

(6)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 195/91

XXX Transfer Application No:
XXXXXXXXXXXXXXXXXXXXXXX

DATE OF DECISION 12.3.93

Shri Bhaskar Laxman Shinde _____ Petitioner

Shri M.A.Mahalle _____ Advocate for the Petitioners

Versus

Dy. Commr. of Income tax, Thane & Ors. Respondent

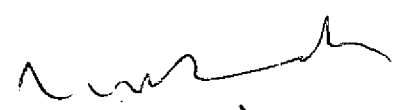
Shri P.M.Pradhan _____ Advocate for the Respondent(s)

CORAM:

The Hon'ble Shri Justice M.S.Deshpande, Vice Chairman

The Hon'ble Shri M.Y.Priolkar, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
 2. To be referred to the Reporter or not ?
 3. Whether their Lordships wish to see the fair copy of the Judgement ?
 4. Whether it needs to be circulated to other Benches of the Tribunal ?
- yes
no


(M.S.Deshpande)
Vice Chairman

NS/

(9)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

GA.NO. 195/91

Shri Bhaskar Laxman Shinde

... Applicant

V/S.

Deputy Commissioner of Income-tax,
Thane & Ors.

... Respondents

CORAM: Hon'ble Vice Chairman Shri Justice M.S.Deshpande
Hon'ble Member (A) Shri M.Y.Priolkar

Appearance

Shri M.A.Mahalle
Advocate
for the Applicant

Shri P.M.Pradhan
Advocate
for the Respondents

ORAL JUDGEMENT

Dated: 12.3.93

(PER: M.S.Deshpande, Vice Chairman)

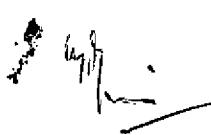
After we heard Shri Mahalle for the applicant and Shri Pradhan for the respondents, the only point which survives for consideration is whether additional evidence is required or not. Shri Pradhan fairly stated that he would not examine ^{any} additional witnesses for further ~~examination~~ and that the applicant would have the liberty to cross-examine those witnesses ^{— who were already examined —}. Shri Mahalle very fairly stated that a de novo trial could be held.

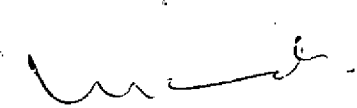
2. Shri Mahalle also invited our attention to the Government of India's instructions under Rule 28 of the CCS (CCA) Rules, which reads as follows :

"Effect of de novo proceedings — When, on appeal, the appellate authority sets aside the punishment orders and remits the case for de novo trial, the original proceedings containing the charge-sheet are to be deemed as quashed unless the stage from which the re-trial should be conducted is specified in the order. It would be open to the disciplinary authority to frame any other charge in addition to or in substitution of the original charge-sheet subject to the condition that it is based on facts of the case as initially disclosed for taking departmental action against the Government servant."

3. What is over looked is that in de novo trial, the original proceedings containing the charge-sheet are to be deemed as quashed unless the stage from which the re-trial should be conducted is specified in the order. This stage has been specified in the order of the appellate authority, namely, the Commissioner of Income Tax who has said that the matter should be heard from the stage of the report of the Enquiry Officer. No exception therefore can be taken to the scope of the enquiry which has been indicated by the appellate authority in its order dated 30.3.1989.

4. In view of the statement made by Shri P.M.Pradhan before us, we see no reason to interfere with the impugned order but we direct the authority concerned to conclude the enquiry within three months from today. No order as to costs.


(M.Y. PRIOLKAR)
MEMBER (A)


(M.S. DESHPANDE)
VICE CHAIRMAN

mrj.