

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
Bangalore-38.

Dated:

26 NOV 1993

APPLICATION NO(s) 337 of 1993.

APPLICANTS: Shashikant P.Kavelkar RESPONDENTS: Chief Commissioner of
Incometax, Bangalore and Others.

TO.

1. Sri.S.Ganesh Rao, Advocate,
No.399, First Floor,
Sixtyfifth Cross, Fifth Block,
Rajajinagar, Bangalore-10.
2. Sri.M.S.Padmarajaiah,
Sr.C.G.S.C., High Court Bldg,
Bangalore-1.

SUBJECT:- Forwarding of copies of the Orders passed by
the Central Administrative Tribunal, Bangalore.

-XXX-

Please find enclosed herewith a copy of the
ORDER/STAY ORDER/INTERIM ORDER/, Passed by this Tribunal
in the above mentioned application(s) on 17-11-1993.

X N. Deve S
DEPUTY REGISTRAR
JUDICIAL BRANCHES.

26/11/93

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of
Issued
26/11/93

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH : BANGALORE

O.A. NO. 337/1993

DATED THIS THE SEVENTEENTH DAY OF NOVEMBER, 1993.

Shri S. Gurusankaran, Member (A)

Shri A.N. Vujjanaradhya, Member (J)

Shri Shashikant P. Kawlekar
S/o. late Sri Prathakar Kawlekar
KAVALEM - PONDA (GOA)

... Applicant

(By Advocate Shri S. Ganesh Rao)

Vs.

1. The Chief Commissioner of Incometax
Central Revenue Buildings
Queen's Road
Bangalore - 560 001.

2. The Deputy Commissioner of Incometax
Goa Range, Incometax Offices,
Panaji (GOA).

3. The Secretary
Central Board of Direct Taxes
North Block, New Delhi-110 001. ... Respondents

(By Shri M.S. Padmaraajaiah, S.C.G.S.C.)

Judgement delivered by Shri S. Gurusankaran, Member (A).

O R D E R

This is an application filed by the applicant against the refusal of the respondents to allow him to withdraw his notice for voluntary retirement and he has prayed for directing the respondents to take the applicant on duty with immediate effect as Tax Assistant with all other consequential benefits following such a direction.

2. The respondents have filed their reply contesting the application.



3. When the case came up for hearing today, Shri M.S. Padmarajaiah, the learned Senior Central Government Standing Counsel appearing for the respondents raised the question of jurisdiction pointing out that the applicant was posted at Goa before his voluntary retirement/resignation was accepted, he is even now residing at Goa after leaving the service and no part of cause of action has arisen in Karnataka, that is, which is the jurisdiction of this Tribunal. We also observe that the applicant had even ~~not~~^{initially} ~~already~~ filed a memo regarding the objections raised by the office on the question of jurisdiction. Since the question of jurisdiction goes to the very root of the matter to decide the competency of this Tribunal to adjudicate this matter, we have to consider the same first.

4. Shri Ganesh Rao, the learned counsel for the applicant argued that even though the Deputy Commissioner of Income Tax accepted the voluntary retirement/resignation and rejected the applicant's request for withdrawing the same, the next administrative higher authority, i.e., the Chief Commissioner of Income Tax (R-1) is located at Bangalore and hence this Tribunal has jurisdiction to adjudicate in this matter. It was pointed out to him that as per the amended Rule-6 of the Central Administrative Tribunal (Procedure) Rules, 1987, the application shall ordinarily be filed where the applicant is posted for the time being or the cause of action wholly or in part has arisen. Since the applicant's voluntary retirement/resignation has already been accepted, the first condition regarding the place of posting for the time being does not arise. As far as the third condition regarding the place of residing after the termination of his service is concerned, he is at

present residing at Goa and as such falls within the jurisdiction of the Bangalore Bench of this Tribunal. Since the applicant did not submit any appeal to respondent no.1, i.e., the Chief Commissioner of Income Tax, Bangalore and no relief is being claimed against him, it is clear that no part of cause of action has arisen within the jurisdiction of this Tribunal.

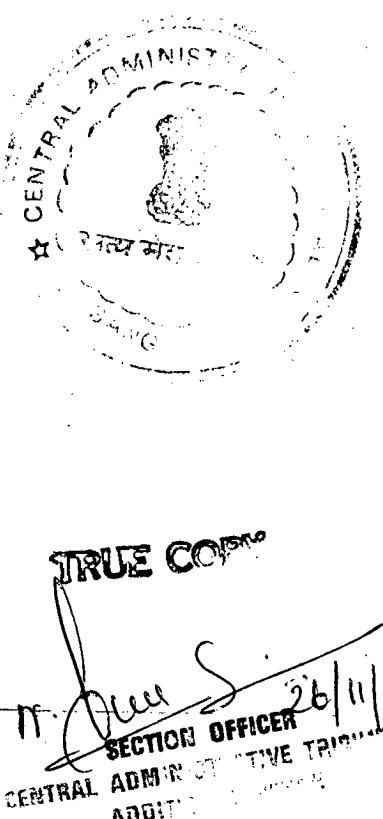
5. Shri Ganesh Rao could not satisfactorily explain as to how as per the above rule-6 this Tribunal has jurisdiction. During the arguments the question of exhausting alternative remedy of filing appeal to the Chief Commissioner of Income Tax against the orders of the Deputy Commissioner of Income Tax also came up and Shri Rao prayed that the applicant may be allowed to withdraw this application with liberty to file an appeal to the respondent no.1.

6. Having heard the submission of both the parties and after examining Rule-6 of the Procedure Rules regarding place of filing applications, we find that since no part of cause of action has arisen within the jurisdiction of this Tribunal and the applicant after the acceptance of his voluntary retirement/resignation is also not residing within the jurisdiction of this Tribunal, this Tribunal has no jurisdiction to adjudicate in this matter. In view of this the question of this Tribunal giving any liberty to the applicant regarding filing appeal also does not arise. Accordingly, the applicant is allowed to withdraw this application with liberty to take suitable action, if so desired, to present the same before the appropriate forum.

Sd-

(A.N. VIJAYARADHYA)
MEMBER(J)

(S. GURUSANKARAN)
MEMBER(A)



TRUE COPY

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