

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

Original Application No: 821 OF 1991.

Date of Decision: 5th April 99

Shri P. A. Prabhakaran,

Applicant.

In person.

Advocate for  
Applicant.

Versus

Union Of India & Others,

Respondent(s)

Shri S. S. Karkera for  
Shri P. M. Pradhan,

Advocate for  
Respondent(s)

CORAM:

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

Hon'ble Shri. D. S. Baweja, 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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2. The applicant is a retired Assistant Commissioner of Income-Tax. He has filed the application claiming reward or incentive under the Circular of Reward Scheme of Government of India dated 06.11.1985. The applicant was working as an Assistant Commissioner of Income-Tax (Investigation), Unit-I(1), Bombay from 01.09.1985 to July, 1989. He had powers to conduct search and make investigation either suo-moto or on the basis of information from Informers after obtaining search warrant from the Director of Income-Tax(Investigation) under Section 132(1) of the Income-Tax Act. His case is, that he acted suo-moto and gathered information about the clandestine dealings of one Mr. C. D. Shah, who had number of business enterprises and who was also a Builder. Then he searched the premises of Mr. Shah on 16.09.1985. The search of Books and documents in the business offices of Mr. C. D. Shah were concluded on 05.12.1985. Mr. Shah had conceded unaccounted cash of Rs. 5 Crores on 20.09.1985. The investigation conducted by the applicant disclosed the estimated concealed income of Rs. 11.4 Crores of Mr. Shah. As a result, the Government got revenue by way of additional income from the concealed assets of Mr. Shah. It also stated that on the date of search, namely - 16.09.1985, Gold and Jewellery of the value of Rs. 13,92,635.00 came to be seized. Then the applicant also freezed the bank balance in the bank account of Mr. Shah to the extent of Rs. 11,71,622.00. <sup>72</sup>That as per the reward scheme of 1985, the applicant and his team members are entitled to 10% of the additional income got by the Government. On 17.07.1986 the applicant preferred a claim for reward for himself and other

By ...3

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO.: 821 OF 1991.

Dated the 5<sup>th</sup> day of APRIL, 1999.

CORAM : HON'BLE SHRI JUSTICE R. G. VAIDYANATHA,  
VICE-CHAIRMAN.  
HON'BLE SHRI D. S. BAWEJA, MEMBER (A).

P. A. Prabhakaran,  
Asstt. Commissioner of Income-Tax,  
Central Circle 8, 8th Floor,  
Old C.G.O. Revenue and residing  
at B/14, Income-Tax Quarters,  
Peddar Road, Bombay - 400 026.  
(In Person)

... Applicant

VERSUS

1. The Union Of India through  
The Secretary,  
Department of Revenue,  
Ministry of Finance,  
North Block,  
New Delhi - 110 001.
2. The Chairman,  
Central Board of Direct Taxes,  
North Block,  
New Delhi - 110 001.
3. The Director General of  
Income-Tax (INV),  
4th Floor, Aayakar Bhavan,  
M.K. Road, Bombay-400 020.

... Respondents.

(By Advocate Shri S.S. Karkera for  
Shri P. M. Pradhan)

ORDER

¶ PER.: SHRI R. G. VAIDYANATHA, VICE-CHAIRMAN ¶

This is an application filed under Section 19 of the Administrative Tribunals Act, 1985. The respondents have filed reply. We have heard the applicant who appeared in person and Mr. S.S. Karkera for Shri P. M. Pradhan on behalf of respondents.

officers and staff. Though the Deputy Director recommended the reward to the applicant and the members of his team, the Board has not sanctioned the reward. Now, by virtue of an endorsement dated 12.12.1990, the Board has rejected the claim of the applicant. According to the applicant, he and his members of his team are entitled to the reward under Rules 2, 3 and 5 of the 1985 Scheme. It is alleged that the interpretation put by the department on Rules 2, 3 and 5 of the Scheme is not correct. The applicant, by way of amendment, has brought on record number of facts and figures pertaining to the additional income disclosed as a result of Search and investigation done by him. The details are given in the amended pages 6(C) to 6(L) of the Original Application. By a subsequent amendment, the applicant is also challenging the vires of Rule 2(b)(iv). On these allegations, the applicant has filed the present application praying for a direction to the respondents to determine the concealed income detected as a result of search on 16.09.1985 and as a result of post-search investigation and on that basis to pay 5 per cent of the concealed income as reward to the applicant and his two Inspectors and to pay 5 % of the concealed income as reward to other officials in the Investigation Wing, including the applicant and his Inspectors and the members of the search parties and also for interest. He also wants a declaration that Rule 2(b)(iv) of the 1985 Scheme be declared as invalid.

3. The respondents have not filed any reply after the amendment of the O.A. But however, they have earlier filed one reply and the defense is as follows :



It is stated that the present application is not maintainable since the dispute is not a service dispute and, therefore, the application is not maintainable under Section 19 of the Administrative Tribunals Act. It is, therefore, stated that this Tribunal has no jurisdiction to entertain this application. Then it is pleaded that the claim is barred by limitation. That the respondents have rightly rejected the claim of the applicant by order dated 12.12.1990. The main defense is, that since the seized assets were less than Rs. 25 Lakhs, the applicant is not entitled to any reward. As far as freezing of the bank balance is concerned, it is stated that it is not a case of seizure of assets but it is a case of freezing of bank balance by an order under Section 132(3) of the Income-Tax Act. The applicant's claim for reward under Rule 2(b) is not tenable since the proceedings did not end in prosecution. It is stated that the applicant has not made out any case for grant of reward under the 1985 Scheme, hence it is prayed that the application be dismissed with cost.


4. Mr. P. A. Prabhakaran, applicant in person, contended that the interpretation of Rule 2(c) of the Department is erroneous and faulty. According to him, even though the seizure of actual asset is less than Rs. 25 Lakhs, the applicant is entitled to reward if as a result of seizure of documents and post search investigation concealed income has been detected. He, therefore, maintained that he is entitled to reward under Rule 2(c) notwithstanding the value of seizure of assets.

- (iii) Whether the applicant is entitled to reward under Rule 2(b) of ~~May~~, 1985 Scheme?
- (iv) Whether the applicant is entitled to reward under Rule 2(c) of 1985 Scheme?
- (v) Whether the applicant is entitled to reward under Rules 5(3) and 5(7) of 1985 Scheme?
- (vi) What Order ?

6. POINT NO. 1 :

The Learned Counsel for the respondents contended that the payment of reward under the 1985 Scheme is not a condition of service and, therefore, any dispute or any claim under the 1985 Scheme is not a service dispute to be agitated under Section 19 of the Administrative Tribunals Act.

No doubt, the Tribunal has been constituted for redressing service disputes of Central Government servants. In other words, the Tribunal has to decide any dispute regarding "service matters" of a Central Government Servant. What is 'service matter' is defined in Rule 3(q) of the Administrative Tribunals Act, 1985. Service Matters means all matters relating to the conditions of his service in respect of clauses (i) to (v). Clauses (i) to (iv) are not applicable for our present purpose. Clause (v) refers to any other matter whatsoever. Therefore, any dispute regarding conditions of service of any other matter whatsoever comes under the definition of 3(q)(v) of the Act.



He further maintained that he is also entitled to reward under Rule 2(b). As far as the condition for prosecution is concerned, he contended that the said clause is ultra-vires and it may be struck down. If that clause is struck down, then the applicant is entitled to Reward under Rule 2(b) also. He also referred to the general provisions of Rules 5 and 7 where also there is a discretion for the department to grant reward. On the other hand, the Learned Counsel for the respondents contended that this Tribunal has no jurisdiction to try this dispute, since it is not a service dispute. On merits, he submitted that the clause regarding condition of prosecution under Rule 2(b) is a valid condition and since there was no prosecution in this case, the applicant is not entitled to reward under Rule 2(b). He further contended that the applicant is not entitled to Reward under Rule 2(c) since the value of the seized asset was Rs. 13 Lakhs and odd, far below the minimum of Rs. 25 Lakhs prescribed by the Rule. He further contended that this is an incentive scheme under which the department has some discretion to grant reward or incentive and it cannot be claimed as of right by any official.

5. In the light of the arguments addressed before us, the points that fall for determination are :

- (i) Whether this Tribunal has no jurisdiction to entertain this application.
- (ii) Whether the condition regarding prosecution under Rule 2(b) is illegal and invalid and liable to be struck down.

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If we peruse the 1985 Scheme, the object is to give reward or incentives to officers of the Income-Tax Department who do any work which results in augmenting the revenue of the Government by detecting concealed income of persons. Therefore, the reward is also given for the work done by an official of the Income-Tax Department in the discharge of his duties as a Government servant. Therefore, the payment of reward or incentive is linked with the work of a Government servant of a particular department. Therefore, a Government Servant who does some special work in the discharge of his duty, is entitled to get some reward or incentive. Therefore, the payment has something to do with the work done by him in the discharge of office duty as a Government servant. Therefore, there is no difficulty to hold that the claim for reward or incentive has something to do with the official's work as a Government servant and if there is any dispute regarding that, it could be brought as a "service matter in respect of any other matter whatsoever" within the meaning of Section 3(q)(v) of the Act. If this payment was something unconnected with the official work or de hors of the official work, then perhaps it could not be a service dispute. Here, the payment of reward or incentive has a direct bearing on the work of a Government official in the Income-Tax Department in detecting concealed income of persons. In this connection, we may refer to an unreported judgement of a Single Member of Hyderabad Bench of this Tribunal vide order dated 03.07.1996 in O.A. No. 1503/95 (V. Shamsunder V/s. Central Board of Direct Taxes & Others) where also an identical question arose for consideration.



That was also a case of dispute regarding reward under the 1985 Scheme. The Government took the same stand that it is not a service dispute. The Learned Single Member who decided that case rejected that argument and held that the reward is in the form of monetary benefit to employees in the discharge of his duties and therefore, it comes within the meaning of remuneration, which is also one of the item in the definition in Section 3(q) of the Act and, therefore, the dispute regarding that will become the service dispute. We respectfully agree with the view taken by the Learned Single Member of the Hyderabad Bench in that case.

7. The respondents' counsel invites our attention to a decision of the Full Bench in the case of Indian National NGO's Association of Army Electronics Inspection & Others V/s. The Secretary, Ministry of Defence, New Delhi & Others reported in 1992 (2) ATJ 204. In that case, the question was whether recognition of Union is <sup>a</sup> service dispute under Section 3(q) of the Act or not? In our view, this decision has no application to the facts of the present case. There the question was purely about dispute regarding recognition and registration of trade union. Hence, that decision is not relevant for our present purpose.

For the reasons mentioned above, we are of the view that since the 1985 Scheme grants some reward or incentive for officials in the discharge of their official duties, it becomes a service matter and could be agitated before this Tribunal. The plea of jurisdiction has no merit. Point No. 1 is answered accordingly.

8. POINT NO. 2 :

Though the O.A. is amended making out a challenge to the condition of prosecution in Rule 2(b), there are no pleadings in support of that challenge made in the O.A. In the 1985 Scheme, Rule 2(b) provides that in the case of scrutiny of cases, certain officials are entitled for rewards. The rules provide seven conditions as eligibility conditions for getting rewards. We are only concerned with condition No. (iv) which reads as follows :-

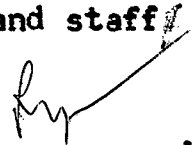
"Prosecution for concealment has been launched in the case, except when assessee has voluntarily disclosed the income."

This is one of the conditions among the seven conditions which has to be complied with before a reward could be given to Officers of the Income-Tax Department. This clause says that as a result of the investigation done, there must be prosecution for the concealment of income, except when the assessee has voluntarily disclosed the income. Infact, the applicant himself pointed out that in a subsequent amendment of 1986, even this exception, namely - when the assessee has voluntarily disclosed the income, has been deleted. Therefore, the condition is, that mere investigation and unearthing of concealed income is not sufficient to get the reward but all the seven conditions must be fulfilled, including the impugned condition, namely - that it must result in prosecution of the assessee for concealment of income. Though the reasons or grounds for challenging the vires of this clause, are not mentioned in the O.A.



The applicant submitted that an Income-Tax Officer may take lot of trouble in detecting the concealed income but still he will not get reward if the competent authority, namely - the Commissioner, takes the view that it is not a fit case for prosecution. He therefore submitted that this condition is bad in law.

9. After going through the records and hearing the submission, we do not find any merit in this contention. To launch a prosecution or not, is a matter for the competent authority. Where in a given case, the competent authority has not sanctioned prosecution due to extraneous reasons, etc. is a matter if at all to be considered by a higher authority. This Tribunal in its limited jurisdiction of a service dispute, cannot go into the <sup>question</sup> ~~question~~ whether in this particular case the Commissioner was right or not right in not ordering prosecution. The concerned files are not before us. Therefore, this Tribunal cannot go into the decision of the Commissioner that it is not a fit case for prosecution. The seven conditions are incorporated in Rule 2(b) with a purpose. There should not be any manipulation by Officers to get reward. We must bear in mind that Government officers are paid for their work. After all, the circular came in 1985. Infact, to a direct question put by us, the applicant fairly conceded that even without this 1985 Circular, an officer was bound to enquire and investigate and detect the concealed income and take all steps to book an offender. Therefore, with or without the 1985 Scheme, it is the duty of the Income-Tax Officer and staff.



to do everything in their power to detect the concealed income. He is not doing this work to get a reward under the 1985 Scheme. He is doing the work because it is his duty. He is paid for it. His one of the <sup>duties</sup> duties is to detect concealed income. Therefore, though the Government came with a Scheme of Reward or Incentive, it did not want the scheme to be misused or abused by an unscrupulous officer. Therefore, certain guidelines and certain conditions are put. If in public interest they have put these conditions that mere unearthing of concealed income is not sufficient but it must also end in prosecution as one of the condition for getting reward, we cannot say that the condition is illegal or ultra-vires. The whole scheme of 1985 is like a concession or an incentive. Whenever the Government grants some concession, it can always put necessary conditions. It is not a statutory order. It is just a circular issued by the Government under its executive powers. As already stated, even without this scheme, the Government official is bound to do his duty and detect concealed income. This circular is issued only as an incentive to officers. Whenever a concession is granted, it can always be subject to certain restrictions and conditions. Therefore, after considering the facts and circumstances of the case, we do not find any merit in the applicant's challenge that <sup>condition for</sup> prosecution under Rule 2(b) is illegal or ultra-vires. Therefore, the question No. 2 is answered in the negative.

10. POINT NO. 3 :

No doubt, as a result of investigation done



by the applicant and his team, there is detection of few crores of rupees and as a result, the Government is benefited by getting higher revenue. As already stated, reward can be given only on certain conditions. We have already seen that one of the conditions is that the investigation or detection of concealed income should result in the prosecution of the assessee. In this case, admittedly, Mr. C. D. Shah or anybody is not prosecuted in respect of the concealed income which the applicant and his team had detected. We have already rejected the applicant's argument that this condition regarding prosecution is illegal or ultra-vires. If once it is found to be a valid condition, then the applicant cannot get any reward under Rule 2<sup>(b)</sup> since one of the important condition, namely - prosecution of the offender, is lacking in this case. This is exactly the stand taken by the department in rejecting the claim of the applicant that he cannot get any reward under Rule 2(b) since the investigation has not resulted in the prosecution of the Assessee. In our view, the stand of the department is fully justified and therefore, the applicant cannot get any reward under Rule 2(b). Point No. 3 is answered accordingly.

11. POINT NO. 4 :

The major part of the argument of the applicant is about his claim under Rule 2(c) of the 1985 Scheme which reads as follows :

"2(c) Reward for Search and Seizure Work.

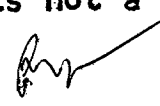
The heads of the Department may having regard to the value of the seizure effected



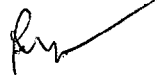
and magnitude of evasion detected and special efforts or ingenuity displayed by the officer concerned sanction the grant of suitable reward to the officers/ staff of the Investigation Wing and the members of the search party in cases where seizure involving assets of atleast Rs. 10 Lakhs (Rs. 25 Lakhs in Metropolitan towns) have been effected."

(The remaining part of the sub-clause (c) is not relevant for our present purpose).


According to the applicant, since he and his team have detected a large concealed income and they have done special efforts or ingenuity in this work, they are entitled to reward under this Rule. But the stand of the administration is, that under Rule 2(c) reward can be claimed only if the value of the assets seized is Rs. 10 Lakhs in all places and Rs. 25 Lakhs in Metropolitan towns. We are now concerned with a metropolitan town/ and, therefore, the department's stand is, since the seized asset is less than Rs. 25 Lakhs, the applicant is not entitled to any reward. We have already seen from the pleadings that the actual seizure was about gold and jewellery, which was of the value of Rs. 13 Lakhs and odd. This was all the assets that was seized on that day. It is far below Rs. 25 Lakhs mentioned in Rule 25(c). Ofcourse, there is one more ground on which the applicant lays his claim i.e. about freezing of bank account of Mr. C. D. Shah, where there was an amount of Rs. 11 Lakhs and odd. Here there is no seizure of asset but freezing of bank account, which is done by an order of restraint issued under Section 132(b) of the Income-Tax Act and therefore, it is not a case



of seizure of asset. Alternatively, the applicant contended that sub-clause (c) mentioned above, contains three clauses which are joined together by using the word ('and'). His argument is, that though the word used is 'and', it must be read as 'or' in a disjunctive sense and placed reliance on Mitra's Legal & Commercial Dictionary, Fifth Edition. What is mentioned therein is, having regard to the context in which it is used, the word 'and' may be read in a disjunctive sense. But the question is, whether in the present rule the word 'and' is used in a disjunctive sense or not ? On that point there is no material before us. Even granting for a moment that the three clauses should be read in a disjunctive way as suggested by the applicant, it can only be read as having regard to the value of seizure effect<sup>ed</sup> or magnitude of evasion detected or special efforts or ingenuity displayed ..... where seizure involving assets of atleast Rs. 10 Lakhs (Rs. 25 Lakhs in Metropolitan towns) have been effected. Even if we read like this, still the actual seizure of assets will govern each clause. It may be a seizure of Rs. 25 Lakhs or more due to magnitude<sup>th</sup> of seizure detected or it can be <sup>Rs.</sup> 25 Lakhs or more seized due to special efforts and ingenuity displayed. Whether the three clauses are read by using the word either and/or, but the qualifying test is what is the quantum of seizure of assets. If that is the test, then in whatever way we read the provisions of sub-clauses, the ultimate result must be seizure of Rs. 25 Lakhs or more in a Metropolitan town. In this case, admittedly



the seizure of assets on that day was Rs. 13 Lakhs and odd and far below the required Rs. 25 Lakhs as per the sub-clause. We are not persuaded to take the view that irrespective of the value of seizure of assets, the officer may be given reward based on the investigation and subsequent detection of concealed income. The reason is this - even without actual seizure of assets there may be seizure of some documents and some materials and as a result further investigation could be done and then detection of concealed income of Rs. 50 Lakhs or Rs. 1 Crore, etc. It does not mean that in such a case no reward can be given since the actual seizure of asset was less than Rs. 25 Lakhs. In a given case there <sup>may</sup> be no actual seizure of assets at all, except some documents. It may be on the basis of those documents and further investigation, a huge concealed income could be detected. Even in such a case rewards are permissible but not under Rule 2(c) but under Rule 2(b). But in the present case, we could have considered giving a direction to the department to consider the case of the applicant under Rule 2(b) but unfortunately, no direction could be given, since one of the important condition under Rule 2(b), namely - condition about prosecution is wanting in this case, which we have already discussed while discussing Point No. 3. Infact, the applicant himself has produced many letters where the Commissioners <sup>have</sup> recommended grant of award to the applicant in the amended para of O.A. where they have also stated that applicant's claim under Rule 2(c) cannot be accepted though he is entitled to get some reward for the outstanding work done by him, which we will consider presently while discussing Point No. 5.






12. For the above reasons, we hold that the applicant is not entitled to claim reward or incentive under Rule 2(c), since the seized assets were less than Rs. 25 Lakhs. Point No. 4 is answered accordingly.

13. POINT NO. 5 :

Now the question is, whether the applicant is entitled to any reward under Rule 5(3) and 5(7) of the 1985 Scheme?

Under Rule 5(3) the Government can grant lumpsum reward for the services rendered by all the officers and staffs. Then Rule 5(7) provides that rewards can be payable upto the level of Assistant Commissioner of Income-tax depending on the contribution made by him having regard to the collection of intelligence, surveillance, effecting seizures and framing of assessments, etc.

There is sufficient indication in the 1985 Scheme that the Government can grant lumpsum amount as reward to an officer who has done commendable work in collection of intelligence, surveillance, effecting seizures, etc. and as a result, the Government is benefited by additional income on the basis of unearthed concealed income. We are conscious of the fact that this ex-gratia grant is given at the discretion of the Competent Authority. But what we find is that the Committee has not applied its mind to the question - whether even if the rule 2(b) and (c) are not strictly applicable to the applicant, whether he is entitled to any ex-gratia lumpsum payment under Rule 5(3) or 5(7) of the 1985 Scheme.



14. There is sufficient material on record to show that the applicant had done a commendable work in unearthing the sizeable concealed income of Rs. 8 to 10 crores and as a result the Government was benefited by getting a large amount of additional income. The applicant himself has given the details of the figures in the amended O.A. in pages 6(A) to 6(L). The details and particulars are given to show as to how the applicant and his team were responsible in unearthing the huge concealed income. Then the applicant has also produced detailed chart giving the particulars of amount which were found to be concealed income and as a result, the Government got the benefit of additional income.

We also find from the record that even the Commissioner of Income-Tax did commend the work done by the applicant and made recommendation for grants. In particular, we may refer to the letter dated 22.07.1986 written by Shri R. Prasad, the Deputy Director of Income-Tax (Investigation) addressed to the Director of Income-Tax (Investigation) vide para 4.5 (e) at pages 6(F) of the O.A., where after observing that the applicant may not strictly be entitled to get reward under Rule 2(c) of the Scheme, he makes a recommendation as follows :-

"But keeping into account the magnitude of the evasion detected as well as the documents seized by the search parties, it would be proper if the Board is approached for sanctioning Reward to officials of the Investigation Wing as well as the members of the Search party.

If this proposal is not found feasible,



then the amount to be fixed by C.I.T. Bombay City X as well as D.I.(Inv) may be sanctioned to Mr. Prabhakaran ADI.(Inv.), Unit I, Bombay."

Again we find that in his letter dated 18.11.1986, the then D.D.I. (Inv.), Shri Prasad, has written to the Director, which reads as follows :-

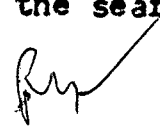
".....The total concealment detected in this case nearly Rs. 11 Crores (Eleven Crores) and the search was carried out on the basis of suo-motto enquiries carried out by the A.D.I. In my opinion as per Reward Rules an interim reward can be paid to Shri P.A. Prabhakaran, A.D.I. (Inv.)."

Then we further see that on 23.12.1986 the then D.D.I. (HQ), Smt. Urvashi Saxena, has prepared a note, the relevant portion of which is as follows :

"To my mind even though technically the case is not strictly covered by Rule 2(c) of the Reward Rules yet, looking to the ingenuity displayed by the ADI and the resultant disclosure made by the assessee, this is a fit case for the grant of reward. It appears that the amount of reward may be left to the decision of the Board and the representation can be forwarded with suitable recommendations."

Again we find that even the Director of Income-Tax (Investigation), Shri S. Bhattacharya, in his D.O. letter dated 27.01.1987 addressed to Mr. S. K. Roy Member (Inv.) CBDT, has written as follows :-

"Looking into the ingenuity displayed by the ADI, I would recommend a reward of Rs. 25,000/- to the ADI and a further sum of Rs. 50,000/- to be shared by the DDI and members of the Investigation Wing and members of the search party."



We further find that the then D.D.I., Shri Milap Jaun, has sent a note dated 07.08.1990 where also he has pointed out the outstanding work done by the applicant and his team and how they have detected the concealment of huge income running into crores and he has also recommended that the A.D.I. (the present applicant) and search parties should be given some reward on interim basis.

15. It is, therefore, seen that the Deputy Director of Income-Tax (Investigation) and Director of Income Tax (Investigation) have pointed out the outstanding work done by the applicant and his team in detecting the huge concealment of income and assets by Mr. C. D. Shah and others. The applicant, therefore, deserves ex-gratia reward and commendation at the hands of the Central Board of Direct Taxes.

In this connection, we may also mention that one Mr. S. K. Uchilla, Income-Tax Officer, was rewarded ex-gratia grant of Rs. 25,000/- as a reward in recognition of the outstanding work performed by him in the discharge of official duty during 1982. Though the order is dated 13.12.1985, it was in respect of the work done by the said officer in 1982. The said order is at page 43 of the Paper Book. That means, even prior to the 1985 Scheme and when there was no such scheme in 1982, the Government has sanctioned Rs. 25,000/- to the said officer as a reward for the outstanding work. Therefore, there is no reason to deny such a reward to the applicant having

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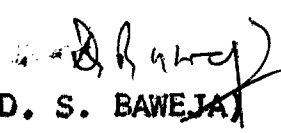
regard to the outstanding work done by him in unearthing the concealed income of Rs. 7 to 8 Crores or even more.

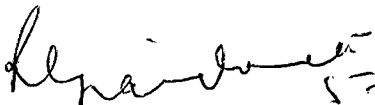
Therefore, this is a fit case in which the Chairman of the Central Board of Direct Taxes should apply his mind and go through the record and consider the case of the applicant for ex-gratia reward under Rules 5(3) and 5(7) of the 1985 Scheme and award whatever reasonable amount he deems fit in the circumstances of the case and having regard to the total concealed amount that was detected due to the efforts of the applicant. The Chairman may get the same examined by a competent officer and place the matter before the Board and it is for the Board to take a decision as it deems fit in the facts and circumstances of the case. We are conscious of the fact that ex-gratia reward can be given at the discretion of the Board and the decision of the Board is final as per the 1985 Scheme. It is also well settled that discretion must be exercised as per rules and it should not be arbitrary or one sided. For properly presenting his case, we hereby give liberty to the applicant to make a proper and detailed representation to the Chairman of the Board making out a claim for ex-gratia reward under Rule 5(3) and 5(7) of the 1985 Scheme. We also feel that if the Board deems fit, it can give a personal hearing to the applicant and then take whatever appropriate decision it deems fit in the circumstances of the case. The very object of the reward scheme is that officers who have done such outstanding work should be given incentive or reward.



Undisputedly, the Government has gained a very large sum due to the efforts of the applicant and his team members. We are confining in the present O.A. only the claim of Mr. P.A. Prabhakaran, the present applicant. We are not concerned with the other team members since they are not parties to the present O.A. and therefore, we express no opinion about their claim. We are only giving a direction to the Board to consider the claim of Mr. P.A. Prabhakaran and to grant whatever ex-gratia amount the Board deems fit in the circumstances as mentioned above.

16. In the result, the application is allowed partly. While rejecting the claim of the applicant for reward under Rule 2(b) and 2(c) of the 1985 Reward Scheme, we hereby direct the Central Board of Direct Taxes to consider the claim of the applicant for ex-gratia reward under Rule 5(3) and 5(7) and then pass appropriate orders as it deems fit in the <sup>the light of</sup> ~~light~~ the observations made in para 15 above. Since this is a old matter of 1986, it is desirable that the Board should take a decision as expeditiously as possible, and preferably within a period of about four months from the date of receipt of a copy of this order. A copy of the order be directly communicated to the Second Respondent, namely - The Chairman, Central Board of Direct Taxes, New Delhi. In the circumstances of the case, there will be no order as to costs.

  
(D. S. BAWEJA)  
MEMBER (A).

  
(R. G. VAIDYANATHA)  
VICE-CHAIRMAN.

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

Contempt Petition No.32/2000

in

Original Application No.821/91.

Dated this Wednesday the 28th Day of August, 2002.

Hon'ble Shri Justice Birendra Dikshit, Vice Chairman  
Hon'ble Smt. Shanta Shastri, Member (A).

Shri P.A. Prabhakaran,  
Resident of,  
11, Ail Laxmi, D.M. Cross Road,  
Dahanukar Wadi, Kandivli (West),  
Mumbai - 400 067.

..Petitioner.

( In Person ).

Versus

Shri Ravi Kant,  
Chairman,  
Central Board of Direct Taxes,  
Department of Revenue,  
Ministry of Finance,  
North Block, New Delhi-110001.

..Contemner.

( By Advocate Shri P.M. Pradhan ).

Order on Contempt Petition (Oral)  
{ Per : Smt. Shanta Shastri, Member (A) }

The applicant who retired as Assistant Commissioner of Income Tax filed O.A.No.821/91 claiming a reward or incentive under the Circular of Reward Scheme of Government of India dated 6.11.1985. The O.A. was heard and decided on 5.4.1999 with a direction that Central Board of Direct Taxes shall consider the claim of the applicant for ex-gratia reward under Rule 5(3) and 5(7) and then pass appropriate orders as it deems fit in the light of the observations made in para 15 of the judgment. It was also stipulated that the decision should be taken preferably within a period of 4 months.

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from the date of receipt of a copy of the order. Thereafter since the respondents did not comply with the orders, the applicant filed Contempt Petition No.32/2000. A notice was issued to the respondents on the Contempt Petition and the matter was heard at great length. Applicant appeared in person. Respondents informed that applicant's case had been examined as directed by the Tribunal, however, the applicant's case could not be considered favourably as the rules did not permit it. When the matter came up for hearing on 8.3.2002, the Tribunal once again wanted to make sure that as required the matter had been actually considered by the Central Board of Direct Taxes and not by just one of the Members. An opportunity was given to the officers to look into the matter afresh within 6 weeks from the date of receipt of a copy of the order dated 8.3.2002. Thereafter now the respondents submit that the applicant's case was examined thoroughly in terms of the observations made in the original judgment in O.A.821/91 and the Board of Direct Taxes decided that the applicant is not entitled to the reward or incentive. Learned counsel for respondents, Shri P.M. Pradhan has produced a copy of the Minutes of the Board Meeting held on 1.5.2002 at 3:00 PM in the chamber of Chairman, Central Board of Direct Taxes to consider the reward to the applicant for his search and seizure work on 16.9.1985. The Board held that the applicant's case is not covered by any of the Rules i.e. 5(iii) or 5(7) of the Scheme. The grant of rewards after

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from the date of receipt of a copy of the order. Thereafter since the respondents did not comply with the orders, the applicant filed Contempt Petition No. 31/2002. A notice was issued to the respondents on the Contempt Petition and the matter was heard at great length. Applicant appeared in person. Respondents informed that applicant's case had been examined as directed by the Tribunal, however, the applicant's case could not be considered favourably as the rules did not permit it. When the matter came up for hearing on 8.3.2002, the Tribunal once again wanted to make sure that as required the matter had been actually considered by the Central Board of Direct Taxes and not by just one of the Members. An opportunity was given to the officers to look into the matter afresh within 6 weeks from the date of receipt of a copy of the order dated 3.3.2002. Thereafter now the respondents submit that the applicant's case was examined thoroughly in terms of the observations made in the original judgment in C.A. 321/91 and the Board of Direct Taxes decided that the applicant is not entitled to the reward or incentive. Learned counsel for respondents Mr. P.M. Pradhan has produced a copy of the Minutes of the Board Meeting held on 1.7.2002 at 3:00 PM in the chamber of Chairman, Central Board of Direct Taxes to consider the reward to the applicant for his search and seizure work on 18.9.1985. The Board held that the applicant's case is not covered by any of the Rules 2(a), 2(b) or 2(c) of the scheme. The grant of reward after

1.4.1985 is exclusively governed by the Scheme of 1985 and since the applicant's work was after that date, he could not be given any reward. They have also explained that in the case of another Assistant Commissioner of Income Tax, Shri Uchilla, the rules were not applicable as there were no rules at the relevant time in 1982.

2. We have heard the applicant in person again. We find that as directed by this Tribunal after prolonged delay, the respondents have duly considered the case of the applicant from all angles and have not found it fit within the rules to grant reward to the applicant. We have, therefore, to hold that the respondents have complied with the directions of the Tribunal, whatever may be the result. Therefore, it cannot be said that there is any contempt committed by the respondents in this matter. Accordingly the contempt notice is discharged, proceedings are dropped and the Contempt Petition is dismissed, with no order as to costs.

*Shanta*

( Smt. Shanta Shastri )  
Member (A)

*B. Dikshit*

( Birendra Dikshit )  
Vice Chairman.

H.