶ್ರೀ ಎಂ.ಮಣಿ ಮತ್ತು ಕಲೆಕ್ಟರ್ ಆಫ್ ಸೆಂಟ್ರಲ್ ಎಕ್ಸೈಜ್,  
ಬೆಂಗಳೂರು ಇತರರ ವಿರುದ್ಧ ಸ್ಥಾಪಿಸಲ್ಪಟ್ಟಿರುವ ಆರ್ಜಿ  
ಸಂಖ್ಯೆ 965:87 ಕೆ. ಸಂಬಂಧಿಸಿದಂತೆ ಸೆಂಟ್ರಲ್ ಅಡ್ಮಿನಿಸ್ಟ್ರೇಟಿವ್  
ಟ್ರಿಬ್ಯೂನಲ್, ಬೆಂಗಳೂರು ಬೆಂಚ್‌ನವರು ಆದೇಶಿಸಿರುವ ಆದೇಶದ  
ಪ್ರತಿಗಳು ಈ ಕಛೇರಿಯಲ್ಲಿ ತಪ್ಪಾಗಿ ಸ್ವೀಕೃತವಾಗಿದ್ದು ಅವುಗಳನ್ನು  
ಇದ್ದರಿಂದಿಗೆ ಲಗತ್ತಿಸಿ ಮುಂದಿನ ಕ್ರಮಕ್ಕಾಗಿ ತಮಗೆ ಕಳುಹಿಸಿ-  
ಕೊಡಲಾಗಿದೆ.

ನಿಮ್ಮ ನಂಬುಗೆಯು,

ಸಹಿ-

ಖಜಾನೆ ನಿರ್ದೇಶಕರ ಪರವಾಗಿ,  
ಬೆಂಗಳೂರು.

ಕೆ.ಎನ್.

ಪು.ತಿ.ನೋಲ.

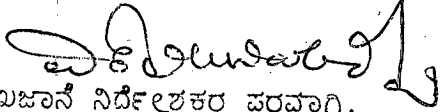
18/4  
9/5/87

Don.  
23-2-88

18/4/88

✓ ಪ್ರತಿಯನ್ನು:-

ಡೆಪ್ಯೂಟಿ ರಿಜಿಸ್ಟ್ರಾರ್(ಜುಡಿಸಿಯಲ್) ಸೆಂಟ್ರಲ್  
ಅಡ್ಮಿನಿಸ್ಟ್ರೇಟಿವ್ ಟ್ರಿಬ್ಯುನಲ್, ವಾಣಿಜ್ಯ ಸಂಕೀರ್ಣ  
(ಬಿ.ಡಿ.ಎ), ಇಂದಿರಾನಗರ, ಬೆಂಗಳೂರು-560 038  
ಇವರ ಮಾಹಿತಿಗಾಗಿ ರವಾನಿಸಿದೆ.

  
ಖಜಾನೆ ನಿರ್ದೇಶಕರ ಪರವಾಗಿ,  
ಬೆಂಗಳೂರು.  
15/11